

By Senator Clary

7-1686-00

See HB

1 A bill to be entitled
2 An act relating to protection of vulnerable
3 adults; amending s. 400.407, F.S.; requiring
4 posting of a notice regarding report of abuse,
5 neglect, or exploitation as a licensure
6 condition for assisted living facilities;
7 amending s. 415.102, F.S.; revising
8 definitions; amending s. 415.103, F.S.;
9 providing for a central abuse hotline to
10 receive reports of abuse, neglect, or
11 exploitation of vulnerable adults; amending s.
12 415.1034, F.S.; conforming provisions relating
13 to mandatory reporting; amending s. 415.1035,
14 F.S.; providing duty of the Department of
15 Children and Family Services to ensure that
16 facilities inform residents of their right to
17 report abuse, neglect, or exploitation;
18 amending s. 415.1036, F.S.; conforming
19 provisions relating to immunity of persons
20 making reports; amending ss. 415.104 and
21 415.1045, F.S.; revising provisions relating to
22 protective investigations; providing for access
23 to records and documents; providing for working
24 agreements with law enforcement entities;
25 requiring the department to maintain certain
26 records; amending s. 415.105, F.S.; authorizing
27 the department to petition the court to enjoin
28 interference with the provision of protective
29 services; amending s. 415.1051, F.S.; providing
30 for enforcement of court-ordered protective
31 services when any person interferes; amending

1 s. 415.1052, F.S., relating to interference
2 with investigations or provision of services;
3 amending s. 415.1055, F.S.; deleting provisions
4 relating to notification to subjects,
5 reporters, law enforcement, and state attorneys
6 of a report alleging abuse, neglect, or
7 exploitation; amending s. 415.106, F.S.,
8 relating to cooperation by criminal justice and
9 other agencies; amending s. 415.107, F.S.;
10 providing certain access to confidential
11 records and reports; amending s. 415.1102,
12 F.S.; revising provisions relating to adult
13 protection teams; amending s. 415.111, F.S.,
14 relating to criminal penalties; amending s.
15 415.1111, F.S.; revising provisions relating to
16 civil penalties; amending s. 415.1113, F.S.,
17 relating to administrative fines for false
18 reporting; amending s. 415.113, F.S., relating
19 to treatment by spiritual means; amending s.
20 435.03, F.S.; revising provisions relating to
21 level 1 and level 2 screening standards;
22 amending s. 435.05, F.S.; revising provisions
23 relating to screening requirements for covered
24 employees; amending s. 435.07, F.S., relating
25 to exemptions; amending s. 435.08, F.S.,
26 relating to payment for processing records
27 checks; amending s. 435.09, F.S., relating to
28 confidentiality of background check
29 information; creating ss. 435.401, 435.402,
30 435.403, and 435.405, F.S.; providing special
31 employment practices relating to health care

1 facilities; providing definitions; requiring an
2 employer who operates a health care facility to
3 obtain service letters regarding persons
4 seeking employment, from all previous employers
5 within a specified period; providing duties of
6 applicants and employers; providing penalties;
7 providing for conditional employment for a
8 specified period; providing certain immunity
9 from civil liability; providing for enforcement
10 by the Agency for Health Care Administration;
11 providing for the form of service letters;
12 amending ss. 39.202, 90.803, 110.1127,
13 112.0455, 119.07, 232.50, 242.335, 320.0848,
14 381.0059, 381.60225, 383.305, 390.015, 393.067,
15 393.0674, 394.459, 394.875, 395.0055, 395.0199,
16 395.3025, 397.461, 400.022, 400.071, 400.215,
17 400.414, 400.4174, 400.426, 400.428, 400.462,
18 400.471, 400.495, 400.506, 400.509, 400.512,
19 400.5572, 400.6065 400.628, 400.801, 400.805,
20 400.906, 400.931, 400.95, 400.953, 400.955,
21 400.962, 400.964, 402.3025, 402.3125, 402.313,
22 409.175, 409.912, 403.205, 447.208, 447.401,
23 464.018, 468.828, 468.826, 483.30, 483.101,
24 509.032, 744.309, 744.474, 744.7081, 768.735,
25 775.084, 775.087, 775.0877, 775.21, 782.04,
26 782.07, 825.101, 825.102, 825.1025, 825.103,
27 825.105, 825.106, 895.02, 907.041, 916.107,
28 921.0022, 921.141, 943.0542, 943.0585, 943.059,
29 960.03, 960.195, and 985.05, F.S.; conforming
30 to the act provisions relating to protection of
31 vulnerable adults and the central abuse

1 hotline; repealing s. 415.1065, F.S., relating
2 to management of records of the central abuse
3 registry and tracking system; repealing s.
4 415.1075, F.S., relating to amendment of such
5 records, and expunctions, appeals, and
6 exemptions with respect thereto; repealing s.
7 415.1085, F.S., relating to photographs and
8 medical examinations pursuant to investigations
9 of abuse or neglect of an elderly person or
10 disabled adult; repealing s. 415.109, F.S.,
11 relating to abrogation of privileged
12 communication in cases involving suspected
13 adult abuse, neglect, or exploitation;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Present subsections (3) through (8) of
19 section 400.407, Florida Statutes, are renumbered as
20 subsections (4) through (9), respectively, and a new
21 subsection (3) is added to that section to read:

22 400.407 License required; fee, display.--

23 (3) As a condition of licensure, every facility
24 licensed under this part must inform residents of their right
25 to report abusive, neglectful, or exploitive practices and
26 must establish appropriate policies and procedures to
27 facilitate such reporting. A notice giving the statewide
28 toll-free telephone number for the central abuse hotline must
29 be posted in a prominent place within the facility, as
30 follows:

31

1 "To Report the Abuse, Neglect, or Exploitation
2 of a Disabled Adult or an Elderly Person,
3 Please Call:....(telephone number)...."
4

5 The print size, design, and placement of the notice must allow
6 the words and telephone number to be easily seen and read.

7 Section 2. Section 415.102, Florida Statutes, is
8 amended to read:

9 415.102 Definitions of terms used in ss.

10 415.101-415.113.--As used in ss. 415.101-415.113, the term:

11 (1) "Abuse" means any willful act or threatened act
12 that causes or is likely to cause significant impairment to a
13 vulnerable adult's physical, mental, or emotional health.

14 ~~Abuse includes acts and omissions. "Abuse" means the~~
15 ~~nonaccidental infliction of physical or psychological injury~~
16 ~~or sexual abuse upon a disabled adult or an elderly person by~~
17 ~~a relative, caregiver, or household member, or an action by~~
18 ~~any of those persons which could reasonably be expected to~~
19 ~~result in physical or psychological injury, or sexual abuse of~~
20 ~~a disabled adult or an elderly person by any person. "Abuse"~~
21 ~~also means the active encouragement of any person by a~~
22 ~~relative, caregiver, or household member to commit an act that~~
23 ~~inflicts or could reasonably be expected to result in physical~~
24 ~~or psychological injury to a disabled adult or an elderly~~
25 ~~person.~~

26 (2) "Alleged perpetrator" means a person who has been
27 named by a reporter as the person responsible for abusing,
28 neglecting, or exploiting a vulnerable disabled adult or an
29 ~~elderly person. "Alleged perpetrator" also means a person who~~
30 ~~has been named by an adult protective investigator, in a~~
31 ~~report that has been classified as proposed confirmed, as the~~

1 ~~person responsible for abusing, neglecting, or exploiting a~~
2 ~~disabled adult or an elderly person.~~

3 (3) "Capacity to consent" means that a vulnerable
4 ~~disabled adult or elderly person~~ has sufficient understanding
5 to make and communicate responsible decisions regarding the
6 vulnerable disabled adult's or elderly person's person or
7 property, including whether or not to accept protective
8 services offered by the department.

9 (4) "Caregiver" means a person who has been entrusted
10 with or has assumed the responsibility for frequent and
11 regular care of or services to a vulnerable disabled adult ~~or~~
12 ~~an elderly person~~ on a temporary or permanent basis and who
13 has a commitment, agreement, or understanding with that person
14 or that person's guardian that a caregiver role exists.

15 "Caregiver" includes employees, ~~but is not limited to,~~
16 ~~relatives, household members, guardians, neighbors, and~~
17 ~~employees and volunteers~~ of facilities as defined in
18 subsection (7) ~~(13)~~. For the purpose of departmental
19 investigative jurisdiction, the term "caregiver" does not
20 include law enforcement officers or employees of municipal or
21 county detention facilities or the Department of Corrections
22 while acting in an official capacity.

23 ~~(5) "Closed without classification" means the closure~~
24 ~~of a report in which an adult protective investigator~~
25 ~~determines that:~~

26 ~~(a) Some evidence exists that abuse, neglect, or~~
27 ~~exploitation has occurred, but a preponderance of evidence~~
28 ~~cannot be established; or~~

29 ~~(b) A preponderance of the evidence exists that abuse,~~
30 ~~neglect, or exploitation has occurred, but no perpetrator can~~
31 ~~be identified.~~

1 ~~(6) "Confirmed report" means a proposed confirmed~~
2 ~~report that has been determined to be valid after a hearing~~
3 ~~under s. 415.1075(2), a proposed confirmed report for which~~
4 ~~the alleged perpetrator has failed to request amendment or~~
5 ~~expunction within the time allotted for such a request under~~
6 ~~s. 415.1075(1), or a proposed confirmed report for which the~~
7 ~~alleged perpetrator has failed to request an administrative~~
8 ~~hearing within the time allotted by s. 415.1075(2).~~

9 ~~(7) "Criminal justice agency" means any court, any law~~
10 ~~enforcement agency, or any government agency or subunit~~
11 ~~thereof as defined under s. 943.045(10).~~

12 ~~(8) "Deception" means a misrepresentation or~~
13 ~~concealment of a material fact relating to services rendered,~~
14 ~~disposition of property, or the use of property intended to~~
15 ~~benefit a disabled adult or an elderly person.~~

16 (5)(9) "Department" means the Department of Children
17 and Family Services.

18 ~~(10) "Disabled adult" means a person 18 years of age~~
19 ~~or older who suffers from a condition of physical or mental~~
20 ~~incapacitation due to a developmental disability, organic~~
21 ~~brain damage, or mental illness, or who has one or more~~
22 ~~physical or mental limitations that substantially restrict the~~
23 ~~ability to perform the normal activities of daily living.~~

24 ~~(11) "Disabled adult in need of services" means a~~
25 ~~disabled adult who has been determined by an adult protective~~
26 ~~services investigator to be suffering from the ill effects of~~
27 ~~neglect not caused by a second party perpetrator and is in~~
28 ~~need of protective services or other services to prevent~~
29 ~~further harm.~~

30 ~~(12) "Elderly person" means a person 60 years of age~~
31 ~~or older who is suffering from the infirmities of aging as~~

1 ~~manifested by advanced age or organic brain damage, or other~~
2 ~~physical, mental, or emotional dysfunctioning to the extent~~
3 ~~that the ability of the person to provide adequately for the~~
4 ~~person's own care or protection is impaired.~~

5 ~~(13) "Elderly person in need of services" means an~~
6 ~~elderly person who has been determined by an adult protective~~
7 ~~services investigator to be suffering from the ill effects of~~
8 ~~neglect not caused by a second party perpetrator and is in~~
9 ~~need of protective services or other services to prevent~~
10 ~~further harm.~~

11 ~~(6)(14)(a)~~ "Exploitation" means a person who:

12 1. Stands in a position of trust and confidence with a
13 vulnerable disabled adult ~~or an elderly person~~ and knowingly,
14 by deception or intimidation, obtains or uses, or endeavors to
15 obtain or use, a vulnerable disabled adult's ~~or an elderly~~
16 ~~person's~~ funds, assets, or property with the intent to
17 temporarily or permanently deprive a vulnerable disabled adult
18 ~~or an elderly person~~ of the use, benefit, or possession of the
19 funds, assets, or property for the benefit of someone other
20 than the vulnerable disabled adult ~~or elderly person~~; or

21 2. Knows or should know that the vulnerable disabled
22 ~~adult or elderly person~~ lacks the capacity to consent, and
23 obtains or uses, or endeavors to obtain or use, the vulnerable
24 ~~disabled~~ adult's ~~or elderly person's~~ funds, assets, or
25 property with the intent to temporarily or permanently deprive
26 the vulnerable disabled adult ~~or elderly person~~ of the use,
27 benefit, or possession of the funds, assets, or property for
28 the benefit of someone other than the vulnerable disabled
29 ~~adult or elderly person~~.

30 (b) "Exploitation" may include, but is not limited to:
31

1 1. Breaches of fiduciary relationships, such as the
2 misuse of a power of attorney or the abuse of guardianship
3 duties, resulting in the unauthorized appropriation, sale, or
4 transfer of property;

5 2. Unauthorized taking of personal assets;

6 3. Misappropriation, misuse, or transfer of moneys
7 belonging to a vulnerable ~~disabled~~ adult or ~~elderly person~~
8 from a personal or joint account; or

9 4. Intentional or negligent failure to effectively use
10 a vulnerable ~~disabled~~ adult's or ~~elderly person's~~ income and
11 assets for the necessities required for that person's support
12 and maintenance.

13 ~~(7)(15)~~ "Facility" means any location providing day or
14 residential care or treatment for vulnerable ~~disabled~~ adults
15 or ~~elderly persons~~. The term "facility" may include, but is
16 not limited to, any hospital, ~~training center~~, state
17 institution, nursing home, assisted living facility, adult
18 family-care home, adult day care center, group home, or mental
19 health treatment center.

20 ~~(8)(16)~~ "False report" means a report of abuse,
21 neglect, or exploitation of a vulnerable ~~disabled~~ adult or ~~an~~
22 ~~elderly person~~ to the central abuse hotline registry and
23 ~~tracking system~~ which is not true ~~unfounded~~ and is maliciously
24 made for the purpose of:

25 (a) Harassing, embarrassing, or harming another
26 person;

27 (b) Personal financial gain for the reporting person;

28 (c) Acquiring custody of a vulnerable ~~disabled~~ adult
29 or ~~an elderly person~~; or

30
31

1 (d) Personal benefit for the reporting person in any
2 other private dispute involving a vulnerable ~~disabled~~ adult ~~or~~
3 ~~an elderly person~~.

4
5 The term "false report" does not include a report of abuse,
6 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
7 ~~elderly person~~ which is made in good faith to the central
8 abuse hotline registry and tracking system ~~and which is~~
9 ~~classified as unfounded at the conclusion of the~~
10 ~~investigation~~.

11 (9)~~(17)~~ "Fiduciary relationship" means a relationship
12 based upon the trust and confidence of the vulnerable ~~disabled~~
13 ~~adult or elderly person~~ in the caregiver, relative, household
14 member, or other person entrusted with the use or management
15 of the property or assets of the vulnerable ~~disabled~~ adult ~~or~~
16 ~~elderly person~~. The relationship exists where there is a
17 special confidence reposed in one who in equity and good
18 conscience is bound to act in good faith and with due regard
19 to the interests of the vulnerable ~~disabled~~ adult ~~or elderly~~
20 ~~person~~. For the purposes of this part, a fiduciary
21 relationship may be formed by an informal agreement between
22 the vulnerable ~~disabled~~ adult ~~or elderly person~~ and the other
23 person and does not require a formal declaration or court
24 order for its existence. A fiduciary relationship includes,
25 but is not limited to, court-appointed or voluntary guardians,
26 trustees, attorneys, or conservators of a vulnerable ~~disabled~~
27 ~~adult's or an elderly person's~~ assets or property.

28 (10)~~(18)~~ "Guardian" means a person who has been
29 appointed by a court to act on behalf of a person; a preneed
30 guardian, as provided in chapter 744; or a health care
31 surrogate expressly designated ~~by a principal to make health~~

1 ~~care decisions on behalf of the principal upon the principal's~~
2 ~~incapacity, as provided in chapter 765.~~

3 (11)(19) "In-home services" means the provision of
4 nursing, personal care, supervision, or other services to
5 vulnerable disabled adults ~~or elderly persons~~ in their own
6 homes.

7 (20) ~~"Intimidation" means the communication by word or~~
8 ~~act to a disabled adult or an elderly person that that person~~
9 ~~will be deprived of food, nutrition, clothing, shelter,~~
10 ~~supervision, medicine, medical services, money, or financial~~
11 ~~support or will suffer physical violence.~~

12 (12)(21) "Lacks capacity to consent" means a mental
13 impairment that causes a vulnerable disabled adult ~~or an~~
14 ~~elderly person~~ to lack sufficient understanding or capacity to
15 make or communicate responsible decisions concerning ~~the~~
16 ~~disabled adult's or elderly person's~~ person or property,
17 including whether or not to accept protective services ~~offered~~
18 ~~by the department.~~

19 (13)(22) "Neglect" means the failure or omission on
20 the part of the caregiver ~~or disabled adult or elderly person~~
21 to provide the care, supervision, and services necessary to
22 maintain the physical and mental health of the vulnerable
23 ~~disabled~~ adult ~~or elderly person~~, including, but not limited
24 to, food, clothing, medicine, shelter, supervision, and
25 medical services, which ~~that~~ a prudent person would consider
26 essential for the well-being of a vulnerable disabled adult ~~or~~
27 ~~an elderly person~~. The term "neglect" also means the failure
28 of a caregiver to make a reasonable effort to protect a
29 vulnerable disabled adult ~~or an elderly person~~ from abuse,
30 neglect, or exploitation by others. "Neglect" is repeated
31 conduct or a single incident of carelessness which produces or

1 could reasonably be expected to result in serious physical or
2 psychological injury or a substantial risk of death.

3 ~~(23) "No jurisdiction" means the disposition of a~~
4 ~~report that the department does not investigate because the~~
5 ~~report does not meet the criteria specified in ss.~~
6 ~~415.101-415.113.~~

7 (14)~~(24)~~ "Obtains or uses" means any manner of:

8 (a) Taking or exercising control over property; or

9 (b) Making any use, disposition, or transfer of
10 property;

11 (c) Obtaining property by fraud, willful
12 misrepresentation of a future act, or false promise; or

13 (d)1. Conduct otherwise known as stealing; larceny;
14 purloining; abstracting; embezzlement; misapplication;
15 misappropriation; conversion; or obtaining money or property
16 by false pretenses, fraud, or deception; or

17 2. Other conduct similar in nature.

18 ~~(25) "Perpetrator" means the person who has been named~~
19 ~~as causing abuse, neglect, or exploitation of a disabled adult~~
20 ~~or an elderly person in a report that has been classified as~~
21 ~~confirmed.~~

22 (15)~~(26)~~ "Position of trust and confidence" with
23 respect to a vulnerable disabled adult or an elderly person
24 means the position of a person who:

25 (a) Is a parent, spouse, adult child, or other
26 relative by blood or marriage ~~of the disabled adult or elderly~~
27 ~~person;~~

28 (b) Is a joint tenant or tenant in common ~~with the~~
29 ~~disabled adult or elderly person;~~

30 (c) Has a legal or fiduciary relationship ~~with the~~
31 ~~disabled adult or elderly person, including, but not limited~~

1 to, a court-appointed or voluntary guardian, trustee,
2 attorney, or conservator; or

3 (d) Is a caregiver ~~of the disabled adult or elderly~~
4 ~~person~~ or any other person who has been entrusted with or has
5 assumed responsibility for the use or management of the
6 vulnerable elderly person's or disabled adult's funds, assets,
7 or property.

8 (16) "Protective investigation" means acceptance of a
9 report from the central abuse hotline alleging abuse, neglect,
10 or exploitation as defined in this section; investigation of
11 the report; determination as to whether action by the court is
12 warranted; and referral of the vulnerable adult to another
13 public or private agency when appropriate.

14 ~~(27) "Property" means anything of value, and includes:~~

15 ~~(a) Real property, including things growing on,~~
16 ~~affixed to, and found in land.~~

17 ~~(b) Tangible personal property, including, but not~~
18 ~~limited to, furniture, jewelry, or clothing and intangible~~
19 ~~personal property, including rights, privileges, interests,~~
20 ~~and claims.~~

21 ~~(28) "Proposed confirmed report" means a report of~~
22 ~~abuse, neglect, or exploitation which is made pursuant to s.~~
23 ~~415.1034 when an adult protective investigation alleges that~~
24 ~~there is a preponderance of evidence that abuse, neglect, or~~
25 ~~exploitation occurred and which identifies the alleged~~
26 ~~perpetrator.~~

27 (17)(29) "Protective investigator" means an authorized
28 agent of the department who receives and investigates reports
29 of abuse, neglect, or exploitation of vulnerable adults.

30 ~~"Protective investigator" means an employee of the department~~
31 ~~responsible for:~~

1 ~~(a) The onsite investigation, classification, and~~
2 ~~disposition of all reports alleging abuse, neglect, or~~
3 ~~exploitation of a disabled adult or an elderly person;~~

4 ~~(b) The determination of immediate risk to a disabled~~
5 ~~adult or an elderly person, which determination must include~~
6 ~~the provision of emergency services and the arrangement for~~
7 ~~immediate in-home and nonemergency services to prevent the~~
8 ~~recurrence of further abuse, neglect, or exploitation; and~~

9 ~~(c) The evaluation of the need for and referrals to~~
10 ~~ongoing protective services for a disabled adult or an elderly~~
11 ~~person.~~

12 ~~(18)(30)~~ "Protective services" means ~~the provision or~~
13 ~~arrangement of services to protect a vulnerable disabled adult~~
14 ~~or an elderly person from further occurrences of abuse,~~
15 ~~neglect, or exploitation. Such services may include, but are~~
16 ~~not limited to, protective supervision, placement, and in-home~~
17 ~~and community-based services.~~

18 ~~(19)(31)~~ "Protective supervision" means that the
19 vulnerable adult and his or her caregiver or guardian, when
20 such exists, have made an agreement that the department
21 determines will allow the vulnerable adult to remain safely in
22 his or her own home or other placement under the supervision
23 of the department. "~~Protective supervision~~" means those
24 ~~services arranged for or implemented by the department to~~
25 ~~protect disabled adults or elderly persons from further~~
26 ~~occurrences of abuse, neglect, or exploitation during an~~
27 ~~investigation or following a report that has been classified~~
28 ~~as proposed confirmed or confirmed, or has been closed without~~
29 ~~classification.~~

30 ~~(20)(32)~~ "Psychological injury" means an injury to the
31 intellectual functioning or emotional state of a vulnerable

1 ~~disabled~~ adult ~~or an elderly person~~ as evidenced by an
2 observable or measurable reduction in the vulnerable disabled
3 adult's ~~or elderly person's~~ ability to function within that
4 person's customary range of performance and that person's
5 behavior.

6 (21)~~(33)~~ "Records" means all documents, papers,
7 letters, maps, books, tapes, photographs, films, sound
8 recordings, videotapes, or other material, regardless of
9 physical form or characteristics, made or received pursuant to
10 a ~~an adult~~ protective investigation.

11 (22)~~(34)~~ "Sexual misconduct abuse" means acts of a
12 sexual nature committed ~~for the sexual gratification of the~~
13 ~~abuser and~~ in the presence of a vulnerable disabled adult ~~or~~
14 ~~an elderly person~~ without that person's informed consent.
15 "Sexual misconduct abuse" includes, but is not limited to, the
16 acts defined in s. 794.011(1)(h), fondling, exposure of a
17 vulnerable disabled adult's ~~or elderly person's~~ sexual organs,
18 or the use of a vulnerable disabled adult ~~or an elderly person~~
19 to solicit for or engage in prostitution or sexual
20 performance. "Sexual misconduct abuse" does not include any
21 act intended for a valid medical purpose or any act that may
22 reasonably be construed to be normal caregiving action or
23 appropriate display of affection.

24 ~~(35)~~ "~~Specified medical personnel~~" means ~~licensed or~~
25 ~~certified physicians, osteopathic physicians, nurses,~~
26 ~~paramedics, advanced registered nurse practitioners,~~
27 ~~psychologists, psychiatrists, mental health professionals, or~~
28 ~~any other licensed or certified medical personnel.~~

29 ~~(36)~~ "~~Unfounded report~~" means ~~a report made pursuant~~
30 ~~to s. 415.1034 in which the department determines that no~~
31 ~~evidence of abuse, neglect, or exploitation exists.~~

1 ~~(23)(37)~~ "Victim" means any vulnerable ~~disabled~~ adult
2 ~~or elderly person~~ named in a report of abuse, neglect, or
3 exploitation.

4 (24) "Vulnerable adult" means a person 18 years of age
5 or older who suffers from an incapacitation due to a
6 developmental disability, organic brain damage, mental
7 illness, or one or more physical or mental limitations that
8 substantially restricts the ability of the person to provide
9 adequately for his or her own care and protection.

10 (25) "Vulnerable adult in need of services" means a
11 vulnerable adult who has been determined by a protective
12 investigator to be suffering from the ill effects of neglect
13 not caused by a second party perpetrator and is in need of
14 protective services or other services to prevent further harm.

15 Section 3. Section 415.103, Florida Statutes, is
16 amended to read:

17 415.103 Central abuse hotline registry and tracking
18 system.--

19 (1) The department shall establish and maintain a
20 central abuse hotline registry and tracking system that
21 receives all reports made pursuant to s. 415.1034 in writing
22 or through a single statewide toll-free telephone number. Any
23 person may use the statewide toll-free telephone number to
24 report known or suspected abuse, neglect, or exploitation of a
25 vulnerable disabled adult ~~or an elderly person~~ at any hour of
26 the day or night, any day of the week. The central abuse
27 hotline registry and tracking system must be operated in such
28 a manner as to enable the department to:

29 (a) Accept reports for investigation when there is a
30 reasonable cause to suspect that a vulnerable disabled adult
31

1 ~~or an elderly person~~ has been or is being abused, neglected,
2 or exploited.

3 (b) Determine whether the allegations made by the
4 reporter require an immediate, 24-hour, or next-working-day
5 response priority.

6 (c) When appropriate, refer calls that do not allege
7 the abuse, neglect, or exploitation of a vulnerable disabled
8 ~~adult or an elderly person~~ to other organizations that might
9 better resolve the reporter's concerns.

10 (d) Immediately identify and locate prior reports of
11 abuse, neglect, or exploitation through the central abuse
12 hotline registry and tracking system.

13 (e) Track critical steps in the investigative process
14 to ensure compliance with all requirements for all reports.

15 (f) Maintain data to facilitate the production of
16 aggregate statistical reports for monitoring patterns of
17 abuse, neglect, or exploitation of ~~disabled adults or elderly~~
18 ~~persons~~.

19 (g) Serve as a resource for the evaluation,
20 management, and planning of preventive and remedial services
21 for vulnerable disabled adults ~~or elderly persons~~ who have
22 been subject to abuse, neglect, or exploitation.

23 (2) Upon receiving an oral or written report of known
24 or suspected abuse, neglect, or exploitation of a vulnerable
25 ~~disabled~~ adult ~~or an elderly person~~, the central abuse hotline
26 ~~registry and tracking system~~ must determine if the report
27 requires an immediate onsite protective investigation. For
28 reports requiring an immediate onsite protective
29 investigation, the central abuse hotline registry and tracking
30 ~~system~~ must immediately notify the department's designated
31 ~~adult~~ protective investigative district staff responsible for

1 protective investigations to ensure prompt initiation of an
2 onsite investigation. For reports not requiring an immediate
3 onsite protective investigation, the central abuse hotline
4 ~~registry and tracking system~~ must notify the department's
5 designated ~~adult~~ protective investigative district staff
6 responsible for protective investigations in sufficient time
7 to allow for an investigation to be commenced within 24 hours.
8 At the time of notification of district staff with respect to
9 the report, the central abuse hotline ~~registry and tracking~~
10 ~~system~~ must also provide any known information on any previous
11 report concerning a subject of the present report or any
12 pertinent information relative to the present report or any
13 noted earlier reports.

14 (3) The department shall set standards, priorities,
15 and policies to maximize the efficiency and effectiveness of
16 the central abuse hotline ~~registry and tracking system~~.

17 Section 4. Section 415.1034, Florida Statutes, is
18 amended to read:

19 415.1034 Mandatory reporting of abuse, neglect, or
20 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~;
21 mandatory reports of death.--

22 (1) MANDATORY REPORTING.--

23 (a) Any person, including, but not limited to, any:

24 1. Physician, osteopathic physician, medical examiner,
25 chiropractic physician, nurse, or hospital personnel engaged
26 in the admission, examination, care, or treatment of
27 vulnerable ~~disabled~~ adults or ~~elderly persons~~;

28 2. Health professional or mental health professional
29 other than one listed in subparagraph 1.;

30 3. Practitioner who relies solely on spiritual means
31 for healing;

1 4. Nursing home staff; assisted living facility staff;
2 adult day care center staff; adult family-care home staff;
3 social worker; or other professional adult care, residential,
4 or institutional staff;

5 5. State, county, or municipal criminal justice
6 employee or law enforcement officer;

7 6. Human rights advocacy committee or long-term care
8 ombudsman council member; or

9 7. Bank, savings and loan, or credit union officer,
10 trustee, or employee,

11
12 who knows, or has reasonable cause to suspect, that a
13 vulnerable disabled adult ~~or an elderly person~~ has been or is
14 being abused, neglected, or exploited shall immediately report
15 such knowledge or suspicion to the central abuse hotline
16 ~~registry and tracking system on the single statewide toll-free~~
17 ~~telephone number.~~

18 (b) To the extent possible, a report made pursuant to
19 paragraph (a) must contain, but need not be limited to, the
20 following information:

21 1. Name, age, race, sex, physical description, and
22 location of each victim disabled adult ~~or an elderly person~~
23 alleged to have been abused, neglected, or exploited.

24 2. Names, addresses, and telephone numbers of the
25 victim's disabled adult's ~~or elderly person's~~ family members.

26 3. Name, address, and telephone number of each alleged
27 perpetrator.

28 4. Name, address, and telephone number of the
29 caregiver of the victim disabled adult ~~or elderly person~~, if
30 different from the alleged perpetrator.

31

1 5. Name, address, and telephone number of the person
2 reporting the alleged abuse, neglect, or exploitation.

3 6. Description of the physical or psychological
4 injuries sustained.

5 7. Actions taken by the reporter, if any, such as
6 notification of the criminal justice agency.

7 8. Any other information available to the reporting
8 person which may establish the cause of abuse, neglect, or
9 exploitation that occurred or is occurring.

10 (2) MANDATORY REPORTS OF DEATH.--Any person who is
11 required to investigate reports of abuse, neglect, or
12 exploitation and who has reasonable cause to suspect that a
13 vulnerable disabled adult ~~or an elderly person~~ died as a
14 result of abuse, neglect, or exploitation shall immediately
15 report the suspicion to the appropriate medical examiner, to
16 the appropriate criminal justice agency, and to the
17 department, notwithstanding the existence of a death
18 certificate signed by a practicing physician. The medical
19 examiner shall accept the report for investigation pursuant to
20 s. 406.11 and shall report the findings of the investigation,
21 in writing, to the appropriate local criminal justice agency,
22 the appropriate state attorney, and the department. Autopsy
23 reports maintained by the medical examiner are not subject to
24 the confidentiality requirements provided for in s. 415.107.

25 Section 5. Section 415.1035, Florida Statutes, is
26 amended to read:

27 415.1035 Facility's duty to inform residents of their
28 right to report abusive, neglectful, or exploitive
29 practices.--The department shall work cooperatively with the
30 Agency for Health Care Administration and the Department of
31 Elderly Affairs to ensure that every facility that serves

1 vulnerable adults informs residents of their right to report
2 abusive, neglectful, or exploitive practices. Each facility
3 must establish appropriate policies and procedures to
4 facilitate such reporting.

5 ~~(1) Every facility that serves disabled adults or~~
6 ~~elderly persons must inform residents of their right to report~~
7 ~~abusive, neglectful, or exploitive practices and must~~
8 ~~establish appropriate policies and procedures to facilitate~~
9 ~~such reporting.~~

10 ~~(2) The statewide toll-free telephone number for the~~
11 ~~central abuse registry and tracking system must be posted in~~
12 ~~all facilities operated by, under contract with, or licensed~~
13 ~~by the department or the Agency for Health Care Administration~~
14 ~~which provide services to disabled adults or elderly persons.~~
15 ~~Such posting must be clearly visible and in a prominent place~~
16 ~~within the facility and must be accompanied by the words, "To~~
17 ~~Report the Abuse, Neglect, or Exploitation of a Disabled Adult~~
18 ~~or an Elderly Person, Please Call:....."~~

19 Section 6. Subsection (1) of section 415.1036, Florida
20 Statutes, is amended to read:

21 415.1036 Immunity.--

22 (1) Any person who participates in making a report
23 under s. 415.1034 or participates in a judicial proceeding
24 resulting therefrom is presumed to be acting in good faith
25 and, unless lack of good faith is shown by clear and
26 convincing evidence, is immune from any liability, civil or
27 criminal, that otherwise might be incurred or imposed. This
28 section does not grant immunity, civil or criminal, to any
29 person who is suspected of having abused, neglected, or
30 exploited, or committed any illegal act upon or against, a
31 vulnerable disabled adult or an elderly person. Further, a

1 resident or employee of a facility that serves vulnerable
2 ~~disabled adults or elderly persons~~ may not be subjected to
3 reprisal or discharge because of the resident's or employee's
4 actions in reporting abuse, neglect, or exploitation pursuant
5 to s. 415.1034.

6 Section 7. Section 415.104, Florida Statutes, is
7 amended to read:

8 415.104 Protective ~~services~~ investigations of cases of
9 abuse, neglect, or exploitation of vulnerable aged persons or
10 ~~disabled~~ adults; transmittal of records to state attorney.--

11 (1) The department shall, upon receipt of a report
12 alleging abuse, neglect, or exploitation of a vulnerable an
13 ~~aged person or disabled adult, begin commence, or cause to be~~
14 ~~commenced within 24 hours,~~a protective ~~services~~ investigation
15 of the facts alleged therein. If, ~~upon arrival of the~~
16 ~~protective investigator at the scene of the incident,~~a
17 caregiver refuses to allow the department to begin a
18 protective ~~services~~ investigation or interferes with the
19 ~~department's ability to conduct of~~ such an investigation, the
20 appropriate law enforcement agency shall be contacted for
21 assistance to assist the department in commencing the
22 ~~protective services investigation~~. If, during the course of
23 the investigation, the department has reason to believe that
24 the abuse, neglect, or exploitation is perpetrated by a second
25 party, the appropriate law enforcement ~~criminal justice~~ agency
26 and state attorney shall be orally notified. The department
27 and the law enforcement agency shall cooperate to allow the
28 criminal investigation to proceed concurrently with, and not
29 be hindered by, the protective investigation. ~~in order that~~
30 ~~such agencies may begin a criminal investigation concurrent~~
31 ~~with the protective services investigation of the department.~~

1 ~~In an institutional investigation, the alleged perpetrator may~~
2 ~~be represented by an attorney, at his or her own expense, or~~
3 ~~accompanied by another person, if the person or the attorney~~
4 ~~executes an affidavit of understanding with the department and~~
5 ~~agrees to comply with the confidentiality provisions of s.~~
6 ~~415.107. The absence of an attorney or other person does not~~
7 ~~prevent the department from proceeding with other aspects of~~
8 ~~the investigation, including interviews with other persons.~~
9 The department shall make a preliminary written report to the
10 law enforcement criminal justice agencies within 5 working
11 days after the oral report. The department shall, within 24
12 hours after receipt of the report, notify the appropriate
13 human rights advocacy committee, or long-term care ombudsman
14 council, when appropriate, that an alleged abuse, neglect, or
15 exploitation perpetrated by a second party has occurred.
16 Notice to the human rights advocacy committee or long-term
17 care ombudsman council may be accomplished orally or in
18 writing and shall include the name and location of the
19 vulnerable aged person or disabled adult alleged to have been
20 abused, neglected, or exploited and the nature of the report.
21 (2) Upon commencing an investigation, the protective
22 investigator shall inform all of the vulnerable adults and
23 alleged perpetrators named in the report of the following:
24 (a) The names of the investigators and identifying
25 credentials from the department.
26 (b) The purpose of the investigation.
27 (c) That the victim, the victim's guardian, the
28 victim's caregiver, and the alleged perpetrator, and legal
29 counsel for any of those persons, have a right to a copy of
30 the report at the conclusion of the investigation.
31

1 (d) The name and telephone number of the protective
2 investigator's supervisor available to answer questions.

3 (e) That each person has the right to obtain his or
4 her own attorney.

5
6 Any person being interviewed by a protective investigator may
7 be represented by an attorney, at the person's own expense, or
8 may choose to have another person present. The other person
9 present may not be an alleged perpetrator in any report
10 currently under investigation. Before participating in such
11 interview, the other person present shall execute an agreement
12 to comply with the confidentiality requirements of ss.
13 415.101-415.113. The absence of an attorney or other person
14 does not prevent the department from proceeding with other
15 aspects of the investigation, including interviews with other
16 persons. In an investigative interview with a vulnerable
17 adult, the protective investigator may conduct the interview
18 with no other person present.

19 (3) For each report it receives, the department shall
20 perform an onsite investigation to:

21 (a) Determine that the person is a vulnerable ~~an aged~~
22 person or disabled adult as defined in s. 415.102.

23 (b) Determine whether the person is a vulnerable adult
24 in need of services, as defined in s. 415.102.

25 (c)~~(b)~~ Determine the composition of the family or
26 household, including the name, address, date of birth, social
27 security number, sex, and race of each aged person in the
28 household or disabled adult named in the report; any others in
29 the household or in the care of the caregiver, or any other
30 persons responsible for the aged person's or disabled adult's
31 welfare; and any other adults in the same household.

1 ~~(d)(c)~~ Determine whether there is an indication that a
2 vulnerable ~~any aged person or disabled~~ adult is abused,
3 neglected, or exploited, ~~including a determination of harm or~~
4 ~~threatened harm to any aged person or disabled adult;~~

5 ~~(e)~~ Determine the nature and extent of present or
6 prior injuries, abuse, or neglect, and any evidence thereof.

7 ~~(f)~~ Determine, if possible, ~~and a determination as to~~
8 the person or persons apparently responsible for the abuse,
9 neglect, or exploitation, including ~~the~~ name, address, date of
10 birth, social security number, sex, and race ~~of each person to~~
11 ~~be classified as an alleged perpetrator in a proposed~~
12 ~~confirmed report. An alleged perpetrator named in a proposed~~
13 ~~confirmed report of abuse, neglect, or exploitation shall~~
14 ~~cooperate in the provision of the required data for the~~
15 ~~central abuse registry and tracking system to the fullest~~
16 ~~extent possible.~~

17 ~~(g)(d)~~ Determine the immediate and long-term risk to
18 each vulnerable ~~aged person or disabled~~ adult through
19 utilization of standardized risk assessment instruments.

20 ~~(h)(e)~~ Determine the protective, treatment, and
21 ameliorative services necessary to safeguard and ensure the
22 vulnerable ~~aged person's or disabled~~ adult's well-being and
23 cause the delivery of those services ~~through the early~~
24 ~~intervention of the departmental worker responsible for~~
25 ~~service provision and management of identified services.~~

26 ~~(4)(2)~~ No later than 30 days after receiving the
27 initial report, the designated protective investigative ~~adult~~
28 ~~services~~ staff of the department shall complete the ~~its~~
29 investigation and ~~classify the report as proposed confirmed or~~
30 ~~unfounded or close the report without classification and~~
31 notify the guardian of the vulnerable ~~aged person or disabled~~

1 adult, the vulnerable ~~aged person or disabled~~ adult, and the
2 caregiver of any recommendations of services to be provided to
3 ameliorate the causes or effects of abuse, neglect, or
4 exploitation ~~alleged perpetrator~~. ~~These findings must be~~
5 ~~reported to the department's central abuse registry and~~
6 ~~tracking system. For proposed confirmed reports, after~~
7 ~~receiving the final administrative order rendered in a hearing~~
8 ~~requested pursuant to s. 415.103(3)(d) or after the 30-day~~
9 ~~period during which an alleged perpetrator may request such a~~
10 ~~hearing has expired, the department shall classify the report~~
11 ~~of abuse, neglect, or exploitation as confirmed or unfounded~~
12 ~~and shall report its findings to the department's central~~
13 ~~abuse registry and tracking system, and must do so in~~
14 ~~accordance with the final order if a hearing was held.~~

15 (5)~~(3)~~ Whenever the law enforcement ~~criminal justice~~
16 agency and the department have conducted independent
17 investigations, the law enforcement ~~criminal justice~~ agency
18 shall, within 5 working days after concluding its
19 investigation, report its findings ~~from its investigation~~ to
20 the state attorney and to the department.

21 (6)~~(4)~~ Upon receipt of a report that ~~which~~ alleges
22 that an employee or agent of the department acting in an
23 official capacity has committed an act of abuse, neglect, or
24 exploitation, the department shall commence, or cause to be
25 commenced ~~within 24 hours~~, a protective ~~services~~ investigation
26 and shall notify the state attorney in whose circuit the
27 alleged abuse, neglect, or exploitation occurred.

28 (7)~~(5)~~ With respect to any case of reported abuse,
29 neglect, or exploitation of a vulnerable ~~an aged person or~~
30 ~~disabled~~ adult, the department, when appropriate, shall
31 transmit all relevant reports ~~received by it which pertain to~~

1 ~~the investigation~~ to the state attorney of the circuit where
2 the incident occurred.

3 (8)~~(6)~~ Within 15 days after ~~of~~ completion of the state
4 attorney's investigation of a case reported to him or her
5 pursuant to this section, the state attorney shall report his
6 or her findings to the department and shall include a
7 determination of whether or not prosecution is justified and
8 appropriate in view of the circumstances of the specific case.

9 (9) The department shall maintain records of the
10 number of cases referred to law enforcement, the number of
11 cases referred to the state attorney, the number of cases the
12 state attorney has recommended for prosecution, and the
13 results of those cases prosecuted.

14 (10)~~(7)~~ The department shall not use a warning,
15 reprimand, or disciplinary action against an employee found
16 in that employee's personnel records, as the sole basis for a
17 finding of abuse, neglect, or exploitation.

18 Section 8. Section 415.1045, Florida Statutes, is
19 amended to read:

20 415.1045 ~~Protective investigations; onsite~~
21 ~~investigations; Photographs, videotapes, and medical~~
22 ~~examinations; abrogation of privileged communications;~~
23 ~~confidential records and documents; classification or closure~~
24 ~~of records.--~~

25 ~~(1) PROTECTIVE INVESTIGATIONS.--~~

26 ~~(a) The department shall, upon receipt of a report~~
27 ~~alleging abuse or neglect of a disabled adult or an elderly~~
28 ~~person, commence, or cause to be commenced within 24 hours, a~~
29 ~~protective investigation of the facts alleged therein. The~~
30 ~~department shall, upon receipt of a report alleging only the~~
31 ~~exploitation of a disabled adult or an elderly person,~~

1 ~~commence, or cause to be commenced within 24 hours, excluding~~
2 ~~Saturdays, Sundays, and legal holidays, a protective~~
3 ~~investigation of the facts alleged therein.~~

4 ~~(b) Upon commencing an investigation, the adult~~
5 ~~protective investigator shall inform all disabled adults and~~
6 ~~elderly persons and alleged perpetrators named in the report~~
7 ~~of the following:~~

8 ~~1. The names of the investigators and identifying~~
9 ~~credentials from the department.~~

10 ~~2. The purpose of the investigation.~~

11 ~~3. The possible consequences of the investigation.~~

12 ~~4. That the victim, the victim's guardian, the~~
13 ~~victim's caregiver, and the alleged perpetrator, and legal~~
14 ~~counsel for any of those persons, have a right to a copy of~~
15 ~~the report at the conclusion of the investigation.~~

16 ~~5. That appeal rights may exist and that such rights~~
17 ~~will be explained in writing when appropriate and necessary at~~
18 ~~the conclusion of the investigation.~~

19 ~~6. The name and telephone number of the adult~~
20 ~~protective investigator's supervisor available to answer~~
21 ~~questions.~~

22 ~~(c) Except as provided in paragraph (d), in an~~
23 ~~investigative interview, any person being interviewed may be~~
24 ~~represented by an attorney, at the person's own expense, or~~
25 ~~may choose to have another person present. The other person~~
26 ~~present may not be an alleged perpetrator in any report~~
27 ~~currently under investigation. Before participating in such~~
28 ~~interview, the other person present shall execute an agreement~~
29 ~~to comply with the confidentiality requirements of ss.~~
30 ~~415.101-415.113. The absence of an attorney or other person~~
31 ~~does not prevent the department from proceeding with other~~

1 ~~aspects of the investigation, including interviews with other~~
2 ~~persons.~~

3 ~~(d) In an investigative interview with the disabled~~
4 ~~adult or an elderly person, the protective investigator may~~
5 ~~conduct the interview with no other person present.~~

6 ~~(2) ONSITE INVESTIGATIONS.--For each report it~~
7 ~~receives, the department shall perform an onsite investigation~~
8 ~~to:~~

9 ~~(a) Determine whether the person is a disabled adult~~
10 ~~or an elderly person as defined in s. 415.102.~~

11 ~~(b) Determine whether the person is a disabled adult~~
12 ~~in need of services or an elderly person in need of services,~~
13 ~~as defined in s. 415.102.~~

14 ~~(c) Determine whether there is an indication that any~~
15 ~~disabled adult or elderly person has been or is being abused,~~
16 ~~neglected, or exploited, including a determination of the~~
17 ~~immediate and long-term risk; the nature and extent of present~~
18 ~~or prior injuries; and the nature and extent of any abuse,~~
19 ~~neglect, or exploitation, and any evidence thereof.~~

20 ~~(d) Determine whether protective and ameliorative~~
21 ~~services are necessary to safeguard and ensure the disabled~~
22 ~~adult's or elderly person's well-being and cause the delivery~~
23 ~~of those services.~~

24 ~~(e) Determine the person or persons apparently~~
25 ~~responsible for the abuse, neglect, or exploitation.~~

26 ~~(f) Determine the composition of the family or~~
27 ~~household, including all disabled adults and elderly persons~~
28 ~~named in the report, all persons in the care of the caregiver,~~
29 ~~any other persons responsible for the disabled adult's or~~
30 ~~elderly person's welfare, and any other adults or children in~~
31 ~~the same household.~~

1 ~~(g) Gather appropriate demographic data. Each person~~
2 ~~must cooperate to the fullest extent possible by providing the~~
3 ~~person's name, address, date of birth, social security number,~~
4 ~~sex, and race to the department's representative.~~

5 (1)~~(3)~~ PHOTOGRAPHS AND VIDEOTAPES.--

6 (a) The ~~adult~~ protective investigator, while
7 investigating a report of abuse, neglect, or exploitation, may
8 take or cause to be taken photographs and videotapes of the
9 vulnerable disabled adult or elderly person, and of his or her
10 ~~the disabled adult's or elderly person's~~ environment, which
11 are relevant to the investigation. All photographs and
12 videotapes taken during the course of the protective
13 investigation are confidential and exempt from public
14 disclosure as provided in s. 415.107.

15 (b) Any photographs or videotapes made pursuant to
16 this subsection, or copies thereof, must be sent to the
17 department as soon as possible.

18 (2)~~(4)~~ MEDICAL EXAMINATIONS.--

19 (a) With the consent of the vulnerable disabled adult
20 ~~or elderly person~~ who has the capacity to consent or the
21 vulnerable disabled adult's or elderly person's guardian, or
22 pursuant to s. 415.1051, the department may cause the
23 vulnerable disabled adult or elderly person to be referred to
24 a licensed physician or any emergency department in a hospital
25 or health care facility for medical examination, diagnosis, or
26 treatment if any of the following circumstances exist:

27 1. The areas of trauma visible on the vulnerable
28 ~~disabled adult or elderly person~~ indicate a need for medical
29 examination;

30 2. The vulnerable disabled adult or elderly person
31 verbally complains or otherwise exhibits signs or symptoms

1 | indicating a need for medical attention as a consequence of
2 | suspected abuse, neglect, or exploitation; or

3 | 3. The vulnerable ~~disabled~~ adult ~~or elderly person~~ is
4 | alleged to have been sexually abused.

5 | (b) Upon admission to a hospital or health care
6 | facility, with the consent of the vulnerable ~~disabled~~ adult ~~or~~
7 | ~~elderly person~~ who has capacity to consent or that person's
8 | guardian, or pursuant to s. 415.1051, the medical staff of the
9 | facility may examine, diagnose, or treat the vulnerable
10 | ~~disabled~~ adult ~~or elderly person~~. If a person who has legal
11 | authority to give consent for the provision of medical
12 | treatment to a vulnerable ~~disabled~~ adult ~~or elderly person~~ has
13 | not given or has refused to give such consent, examination and
14 | treatment must be limited to reasonable examination of the
15 | patient to determine the medical condition of the patient and
16 | treatment reasonably necessary to alleviate the medical
17 | condition or to stabilize the patient pending a determination
18 | by the court of the department's petition authorizing
19 | protective services. Any person may seek an expedited
20 | judicial intervention under rule 5.900 of the Florida Probate
21 | Rules concerning medical treatment procedures.

22 | (c) Medical examination, diagnosis, and treatment
23 | provided under this subsection must be paid for by third-party
24 | reimbursement, if available, or by the vulnerable ~~disabled~~
25 | adult, if he or she is ~~or elderly person or that person's~~
26 | ~~guardian from the disabled adult's or elderly person's assets,~~
27 | ~~if the disabled adult or elderly person is determined to be~~
28 | ~~financially able to pay; or, if he or she the disabled adult~~
29 | ~~or elderly person~~ is unable to pay, the department shall pay
30 | the costs within available emergency services funds.

31 |

1 (d) Reports of examination, diagnosis, and treatment
2 made under this subsection, or copies thereof, must be sent to
3 the department as soon as possible.

4 (e) This subsection does not obligate the department
5 to pay for any treatment other than that necessary to
6 alleviate the immediate presenting problems.

7 (3)~~(5)~~ ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
8 privileged quality of communication between husband and wife
9 and between any professional and the professional's patient or
10 client, and any other privileged communication except that
11 between attorney and client or clergy and person, as such
12 communication relates to both the competency of the witness
13 and to the exclusion of confidential communications, does not
14 apply to any situation involving known or suspected abuse,
15 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
16 ~~elderly person~~ and does not constitute grounds for failure to
17 report as required by s. 415.1034, for failure to cooperate
18 with the department in its activities under ss.
19 415.101-415.113, or for failure to give evidence in any
20 judicial or administrative proceeding relating to abuse,
21 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
22 ~~elderly person~~.

23 (4)~~(6)~~ MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR
24 DOCUMENTS.--

25 (a) The ~~adult~~ protective investigator, while
26 investigating a report of abuse, neglect, or exploitation,
27 must have access to, inspect, and copy all medical, social, or
28 financial records or documents in the possession of any
29 person, caregiver, guardian, or facility which are relevant to
30 the allegations under investigation, unless specifically
31

1 prohibited by the vulnerable ~~disabled~~ adult ~~or elderly person~~
2 who has capacity to consent.

3 (b) The confidentiality of any medical, social, or
4 financial record or document that is confidential under state
5 law does not constitute grounds for failure to:

- 6 1. Report as required by s. 415.1034;
- 7 2. Cooperate with the department in its activities
8 under ss. 415.101-415.113;
- 9 3. Give access to such records or documents; or
- 10 4. Give evidence in any judicial or administrative
11 proceeding relating to abuse, neglect, or exploitation of a
12 vulnerable ~~disabled~~ adult ~~or an elderly person~~.

13 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
14 refuses to allow the protective investigator to have access
15 to, inspect, or copy any medical, social, or financial record
16 or document in the possession of any person, caregiver,
17 guardian, or facility which is relevant to the allegations
18 under investigation, the department may petition the court for
19 an order requiring the person to allow access to the record or
20 document. The petition must allege specific facts sufficient
21 to show that the record or document is relevant to the
22 allegations under investigation and that the person refuses to
23 allow access to such record or document. If the court finds
24 by a preponderance of the evidence that the record or document
25 is relevant to the allegations under investigation, the court
26 may order the person to allow access to and permit the
27 inspection or copying of the medical, social, or financial
28 record or document.

29 (6) WORKING AGREEMENTS.--The department shall enter
30 into working agreements with the jurisdictionally responsible
31 county sheriffs' offices and local police departments that

1 will be the lead agency when conducting any criminal
2 investigation arising from an allegation of abuse, neglect, or
3 exploitation of a vulnerable adult. The working agreement must
4 specify how the requirements of this chapter will be met. For
5 the purposes of such agreement, the jurisdictionally
6 responsible law enforcement entity is authorized to share
7 Florida criminal history and local criminal history
8 information that is not otherwise exempt from s. 119.07(1)
9 with the district personnel. A law enforcement entity entering
10 into such agreement must comply with s. 943.0525. Criminal
11 justice information provided by such law enforcement entity
12 shall be used only for the purposes specified in the agreement
13 and shall be provided at no charge. Notwithstanding any other
14 provision of law, the Department of Law Enforcement shall
15 provide to the department electronic access to Florida
16 criminal justice information that is lawfully available and
17 not exempt from s. 119.07(1), only for the purpose of
18 protective investigations and emergency placement. As a
19 condition of access to such information, the department shall
20 be required to execute an appropriate user agreement
21 addressing the access, use, dissemination, and destruction of
22 such information and to comply with all applicable laws and
23 rules of the Department of Law Enforcement.

24 ~~(7) CLASSIFICATIONS AND CLOSURES.--No later than 45~~
25 ~~days after receiving an initial report in which the department~~
26 ~~has jurisdiction, the adult protective investigator shall~~
27 ~~complete the investigation and classify the report as proposed~~
28 ~~confirmed or unfounded, or close the report without~~
29 ~~classification. The adult protective investigator must~~
30 ~~document the details of the investigation, close the report,~~
31 ~~and enter the data into the central abuse registry and~~

1 ~~tracking system no later than 60 days after receiving the~~
2 ~~initial report.~~

3 Section 9. Section 415.105, Florida Statutes, is
4 amended to read:

5 415.105 Provision of protective services with consent;
6 withdrawal of consent; interference.--

7 (1) PROTECTIVE SERVICES WITH CONSENT.--If the
8 department determines through its investigation that a
9 vulnerable disabled adult ~~or an elderly person~~ demonstrates a
10 need for protective services or protective supervision, the
11 department shall immediately provide, or arrange for the
12 provision of, protective services or protective supervision,
13 including in-home services, provided that the vulnerable
14 ~~disabled~~ adult ~~or elderly person~~ consents. A vulnerable adult
15 ~~disabled person~~ in need of services as defined in s. 415.102
16 shall be referred to the community care for disabled adults
17 program, ~~or. An elderly person in need of services as defined~~
18 ~~in s. 415.102 shall be referred~~ to the community care for the
19 elderly program administered by the Department of Elderly
20 Affairs.

21 (2) WITHDRAWAL OF CONSENT.--If the vulnerable disabled
22 ~~adult or elderly person~~ withdraws consent to the receipt of
23 protective services or protective supervision, the services
24 may not be provided, except pursuant to s. 415.1051.

25 (3) INTERFERENCE WITH THE PROVISION OF PROTECTIVE
26 SERVICES.--When any person refuses to allow the provision of
27 protective services to a vulnerable adult who has the capacity
28 to consent to services, the department shall petition the
29 court for an order enjoining the person from interfering with
30 the provision of protective services. The petition must
31 allege specific facts sufficient to show that the vulnerable

1 adult is in need of protective services and that the person
2 refuses to allow the provision of such services. If the court
3 finds by clear and convincing evidence that the vulnerable
4 adult is in need of protective services and that the person
5 refuses to allow the provision of such services, the court may
6 issue an order enjoining the person from interfering with the
7 provision of protective services to the vulnerable adult.

8 Section 10. Section 415.1051, Florida Statutes, is
9 amended to read:

10 415.1051 Protective services interventions when
11 capacity to consent is lacking; nonemergencies; emergencies;
12 orders; limitations.--

13 (1) NONEMERGENCY PROTECTIVE SERVICES

14 INTERVENTIONS.--If the department has reasonable cause to
15 believe that a vulnerable ~~disabled~~ adult ~~or elderly person~~ is
16 being abused, neglected, or exploited and is in need of
17 protective services but lacks the capacity to consent to
18 protective services, the department shall petition the court
19 for an order authorizing the provision of protective services.

20 (a) Nonemergency protective services petition.--The
21 petition must state the name, age, and address of the
22 vulnerable ~~disabled~~ adult ~~or elderly person~~, allege specific
23 facts sufficient to show that the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ is in need of protective services and lacks the
25 capacity to consent to them, and indicate the services needed.

26 (b) Notice.--Notice of the filing of the petition and
27 a copy of the petition must be given to the vulnerable
28 ~~disabled~~ adult ~~or elderly person~~, to that person's spouse,
29 guardian, and legal counsel, and, when known, to the adult
30 children or next of kin of the vulnerable ~~disabled~~ adult ~~or~~

31

1 ~~elderly person~~. Such notice must be given at least 5 days
2 before the hearing.

3 (c) Hearing.--

4 1. The court shall set the case for hearing within 14
5 days after the filing of the petition. The vulnerable
6 ~~disabled adult or elderly person~~ and any person given notice
7 of the filing of the petition have the right to be present at
8 the hearing. The department must make reasonable efforts to
9 ensure the presence of the vulnerable ~~disabled adult or~~
10 ~~elderly person~~ at the hearing.

11 2. The vulnerable ~~disabled adult or elderly person~~ has
12 the right to be represented by legal counsel at the hearing.
13 The court shall appoint legal counsel to represent a
14 vulnerable ~~disabled adult or elderly person~~ who is without
15 legal representation.

16 3. The court shall determine whether:

17 a. Protective services, including in-home services,
18 are necessary ~~for the disabled adult or elderly person;~~ and

19 b. The vulnerable ~~disabled adult or elderly person~~
20 lacks the capacity to consent to the provision of such
21 services.

22 (d) Hearing findings.--If at the hearing the court
23 finds by clear and convincing evidence that the vulnerable
24 ~~disabled adult or elderly person~~ is in need of protective
25 services and lacks the capacity to consent ~~to protective~~
26 ~~services~~, the court may issue an order authorizing the
27 provision of protective services. If an order for protective
28 services is issued, it must include a statement of the
29 services to be provided and designate an individual or agency
30 to be responsible for performing or obtaining the essential
31 services on behalf of the vulnerable ~~disabled adult or elderly~~

1 ~~person~~ or otherwise consenting to protective services on
2 behalf of the vulnerable disabled adult ~~or elderly person~~.

3 (e) Continued protective services.--

4 1. No more than 60 days after the date of the order
5 authorizing the provision of protective services, the
6 department shall petition the court to determine whether:

7 a. Protective services will be continued with the
8 consent of the vulnerable disabled adult ~~or elderly person~~
9 pursuant to subsection (1);

10 b. Protective services will be continued for the
11 vulnerable disabled adult ~~or elderly person~~ who lacks
12 capacity;

13 c. Protective services will be discontinued; or

14 d. A petition for guardianship should be filed
15 pursuant to chapter 744.

16 2. If the court determines that a petition for
17 guardianship should be filed pursuant to chapter 744, the
18 court, for good cause shown, may order continued protective
19 services until it makes a determination regarding ~~the disabled~~
20 ~~adult's or elderly person's~~ capacity.

21 (f) Costs.--The costs of services ordered under this
22 section must be paid by the perpetrator if the perpetrator is
23 financially able to do so; or by third-party reimbursement, if
24 available. If the vulnerable disabled adult ~~or elderly person~~
25 is unable to pay for guardianship, application may be made to
26 the public guardian for public guardianship services, if
27 available.

28 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If
29 the department has reasonable cause to believe that a
30 vulnerable disabled adult ~~or an elderly person~~ is suffering
31 from abuse or neglect that presents a risk of death or serious

1 physical injury to the vulnerable ~~disabled~~ adult ~~or elderly~~
2 ~~person~~ and that the vulnerable ~~disabled~~ adult ~~or elderly~~
3 ~~person~~ lacks the capacity to consent to emergency protective
4 services, the department may take action under this
5 subsection. If the vulnerable ~~disabled~~ adult ~~or elderly~~
6 ~~person~~ has the capacity to consent and refuses consent to
7 emergency protective services, emergency protective services
8 may not be provided.

9 (a) Emergency entry of premises.--If, upon arrival at
10 the scene of the incident, consent is not obtained for access
11 to the alleged victim for purposes of conducting a protective
12 investigation under this subsection and the department has
13 reason to believe that the situation presents a risk of death
14 or serious physical injury, a representative of the department
15 and a law enforcement officer may forcibly enter the premises.
16 If, after obtaining access to the alleged victim, it is
17 determined through a personal assessment of the situation that
18 no emergency exists and there is no basis for emergency
19 protective services intervention under this subsection, the
20 department shall terminate the emergency entry ~~and may provide~~
21 ~~protective services with the consent of the disabled adult or~~
22 ~~elderly person or may petition the court to provide~~
23 ~~nonemergency protective services or protective supervision~~
24 ~~pursuant to subsection (1).~~

25 (b) Emergency removal from premises.--If it appears
26 that the vulnerable ~~disabled~~ adult ~~or elderly person~~ lacks the
27 capacity to consent to emergency protective services and that
28 the vulnerable ~~disabled~~ adult ~~or elderly person~~, from the
29 personal observations of the representative of the department
30 and specified medical personnel or law enforcement officers,
31 is likely to incur a risk of death or serious physical injury

1 if such person is not immediately removed from the premises,
2 then the representative of the department shall transport or
3 arrange for the transportation of the vulnerable disabled
4 ~~adult or elderly person~~ to an appropriate medical or
5 protective services facility in order to provide emergency
6 protective services. Law enforcement personnel have a duty to
7 transport when medical transportation is not available or
8 needed and the vulnerable disabled ~~adult or elderly person~~
9 presents a threat of injury to self or others. If the
10 vulnerable disabled ~~adult's or elderly person's~~ caregiver or
11 guardian is present, the ~~adult~~ protective investigator must
12 seek the caregiver's or guardian's consent pursuant to
13 subsection (4) before the vulnerable disabled ~~adult or elderly~~
14 ~~person~~ may be removed from the premises, unless the ~~adult~~
15 protective investigator suspects that the vulnerable disabled
16 ~~adult's or elderly person's~~ caregiver or guardian has caused
17 the abuse, neglect, or exploitation ~~to the disabled adult or~~
18 ~~elderly person~~. The department shall, within 24 hours after
19 providing or arranging for emergency removal of the vulnerable
20 ~~disabled adult or elderly person~~, excluding Saturdays,
21 Sundays, and legal holidays, petition the court for an order
22 authorizing emergency protective services.

23 (c) Emergency medical treatment.--If, upon admission
24 to a medical facility, it is the opinion of the medical staff
25 that immediate medical treatment is necessary to prevent
26 serious physical injury or death, and that such treatment does
27 not violate a known health care advance directive prepared by
28 the vulnerable disabled ~~adult or elderly person~~, the medical
29 facility may proceed with treatment to the vulnerable disabled
30 ~~adult or elderly person~~. If a person with legal authority to
31 give consent for the provision of medical treatment to a

1 vulnerable ~~disabled~~ adult ~~or an elderly person~~ has not given
2 or has refused to give such consent, examination and treatment
3 must be limited to reasonable examination of the patient to
4 determine the medical condition of the patient and treatment
5 reasonably necessary to alleviate the emergency medical
6 condition or to stabilize the patient pending court
7 determination of the department's petition authorizing
8 emergency protective services. Any person may seek an
9 expedited judicial intervention under rule 5.900 of the
10 Florida Probate Rules concerning medical treatment procedures.

11 (d) Emergency protective services petition.--A
12 petition filed under this subsection must state the name, age,
13 and address of the vulnerable ~~disabled~~ adult ~~or elderly person~~
14 and allege the facts constituting the emergency protective
15 services intervention and subsequent removal of the vulnerable
16 ~~disabled~~ adult ~~or elderly person~~ or provision of in-home
17 services, the facts relating to the capacity of the vulnerable
18 ~~disabled~~ adult ~~or elderly person~~ to consent to services, the
19 efforts of the department to obtain consent, and the services
20 needed or delivered.

21 (e) Notice.--Notice of the filing of the emergency
22 protective services petition and a copy of the petition must
23 be given to the vulnerable ~~disabled~~ adult ~~or elderly person~~,
24 to that person's spouse, to that person's guardian, if any, to
25 legal counsel representing the vulnerable ~~disabled~~ adult ~~or~~
26 ~~elderly person~~, and, when known, to adult children or next of
27 kin of the vulnerable ~~disabled~~ adult ~~or elderly person~~. Such
28 notice must be given at least 24 hours before any hearing on
29 the petition for emergency protective services.

30 (f) Hearing.--When emergency removal has occurred
31 under this subsection, a hearing must be held within 4 days

1 after the filing of the emergency protective services
2 petition, excluding Saturday, Sunday, and legal holidays, to
3 establish reasonable cause for grounds to continue emergency
4 protective services.

5 1. The court shall determine, by clear and convincing
6 evidence, whether an emergency existed which justified the
7 emergency protective services intervention, whether the
8 vulnerable disabled adult ~~or elderly person~~ is in need of
9 emergency protective services, whether the vulnerable disabled
10 adult ~~or elderly person~~ lacks the capacity to consent to
11 emergency protective services, and whether:

12 a. Emergency protective services will continue with
13 the consent of the vulnerable disabled adult ~~or elderly person~~
14 ~~pursuant to s. 415.105(1);~~

15 b. Emergency protective services will continue without
16 the consent of the vulnerable disabled adult ~~or elderly person~~
17 ~~pursuant to subsection (2);~~ or

18 c. Emergency protective services will be discontinued.

19 2. The vulnerable disabled adult ~~or elderly person~~ has
20 the right to be represented by legal counsel at the hearing.
21 The court shall appoint legal counsel to represent a
22 vulnerable disabled adult ~~or an elderly person~~ who is without
23 legal representation.

24 3. The department must make reasonable efforts to
25 ensure the presence of the vulnerable disabled adult ~~or~~
26 ~~elderly person~~ at the hearing.

27 4. If an order to continue emergency protective
28 services is issued, it must state the services to be provided
29 and designate an individual or agency to be responsible for
30 performing or obtaining the essential services ~~on behalf of~~
31 ~~the disabled adult or elderly person~~, or otherwise consenting

1 to protective services on behalf of the vulnerable ~~disabled~~
2 adult ~~or elderly person~~.

3 (g) Continued emergency protective services.--

4 1. Not more than 60 days after the date of the order
5 authorizing the provision of emergency protective services,
6 the department shall petition the court to determine whether:

7 a. Emergency protective services will be continued
8 with the consent of the vulnerable ~~disabled~~ adult ~~or elderly~~
9 ~~person pursuant to subsection (1)~~;

10 b. Emergency protective services will be continued for
11 the vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
12 capacity;

13 c. Emergency protective services will be discontinued;
14 or

15 d. A petition should be filed under chapter 744.

16 2. If it is decided to file a petition under chapter
17 744, for good cause shown, the court may order continued
18 emergency protective services until a determination is made by
19 the court ~~regarding the disabled adult's or elderly person's~~
20 ~~capacity~~.

21 (h) Costs.--The costs of services ordered under this
22 section must be paid by the perpetrator if the perpetrator is
23 financially able to do so, or by third-party reimbursement, if
24 available. ~~If the disabled adult or elderly person is unable~~
25 ~~to pay for guardianship, application may be made to the public~~
26 ~~guardian for public guardianship services, if available.~~

27 (3) PROTECTIVE SERVICES ORDER.--In ordering any
28 protective services under this section, the court shall adhere
29 to the following limitations:

30 (a) Only such protective services as are necessary to
31 ameliorate the conditions creating the abuse, neglect, or

1 exploitation may be ordered, and the court shall specifically
2 designate the approved services in the order of the court.

3 (b) Protective services ordered may not include a
4 change of residence, unless the court specifically finds such
5 action is necessary to ameliorate the conditions creating the
6 abuse, neglect, or exploitation and the court gives specific
7 approval for such action in the order. Placement may be made
8 to such facilities as adult family-care homes, assisted living
9 facilities, or nursing homes, or to other appropriate
10 facilities. Placement may not be made to facilities for the
11 acutely mentally ill, except as provided in chapter 394.

12 (c) If an order to continue emergency protective
13 services is issued, it must include the designation of an
14 individual or agency to be responsible for performing or
15 obtaining the essential services on behalf of the vulnerable
16 ~~disabled adult or elderly person~~ or otherwise consenting to
17 protective services on behalf of the vulnerable ~~disabled~~ adult
18 ~~or elderly person~~.

19 (4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER
20 OR GUARDIAN PRESENT.--

21 (a) When a vulnerable ~~disabled adult or an elderly~~
22 ~~person~~ who lacks the capacity to consent has been identified
23 ~~in a report as the victim of abuse, neglect, or exploitation~~
24 ~~and evidences a need for emergency or nonemergency protective~~
25 ~~services or protective supervision, and a caregiver or~~
26 ~~guardian who is responsible for the care of the disabled adult~~
27 ~~or elderly person is present~~, the adult protective
28 investigator must first request consent from the caregiver or
29 guardian, if present, before providing protective services or
30 protective supervision, unless the ~~adult~~ protective
31 investigator suspects that the ~~disabled adult's or elderly~~

1 ~~person's~~ caregiver or guardian has caused the abuse, neglect,
2 or exploitation ~~of the disabled adult or elderly person.~~

3 (b) If the caregiver or guardian agrees to engage or
4 provide services designed to prevent further abuse, neglect,
5 or exploitation, the department may provide protective
6 supervision ~~for the disabled adult or elderly person.~~

7 (c) If the caregiver or guardian refuses to give
8 consent or later withdraws consent to agreed-upon services, or
9 otherwise fails to provide needed care and supervision, the
10 department may provide emergency protective services as
11 provided in subsection (2). If emergency protective services
12 are so provided, the department must then petition the court
13 for an order to provide emergency protective services under
14 subsection (3).

15 (5) INTERFERENCE WITH COURT-ORDERED PROTECTIVE
16 SERVICES.--When a court order exists authorizing protective
17 services for a vulnerable adult who lacks capacity to consent
18 and any person interferes with the provision of such
19 court-ordered protective services, the appropriate law
20 enforcement agency shall enforce the order of the court.

21 (6)(5) LIMITATIONS.--This section does not limit in
22 any way the authority of the court or a criminal justice
23 officer, or any other duly appointed official, to intervene in
24 emergency circumstances under existing statutes. This section
25 does not limit the authority of any person to file a petition
26 for guardianship under chapter 744.

27 Section 11. Section 415.1052, Florida Statutes, is
28 amended to read:

29 415.1052 Interference with investigation or with the
30 provision of protective services.--

31

1 (1) If, upon arrival of the ~~adult~~ protective
2 investigator, any person refuses to allow the department to
3 begin a protective investigation, interferes with the
4 department's ability to conduct such an investigation, or
5 refuses to give access to the vulnerable ~~disabled~~ adult ~~or~~
6 ~~elderly person~~, the appropriate law enforcement agency must be
7 contacted to assist the department in commencing the
8 protective investigation.

9 ~~(2) If any person refuses to allow the adult~~
10 ~~protective investigator to have access to, inspect, or copy~~
11 ~~any medical, social, or financial record or document in the~~
12 ~~possession of any person, caregiver, guardian, or facility~~
13 ~~which is relevant to the allegations under investigation, the~~
14 ~~department may petition the court for an order requiring the~~
15 ~~person to give access to the record or document. The petition~~
16 ~~must allege specific facts sufficient to show that the record~~
17 ~~or document is relevant to the allegations under investigation~~
18 ~~and that the person refuses to give access to such record or~~
19 ~~document. If the court finds by a preponderance of the~~
20 ~~evidence that the record or document is relevant to the~~
21 ~~allegations under investigation, the court may order the~~
22 ~~person to give access to and permit the inspection or copying~~
23 ~~of the medical, social, or financial record or document.~~

24 ~~(2)(3)~~ When any person refuses to allow the provision
25 of protective services to the vulnerable ~~disabled~~ adult ~~or~~
26 ~~elderly person~~ who has the capacity to consent to services,
27 the department shall petition the court for an order enjoining
28 the person from interfering with the provision of protective
29 services. The petition must allege specific facts sufficient
30 to show that the vulnerable ~~disabled~~ adult ~~or elderly person~~
31 is in need of protective services and that the person refuses

1 to allow the provision of such services. If the court finds
2 by clear and convincing evidence that the vulnerable disabled
3 ~~adult or elderly person~~ is in need of protective services and
4 that the person refuses to allow the provision of such
5 services, the court may issue an order enjoining the person
6 from interfering with the provision of protective services to
7 the vulnerable disabled ~~adult or elderly person~~.

8 ~~(4) When a court order exists authorizing protective~~
9 ~~services for a disabled adult or an elderly person who lacks~~
10 ~~capacity to consent and any person interferes with the~~
11 ~~provision of such court-ordered protective services to the~~
12 ~~disabled adult or elderly person, the appropriate law~~
13 ~~enforcement agency shall enforce the order of the court.~~

14 Section 12. Section 415.1055, Florida Statutes, is
15 amended to read:

16 415.1055 Notification to administrative entities,
17 ~~subjects, and reporters; notification to law enforcement and~~
18 ~~state attorneys.--~~

19 ~~(1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--~~

20 ~~(a) The department shall, within 24 hours after~~
21 ~~receipt of a report of abuse, neglect, or exploitation of a~~
22 ~~disabled adult or an elderly person within a facility,~~
23 ~~excluding Saturdays, Sundays, and legal holidays, notify the~~
24 ~~appropriate human rights advocacy committee and the long-term~~
25 ~~care ombudsman council, in writing, that the department has~~
26 ~~reasonable cause to believe that a disabled adult or an~~
27 ~~elderly person has been abused, neglected, or exploited at the~~
28 ~~facility.~~

29 ~~(1)(b)~~ Upon receipt of a report that alleges that an
30 employee or agent of the department or the Department of
31 Elderly Affairs, acting in an official capacity, has committed

1 an act of abuse, neglect, or exploitation, the department
2 shall notify the state attorney in whose circuit the abuse,
3 neglect, or exploitation occurred. This notification may be
4 oral or written.

5 (2)~~(c)~~ If at any time during a protective
6 investigation the department has reasonable cause to believe
7 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
8 abused, neglected, or exploited by another person, the state
9 attorney having jurisdiction in the county in which the abuse,
10 neglect, or exploitation occurred shall be notified
11 immediately, either orally or in writing.

12 (3)~~(d)~~ If at any time during a protective
13 investigation the department has reasonable cause to believe
14 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
15 abused, neglected, or exploited by another person, the
16 appropriate law enforcement agency shall be immediately
17 notified. Such agency may begin a criminal investigation
18 concurrent with or independent of the protective investigation
19 of the department. This notification may be oral or written.

20 (4)~~(e)~~ If at any time during a protective
21 investigation the department has reasonable cause to believe
22 that abuse, neglect, or exploitation of a vulnerable ~~disabled~~
23 adult ~~or an elderly person~~ has occurred within a facility that
24 receives Medicaid funds, the department shall notify the
25 Medicaid Fraud Control Unit within the Department of Legal
26 Affairs, Office of the Attorney General, in order that it may
27 begin an investigation concurrent with the protective
28 investigation of the department. This notification may be oral
29 or written.

30 (5)~~(f)~~ If at any time during a protective
31 investigation the department has reasonable cause to believe

1 that an employee of a facility, as defined in s. 415.102~~(13)~~,
2 is the alleged perpetrator of abuse, neglect, or exploitation
3 of a vulnerable disabled adult or ~~an elderly person~~, the
4 department shall notify the Agency for Health Care
5 Administration, Division of Health Quality Assurance, in
6 writing.

7 (6)~~(g)~~ If at any time during a protective
8 investigation the department has reasonable cause to believe
9 that professional licensure violations have occurred, the
10 department shall notify the Division of Medical Quality
11 Assurance within the Department of Health. This notification
12 must be in writing.

13 (7)~~(h)~~ ~~When a report has been classified as proposed~~
14 ~~confirmed,~~The department shall notify the state attorney
15 having jurisdiction in the county in which the abuse, neglect,
16 or exploitation occurred. ~~The department may submit a report~~
17 ~~that has been closed without classification~~ if evidence
18 indicates that further criminal investigation is warranted.
19 This notification must be in writing.

20 (8)~~(i)~~ At the conclusion of a protective investigation
21 at a facility, the department shall notify either the human
22 rights advocacy committee or long-term care ombudsman council
23 of the results of the investigation. This notification must
24 be in writing.

25 ~~(j)~~ ~~At the conclusion of a protective investigation,~~
26 ~~the department shall notify the Agency for Health Care~~
27 ~~Administration when a licensee or a certified nursing~~
28 ~~assistant has been named as perpetrator in a report that has~~
29 ~~been classified as proposed confirmed or confirmed.~~ This
30 notification must be in writing.

31

1 ~~(9)(k)~~ When a report ~~has been classified as proposed~~
2 ~~confirmed in cases~~ involving a guardian of the person or
3 property, or both, is received, the department shall notify
4 the probate court having jurisdiction over the guardianship,
5 ~~of the proposed confirmed report. This notification must be in~~
6 writing.

7 (10) When a report has been received and the
8 department has reason to believe that a vulnerable adult
9 resident of a facility licensed by the Agency for Health Care
10 Administration has been the victim of abuse, neglect, or
11 exploitation, the department shall provide a copy of its
12 investigation to the agency. If the investigation determines
13 that a health professional licensed or certified under the
14 Department of Health may have abused, neglected, or exploited
15 a vulnerable adult, the department shall also provide a copy
16 to the Department of Health.

17 ~~(2) NOTIFICATION TO OTHER PERSONS.--~~

18 ~~(a) In the case of a report that has been classified~~
19 ~~as unfounded, notice of the classification must be given to~~
20 ~~the disabled adult or elderly person, the guardian of that~~
21 ~~person, the caregiver of that person, and the person who had~~
22 ~~been named as the alleged perpetrator. The notice must be~~
23 ~~sent by regular mail and must advise the recipient that the~~
24 ~~report will be expunged in 1 year.~~

25 ~~(b) If a report has been classified as proposed~~
26 ~~confirmed, notice of the classification must be given to the~~
27 ~~disabled adult or elderly person, the guardian of that person,~~
28 ~~the caregiver of that person, and the alleged perpetrator, and~~
29 ~~legal counsel, if known, for those persons.~~

1 ~~1. The notice must state the nature of the alleged~~
2 ~~abuse, neglect, or exploitation and the facts that are alleged~~
3 ~~to support the proposed confirmed classification.~~

4 ~~2. The notice must advise the recipient of the~~
5 ~~recipient's right to request a copy of the report within 60~~
6 ~~days after receipt of the notice.~~

7 ~~3. The notice must clearly advise the alleged~~
8 ~~perpetrator that the alleged perpetrator has the right to~~
9 ~~request amendment or expunction of the report within 60 days~~
10 ~~after receipt of the notice, and that failure to request~~
11 ~~amendment or expunction within 60 days means that the report~~
12 ~~will be reclassified as confirmed at the expiration of the 60~~
13 ~~days and that the alleged perpetrator agrees not to contest~~
14 ~~the classification of the report. No further administrative or~~
15 ~~judicial proceedings in the matter are allowed.~~

16 ~~4. The notice must state that, if the report becomes~~
17 ~~confirmed, the alleged perpetrator may be disqualified from~~
18 ~~working with children, the developmentally disabled, disabled~~
19 ~~adults, and elderly persons.~~

20 ~~5. Notice of a proposed confirmed report must be~~
21 ~~personally served upon the alleged perpetrator in this state~~
22 ~~by an adult protective investigator, a sheriff, or a private~~
23 ~~process server in the district in which the alleged~~
24 ~~perpetrator resides, works, or can be found. Proof of service~~
25 ~~of the notice must be by affidavit prepared by the individual~~
26 ~~serving the notice upon the alleged perpetrator. The~~
27 ~~affidavit must state the name of the person serving the~~
28 ~~notice, the name of the alleged perpetrator served, the~~
29 ~~location at which the alleged perpetrator was served, and the~~
30 ~~time the notice was served. If the notice of a proposed~~
31 ~~confirmed report cannot be personally served upon the alleged~~

1 ~~perpetrator in this state or if the alleged perpetrator does~~
2 ~~not reside in this state, the notice of the proposed confirmed~~
3 ~~report must be sent by certified mail, return receipt~~
4 ~~requested, forwarding and address correction requested, to the~~
5 ~~last known address of the alleged perpetrator. If an alleged~~
6 ~~perpetrator cannot be served either by personal service or by~~
7 ~~certified mail, the record of the proposed confirmed report~~
8 ~~must be maintained pursuant to s. 415.1065.~~

9 ~~6. Notice to other named persons may be sent by~~
10 ~~regular mail, with the department giving notice to the~~
11 ~~caregiver, the guardian, legal counsel for all parties, and~~
12 ~~the disabled adult or elderly person.~~

13 ~~7. If a proposed confirmed report becomes confirmed~~
14 ~~because the alleged perpetrator fails to make a timely request~~
15 ~~to amend or expunge the proposed confirmed report, the~~
16 ~~department must give notice of the confirmed classification to~~
17 ~~the perpetrator and the perpetrator's legal counsel.~~

18 ~~a. Notice of the confirmed classification must inform~~
19 ~~the perpetrator that the perpetrator may be disqualified from~~
20 ~~working with children, the developmentally disabled, disabled~~
21 ~~adults, and elderly persons.~~

22 ~~b. The notice must inform the perpetrator that further~~
23 ~~departmental proceedings in the matter are not allowed.~~

24 ~~c. The notice of the confirmed classification must be~~
25 ~~sent by certified mail, return receipt requested.~~

26 ~~(c) If a report is closed without classification,~~
27 ~~notice must be given to the guardian of the disabled adult or~~
28 ~~elderly person, the disabled adult or elderly person, the~~
29 ~~caregiver of that person, any person or facility named in the~~
30 ~~report, and the person who had been named as the alleged~~

31

1 ~~perpetrator. The notice must be sent by regular mail and must~~
2 ~~advise the recipient that:~~
3 ~~1. The report will be retained for 7 years.~~
4 ~~2. The recipient has a right to request a copy of this~~
5 ~~report.~~
6 ~~3. Any person or facility named in a report classified~~
7 ~~as closed without classification has the right to request~~
8 ~~amendment or expunction of the report within 60 days after the~~
9 ~~receipt of the notice, and that failure to request amendment~~
10 ~~or expunction within 60 days means that the report will remain~~
11 ~~classified as closed without classification and that the~~
12 ~~person agrees not to contest the classification of the report.~~
13 ~~No further proceeding will be allowed in this matter.~~
14 ~~(d) In the case of a report that has been determined~~
15 ~~by an adult protective services investigator to be either a~~
16 ~~disabled adult in need of services or an elderly person in~~
17 ~~need of services, as defined in s. 415.102, no classification~~
18 ~~of the report shall be made and no notification shall be~~
19 ~~required.~~
20 ~~(e) The department shall adopt rules prescribing the~~
21 ~~content of the notices to be provided and requiring uniformity~~
22 ~~of content and appearance of each notice of classification or~~
23 ~~closure without classification.~~
24 ~~(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE~~
25 ~~ATTORNEYS.~~
26 ~~(a) Whenever the law enforcement agency and the~~
27 ~~department have conducted independent investigations, the law~~
28 ~~enforcement agency shall, within 5 working days after~~
29 ~~concluding its investigation, report its findings to the~~
30 ~~department and to the state attorney.~~
31

1 ~~(b) Within 15 days after completion of an~~
2 ~~investigation of a case reported to the state attorney under~~
3 ~~this section, the state attorney shall report the findings to~~
4 ~~the department and shall include a determination of whether or~~
5 ~~not prosecution is justified and appropriate in view of the~~
6 ~~circumstances of the specific case.~~

7 Section 13. Subsections (2) and (3) of section
8 415.106, Florida Statutes, are amended to read:

9 415.106 Cooperation by the department and criminal
10 justice and other agencies.--

11 (2) To ensure coordination, communication, and
12 cooperation with the investigation of abuse, neglect, or
13 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~,
14 the department shall develop and maintain interprogram
15 agreements or operational procedures among appropriate
16 departmental programs and the State Long-Term Care Ombudsman
17 Council, the Statewide Human Rights Advocacy Committee, and
18 other agencies that provide services to vulnerable ~~disabled~~
19 adults or ~~elderly persons~~. These agreements or procedures must
20 cover such subjects as the appropriate roles and
21 responsibilities of the department in identifying and
22 responding to reports of abuse, neglect, or exploitation of
23 vulnerable ~~disabled~~ adults or ~~elderly persons~~; the provision
24 of services; and related coordinated activities.

25 (3) To the fullest extent possible, the department
26 shall cooperate with and seek cooperation from all appropriate
27 public and private agencies, including health agencies,
28 educational agencies, social service agencies, courts,
29 organizations, or programs providing or concerned with human
30 services related to the prevention, identification, or

31

1 treatment of abuse, neglect, or exploitation of vulnerable
2 ~~disabled adults and elderly persons.~~

3 Section 14. Section 415.107, Florida Statutes, is
4 amended to read:

5 415.107 Confidentiality of reports and records.--

6 (1) In order to protect the rights of the individual
7 or other persons responsible for the welfare of a vulnerable
8 ~~disabled adult or an elderly person~~, all records concerning
9 reports of abuse, neglect, or exploitation of the vulnerable
10 ~~disabled adult or elderly person~~, including reports made to
11 the central abuse hotline registry and tracking system, and
12 all records generated as a result of such reports shall be
13 confidential and exempt from s. 119.07(1) and may not be
14 disclosed except as specifically authorized by ss.

15 415.101-415.113.

16 (2) Access to all records shall be granted to staff of
17 the legislative committees with jurisdiction over issues and
18 services related to vulnerable adults, or over the department.

19 ~~(3)(2)~~ Access to all records, excluding the name of
20 the reporter which shall be released only as provided in
21 subsection (6), shall be granted only to the following
22 persons, officials, and agencies:

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

1 (b) A criminal justice agency investigating a report
2 of known or suspected abuse, neglect, or exploitation of a
3 vulnerable ~~disabled~~ adult ~~or an elderly person~~.

4 (c) The state attorney of the judicial circuit in
5 which the vulnerable ~~disabled~~ adult ~~or elderly person~~ resides
6 or in which the alleged abuse, neglect, or exploitation
7 occurred.

8 (d) Any person who is the subject of a report or the
9 subject's guardian, caregiver, or legal counsel.

10 (e) A court, by subpoena, upon its finding that access
11 to such records may be necessary for the determination of an
12 issue before the court; however, such access must be limited
13 to inspection in camera, unless the court determines that
14 public disclosure of the information contained in such records
15 is necessary for the resolution of an issue then pending
16 before it.

17 (f) A grand jury, by subpoena, upon its determination
18 that access to such records is necessary in the conduct of its
19 official business.

20 (g) Any appropriate official of the human rights
21 advocacy committee or long-term care ombudsman council
22 investigating a report of known or suspected abuse, neglect,
23 or exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
24 ~~person~~.

25 (h) Any appropriate official of the department, of the
26 Agency for Health Care Administration, or of the Department of
27 Elderly Affairs who is responsible for:

28 1. Administration or supervision of the programs for
29 the prevention, investigation, or treatment of ~~adult~~ abuse,
30 neglect, or exploitation of vulnerable adults when carrying
31 out an official function; or

1 2. Taking appropriate administrative action concerning
2 an employee alleged to have perpetrated ~~institutional~~ abuse,
3 neglect, or exploitation of a vulnerable disabled adult in an
4 institution ~~or an elderly person~~.

5 (i) Any person engaged in bona fide research or
6 auditing. However, information identifying the subjects of the
7 report must not be made available to the researcher.

8 (j) Employees or agents of an agency of another state
9 that has jurisdiction comparable to the jurisdiction described
10 in paragraph (a).

11 (k) The Public Employees Relations Commission for the
12 sole purpose of obtaining evidence for appeals filed pursuant
13 to s. 447.207. Records may be released only after deletion of
14 all information that specifically identifies persons other
15 than the employee.

16 (1) Any person in the event of the death of a
17 vulnerable disabled adult ~~or elderly person~~ determined to be a
18 result of abuse, neglect, or exploitation. Information
19 identifying the person reporting abuse, neglect, or
20 exploitation shall not be released. Any information otherwise
21 made confidential or exempt by law shall not be released
22 pursuant to this paragraph.

23 ~~(3) The Division of Administrative Hearings may have~~
24 ~~access to a proposed confirmed or a confirmed report,~~
25 ~~excluding the name of the reporter, for purposes of any~~
26 ~~administrative challenge relating to a proposed confirmed or~~
27 ~~confirmed report.~~

28 (4) The Department of Health, the Department of
29 Business and Professional Regulation, and the Agency for
30 Health Care Administration may have access to a ~~confirmed~~
31 report, excluding the name of the reporter, when considering

1 ~~taking~~ disciplinary action against a licensee or certified
2 nursing assistant pursuant to allegations for actions that
3 ~~resulted in a confirmed report~~ of abuse, neglect, or
4 exploitation ~~which has been upheld following a chapter 120~~
5 ~~hearing or a waiver of such proceedings.~~

6 (5) The department may release to any professional
7 person such information as is necessary for the diagnosis and
8 treatment of, and service delivery to, a vulnerable disabled
9 ~~adult or an elderly person~~ or the person perpetrating the
10 abuse, neglect, or exploitation.

11 (6) The identity of any person reporting ~~adult~~ abuse,
12 neglect, or exploitation of a vulnerable adult may not be
13 released, without that person's written consent, to any person
14 other than employees of the department responsible for ~~adult~~
15 protective services, the central abuse hotline registry and
16 ~~tracking system~~, or the appropriate state attorney or law
17 enforcement agency. This subsection grants protection only
18 for the person who reported the ~~adult~~ abuse, neglect, or
19 exploitation and protects only the fact that the person is the
20 reporter. This subsection does not prohibit the subpoena of a
21 person reporting the adult abuse, neglect, or exploitation
22 when deemed necessary by the state attorney or the department
23 to protect a vulnerable disabled adult ~~or an elderly person~~
24 who is the subject of a report, if the fact that the person
25 made the report is not disclosed.

26 (7) For the purposes of this section, the term
27 "access" means a visual inspection or copy of the hard-copy
28 record maintained in the district.

29 ~~(8) The department, upon receipt of the applicable~~
30 ~~fee, shall search its central abuse registry and tracking~~
31 ~~system records pursuant to the requirements of ss. 110.1127,~~

1 ~~393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,~~
2 ~~402.305(1), 402.3055, 402.313, 409.175, 409.176, and 985.407~~
3 ~~for the existence of a confirmed report made on the personnel~~
4 ~~as defined in the foregoing provisions. The department shall~~
5 ~~report the existence of any confirmed report and advise the~~
6 ~~authorized licensing agency, applicant for licensure, or other~~
7 ~~authorized agency or person of the results of the search and~~
8 ~~the date of the report. Prior to a search being conducted, the~~
9 ~~department or its designee shall notify such person that an~~
10 ~~inquiry will be made. The department shall notify each person~~
11 ~~for whom a search is conducted of the results of the search~~
12 ~~upon request.~~

13 ~~(9) Upon receipt of the applicable fee and with the~~
14 ~~written consent of a person applying to work with disabled~~
15 ~~adults or elderly persons, the department shall search its~~
16 ~~central abuse registry and tracking system for the existence~~
17 ~~of a confirmed report. The department shall advise the~~
18 ~~employer and the person of any such report found and the~~
19 ~~results of the investigation.~~

20 ~~(10) The department may charge a user fee to an~~
21 ~~employer or the agency in charge of a volunteer, whichever is~~
22 ~~applicable, for a search of the central abuse registry and~~
23 ~~tracking system of up to one-third of the actual cost of the~~
24 ~~screening process. All fees received by the department under~~
25 ~~this section shall be deposited in an administrative trust~~
26 ~~fund of the department and may be expended only for the~~
27 ~~caregiver screening program.~~

28 Section 15. Section 415.1102, Florida Statutes, is
29 amended to read:

30 415.1102 Adult protection teams; services; eligible
31 cases.--Subject to an appropriation, the department may

1 develop, maintain, and coordinate the services of one or more
2 multidisciplinary adult protection teams in each of the
3 districts of the department. Such teams may be composed of,
4 but need not be limited to, representatives of appropriate
5 health, mental health, social service, legal service, and law
6 enforcement agencies.

7 ~~(i)~~ The department shall utilize and convene the teams
8 to supplement the protective services activities of the ~~adult~~
9 protective services program of the department. This section
10 does not prevent a person from reporting under s. 415.1034 all
11 suspected or known cases of abuse, neglect, or exploitation of
12 a vulnerable disabled adult ~~or an elderly person~~. The role of
13 the teams is to support activities of the ~~adult~~ protective
14 services program and to provide services deemed by the teams
15 to be necessary and appropriate to abused, neglected, and
16 exploited vulnerable disabled adults ~~or elderly persons~~ upon
17 referral. Services must be provided with the consent of the
18 vulnerable disabled adult, ~~or elderly person~~ or that person's
19 guardian, or through court order. ~~The specialized diagnostic~~
20 ~~assessment, evaluation, coordination, and other supportive~~
21 ~~services that an adult protection team must be capable of~~
22 ~~providing include, but are not limited to:~~

23 ~~(a) Medical diagnosis and evaluation services,~~
24 ~~including provision or interpretation of X rays and laboratory~~
25 ~~tests, and related services, as needed, and documentation of~~
26 ~~findings relative thereto.~~

27 ~~(b) Telephone consultation services in emergencies and~~
28 ~~in other situations.~~

29 ~~(c) Medical evaluation related to abuse, neglect, or~~
30 ~~exploitation as defined by department policy or rule.~~

31

1 ~~(d) Psychological and psychiatric diagnosis and~~
2 ~~evaluation services for the disabled adult or elderly person.~~

3 ~~(e) Short-term psychological treatment. It is the~~
4 ~~intent of the Legislature that short-term psychological~~
5 ~~treatment be limited to no more than 6 months' duration after~~
6 ~~treatment is initiated.~~

7 ~~(f) Expert medical, psychological, and related~~
8 ~~professional testimony in court cases.~~

9 ~~(g) Case staffings to develop, implement, and monitor~~
10 ~~treatment plans for disabled adults and elderly persons whose~~
11 ~~cases have been referred to the team. An adult protection~~
12 ~~team may provide consultation with respect to a disabled adult~~
13 ~~or elderly person who has not been referred to the team. The~~
14 ~~consultation must be provided at the request of a~~
15 ~~representative of the adult protective services program or at~~
16 ~~the request of any other professional involved with the~~
17 ~~disabled adult or elderly person or that person's guardian or~~
18 ~~other caregivers. In every such adult protection team case~~
19 ~~staffing consultation or staff activity involving a disabled~~
20 ~~adult or elderly person, an adult protective services program~~
21 ~~representative shall attend and participate.~~

22 ~~(h) Service coordination and assistance, including the~~
23 ~~location of services available from other public and private~~
24 ~~agencies in the community.~~

25 ~~(i) Such training services for program and other~~
26 ~~department employees as is deemed appropriate to enable them~~
27 ~~to develop and maintain their professional skills and~~
28 ~~abilities in handling adult abuse, neglect, or exploitation~~
29 ~~cases.~~

30 ~~(j) Education and community awareness campaigns on~~
31 ~~adult abuse, neglect, or exploitation in an effort to enable~~

1 ~~citizens to prevent, identify, and treat adult abuse, neglect,~~
2 ~~and exploitation in the community more successfully.~~

3 ~~(2) The adult abuse, neglect, or exploitation cases~~
4 ~~that are appropriate for referral by the adult protective~~
5 ~~services program to adult protection teams for supportive~~
6 ~~services include, but are not limited to, cases involving:~~

7 ~~(a) Unexplained or implausibly explained bruises,~~
8 ~~burns, fractures, or other injuries in a disabled adult or an~~
9 ~~elderly person.~~

10 ~~(b) Sexual abuse or molestation, or sexual~~
11 ~~exploitation, of a disabled adult or elderly person.~~

12 ~~(c) Reported medical, physical, or emotional neglect~~
13 ~~of a disabled adult or an elderly person.~~

14 ~~(d) Reported financial exploitation of a disabled~~
15 ~~adult or elderly person.~~

16

17 In all instances in which an adult protection team is
18 providing certain services to abused, neglected, or exploited
19 vulnerable disabled adults or elderly persons, other offices
20 and units of the department shall avoid duplicating the
21 provisions of those services.

22 Section 16. Section 415.111, Florida Statutes, is
23 amended to read:

24 415.111 Criminal penalties.--

25 (1) A person who knowingly and willfully fails to
26 report a case of known or suspected abuse, neglect, or
27 exploitation of a vulnerable disabled adult or an elderly
28 person, or who knowingly and willfully prevents another person
29 from doing so, commits a misdemeanor of the second degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31

1 (2) A person who knowingly and willfully makes public
2 or discloses any confidential information contained in the
3 central abuse hotline ~~registry and tracking system~~, or in
4 other computer systems, or in the records of any case of
5 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
6 ~~or elderly person~~, except as provided in ss. 415.101-415.113,
7 commits a misdemeanor of the second degree, punishable as
8 provided in s. 775.082 or s. 775.083.

9 (3) A person who has custody of records and documents
10 the confidentiality of which is abrogated under s.
11 415.1045~~(3)(5)~~ and who refuses to grant access to such records
12 commits a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 (4) If the department or its authorized agent has
15 determined after its investigation that a report is false, the
16 department shall, with the consent of the alleged perpetrator,
17 refer the reports to the local law enforcement agency having
18 jurisdiction for an investigation to determine whether
19 sufficient evidence exists to refer the case for prosecution
20 for filing a false report as defined in s. 415.102. During the
21 pendency of the investigation by the local law enforcement
22 agency, the department must notify the local law enforcement
23 agency of, and the local law enforcement agency must respond
24 to, all subsequent reports concerning the same vulnerable
25 ~~disabled~~ adult ~~or elderly person~~ in accordance with s. 415.104
26 or s. 415.1045. If the law enforcement agency believes that
27 there are indicators of abuse, neglect, or exploitation, it
28 must immediately notify the department, which must assure the
29 safety of the vulnerable ~~disabled~~ adult ~~or elderly person~~. If
30 the law enforcement agency finds sufficient evidence for
31

1 prosecution for filing a false report, it must refer the case
2 to the appropriate state attorney for prosecution.

3 (5) A person who knowingly and willfully makes a false
4 report of abuse, neglect, or exploitation of a vulnerable
5 ~~disabled~~ adult ~~or an elderly person~~, or a person who advises
6 another to make a false report, commits a felony of the third
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8 (a) The department shall establish procedures for
9 determining whether a false report of abuse, neglect, or
10 exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
11 ~~person~~ has been made and for submitting all identifying
12 information relating to such a false report to the local law
13 enforcement agency as provided in this subsection and shall
14 report annually to the Legislature the number of reports
15 referred.

16 (b) Anyone making a report who is acting in good faith
17 is immune from any liability under this subsection.

18 (6) Each state attorney shall establish and publish
19 procedures to facilitate the prosecution of persons under this
20 section and shall report to the Legislature annually the
21 number of complaints that have resulted in the filing of an
22 information or indictment under this section.

23 Section 17. Section 415.1111, Florida Statutes, is
24 amended to read:

25 415.1111 Civil penalties.--

26 ~~(1) A person who is named as a perpetrator in a~~
27 ~~confirmed report of abuse, neglect, or exploitation of a~~
28 ~~disabled adult or an elderly person is subject to civil~~
29 ~~penalties as follows:~~

30 ~~(a) For the first offense, a penalty of \$250.~~

31 ~~(b) For the second offense, a penalty of \$500.~~

1 ~~(c) For the third and subsequent offenses, a penalty~~
2 ~~of \$1,000 per occurrence.~~

3
4 ~~Second and subsequent offenses may be for the same type of~~
5 ~~abuse, neglect, or exploitation or for a different type, and~~
6 ~~may be perpetrated upon the same or a different disabled adult~~
7 ~~or elderly person.~~

8 ~~(2) All fines received by the department under this~~
9 ~~section must be deposited in the Operations and Maintenance~~
10 ~~Trust Fund within the department. The Legislature shall~~
11 ~~annually appropriate from the fund an amount that is no less~~
12 ~~than the amount deposited under this section, to be expended~~
13 ~~only for the adult protective services program.~~

14 ~~(1)(3)~~ A vulnerable adult who has been abused,
15 neglected, or exploited disabled adult or an elderly person
16 who has been named as a victim in a confirmed report of abuse,
17 neglect, or exploitation as specified in this chapter part has
18 a cause of action against any perpetrator named in the
19 confirmed report and may recover actual and punitive damages
20 for such abuse, neglect, or exploitation. The action may be
21 brought by the vulnerable disabled adult or elderly person, or
22 that person's guardian, by a person or organization acting on
23 behalf of the vulnerable disabled adult or elderly person with
24 the consent of that person or that person's guardian, or by
25 the personal representative of the estate of a deceased victim
26 disabled adult or elderly person without regard to whether the
27 cause of death resulted from the abuse, neglect, or
28 exploitation. The action may be brought in any court of
29 competent jurisdiction to enforce such action and to recover
30 actual and punitive damages for any deprivation of or
31 infringement on the rights of a vulnerable disabled adult or

1 ~~an elderly person.~~ A party who prevails in any such action
2 may be entitled to recover reasonable attorney's fees, costs
3 of the action, and damages. The remedies provided in this
4 section are in addition to and cumulative with other legal and
5 administrative remedies available to a vulnerable disabled
6 adult ~~or an elderly person.~~

7 Section 18. Subsections (1), (2), and (5) of section
8 415.1113, Florida Statutes, are amended to read:

9 415.1113 Administrative fines for false report of
10 abuse, neglect, or exploitation of a vulnerable disabled adult
11 ~~or an elderly person.--~~

12 (1) In addition to any other penalty authorized by
13 this section, chapter 120, or other law, the department may
14 impose a fine, not to exceed \$10,000 for each violation, upon
15 a person who knowingly and willfully makes a false report of
16 abuse, neglect, or exploitation of a vulnerable disabled adult
17 ~~or an elderly person~~, or a person who counsels another to make
18 a false report.

19 (2) If the department alleges that a person has
20 knowingly and willfully filed a false report with the central
21 abuse hotline registry and tracking system, the department
22 must file a notice of intent that alleges the name, age, and
23 address of the individual; the facts constituting the
24 allegation that the individual made a false report; and the
25 administrative fine that the department proposes to impose on
26 the person. Each time that a false report is made constitutes
27 a separate violation.

28 (5) At the hearing, the department must prove by clear
29 and convincing evidence that the person knowingly and
30 willfully filed a false report with the central abuse hotline
31

1 ~~registry and tracking system~~. The person has the right to be
2 represented by legal counsel at the hearing.

3 Section 19. Section 415.113, Florida Statutes, is
4 amended to read:

5 415.113 Statutory construction; treatment by spiritual
6 means.--Nothing in ss. 415.101-415.112 shall be construed to
7 mean a person is abused, neglected, or in need of emergency or
8 protective services for the sole reason that the person relies
9 upon and is, therefore, being furnished treatment by spiritual
10 means through prayer alone in accordance with the tenets and
11 practices of a well-recognized ~~recognized~~ church or religious
12 denomination or organization; nor shall anything in such
13 sections be construed to authorize, permit, or require any
14 medical care or treatment in contravention of the stated or
15 implied objection of such person. Such construction does not:

16 (1) Eliminate the requirement that such a case be
17 reported to the department;

18 (2) Prevent the department from investigating such a
19 case; or

20 (3) Preclude a court from ordering, when the health of
21 the individual requires it, the provision of medical services
22 by a licensed physician or treatment by a duly accredited
23 practitioner who relies solely on spiritual means for healing
24 in accordance with the tenets and practices of a
25 well-recognized church or religious denomination or
26 organization.

27 Section 20. Sections 435.01, 435.02, 435.03, 435.04,
28 435.045, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and
29 435.11, Florida Statutes, are designated as part I of chapter
30 435, Florida Statutes.

31

1 Section 21. Paragraphs (a), (c), (t), (u), and (v) of
2 subsection (2) and paragraph (a) of subsection (3) of section
3 435.03, Florida Statutes, are amended to read:

4 435.03 Level 1 screening standards.--

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

11 (a) Section 415.111, relating to ~~adult~~ abuse, neglect,
12 or exploitation of a vulnerable adult ~~aged persons or disabled~~
13 ~~adults~~.

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

17 (t) Section 825.102, relating to abuse, aggravated
18 abuse, or neglect of a vulnerable ~~an elderly person or~~
19 ~~disabled~~ adult.

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

23 (v) Section 825.103, relating to exploitation of a
24 vulnerable ~~an elderly person or disabled~~ adult, if the offense
25 was a felony.

26 (3) Standards must also ensure that the person:

27 (a) For employees and employers licensed or registered
28 pursuant to chapter 400, and for employees and employers of
29 developmental services institutions as defined in s. 393.063,
30 intermediate care facilities for the developmentally disabled
31 as defined in s. 393.063, and mental health treatment

1 facilities as defined in s. 394.455, meets the requirements of
2 part II does not have a confirmed report of abuse, neglect, or
3 exploitation as defined in s. 415.102(5), which has been
4 uncontested or upheld under s. 415.103.

5 Section 22. Paragraphs (b) and (c) of subsection (1)
6 and subsection (2) of section 435.05, Florida Statutes, are
7 amended to read:

8 435.05 Requirements for covered employees.--Except as
9 otherwise provided by law, the following requirements shall
10 apply to covered employees:

11 (1)

12 (b) For level 1 screening, the employer must submit
13 the information necessary for screening to the Florida
14 Department of Law Enforcement within 5 working days after
15 receiving it. The Florida Department of Law Enforcement will
16 conduct a search of its ~~When required, the employer must at~~
17 ~~the same time submit sufficient information to the Department~~
18 ~~of Children and Family Services to complete a check of its~~
19 ~~records relating to the abuse, neglect, and exploitation of~~
20 ~~vulnerable adults. The Florida Department of Law Enforcement~~
21 ~~and the Department of Children and Family Services will~~
22 ~~conduct searches of their records and will respond to the~~
23 ~~employer agency. The employer will inform the employee~~
24 ~~whether screening has revealed any disqualifying information.~~

25 (c) For level 2 screening, the employer or licensing
26 agency must submit the information necessary for screening to
27 the Florida Department of Law Enforcement within 5 working
28 days after receiving it. ~~When required, the employer or~~
29 ~~licensing agency must also submit sufficient information to~~
30 ~~the Department of Children and Family Services to complete a~~
31 ~~check of its records.~~The Florida Department of Law

1 Enforcement will conduct a search of its criminal and juvenile
2 records and will request that the Federal Bureau of
3 Investigation conduct a search of its records for each
4 employee for whom the request is made. The Florida Department
5 of Law Enforcement ~~and the Department of Children and Family~~
6 ~~Services~~ will respond to the employer or licensing agency, and
7 the employer or licensing agency will inform the employee
8 whether screening has revealed disqualifying information.

9 (2) Unless otherwise prohibited by state or federal
10 law, new employees may be placed on probationary status
11 pending a determination of compliance with minimum standards
12 set forth in this part ~~chapter~~.

13 Section 23. Subsection (1) of section 435.07, Florida
14 Statutes, is amended to read:

15 435.07 Exemptions from disqualification.--Unless
16 otherwise provided by law, the provisions of this section
17 shall apply to exemptions from disqualification.

18 (1) The appropriate licensing agency may grant to any
19 employee otherwise disqualified from employment an exemption
20 from disqualification for:

21 (a) Felonies committed more than 3 years prior to the
22 date of disqualification;

23 (b) Misdemeanors prohibited under any of the Florida
24 Statutes cited in this chapter or under similar statutes of
25 other jurisdictions;

26 (c) Offenses that were felonies when committed but are
27 now misdemeanors;

28 (d) Findings of delinquency; or

29 (e) Commissions of acts of domestic violence as
30 defined in s. 741.30. ~~† or~~

31

1 ~~(f) Confirmed reports of abuse, neglect, or~~
2 ~~exploitation of a vulnerable adult.~~

3
4 For the purposes of this subsection, the term "felonies" means
5 both felonies prohibited under any of the Florida Statutes
6 cited in this part ~~chapter~~ or under similar statutes of other
7 jurisdictions.

8 Section 24. Section 435.08, Florida Statutes, is
9 amended to read:

10 435.08 Payment for processing of fingerprints and
11 ~~state criminal records checks, and abuse hotline~~
12 ~~checks.~~--Either the employer or the employee is responsible
13 for paying the costs of screening. Payment shall be submitted
14 to the Florida Department of Law Enforcement with the request
15 for screening. ~~When a search of the central abuse hotline is~~
16 ~~required, payment shall be submitted by separate check to the~~
17 ~~Department of Children and Family Services with the request~~
18 ~~for screening.~~

19 Section 25. Section 435.09, Florida Statutes, is
20 amended to read:

21 435.09 Confidentiality of personnel background check
22 information.--No criminal or ~~juvenile, or abuse hotline~~
23 information obtained under this section may be used for any
24 purpose other than determining whether persons meet the
25 minimum standards for employment or for an owner or director
26 of a covered service provider. The criminal records and
27 juvenile records obtained by the department or by an employer
28 are exempt from s. 119.07(1).

29 Section 26. Sections 435.401, 435.402, 435.403, and
30 435.405, Florida Statutes, are designated as part II of
31 chapter 435, Florida Statutes.

1 Section 27. Section 435.401, Florida Statutes, is
2 created to read:

3 435.401 Special employment practices relating to
4 health care facilities; definitions.--As used in this part,
5 the term:

6 (1) "Direct access" means the opportunity to have
7 personal contact with persons receiving care during the course
8 of one's assigned duties; to have access to client funds; and
9 to have access to resident living areas.

10 (2) "Health care facility" means any residential
11 facility or agency licensed pursuant to chapter 400 by the
12 Agency for Health Care Administration where health,
13 nutritional, or personal care is provided for vulnerable
14 adults, including nursing homes, assisted living facilities,
15 adult day care facilities, adult family-care homes, hospices,
16 home health care agencies, and nurse registries. "Health care
17 facility" shall also mean intermediate care facilities for
18 developmentally disabled persons, developmental services
19 institutions, and mental health institutions licensed by the
20 Agency for Health Care Administration.

21 (3) "Person seeking employment" means any person
22 applying for employment in a health care facility in a
23 position that affords direct access to persons receiving care
24 at such a facility.

25 (4) "Service letter" means the employment history form
26 provided to health care facilities by the Agency for Health
27 Care Administration as required by s. 435.402.

28 (5) "Temporary agency" means an agency responsible for
29 providing temporary employees to a health care facility, when
30 such employees qualify as persons seeking employment as
31 defined in this section. Such agency is considered an

1 employer under s. 435.402 and is responsible for complying
2 with the requirements of this part.

3 Section 28. Section 435.402, Florida Statutes, is
4 created to read:

5 435.402 Service letters; requirements; penalties.--

6 (1) An employer who operates a health care facility,
7 or provides health, nutritional, or personal care in such a
8 facility, shall not hire any person seeking employment without
9 obtaining one or more service letters regarding that person,
10 provided such person has been previously employed by a health
11 care facility. The service letters obtained must include a
12 service letter from the current and all previous health care
13 facility employers of the person within the past 5 years. If
14 the person seeking employment has not been employed in a
15 health care facility within the past 5 years, or was
16 self-employed, then the employer must require the person to
17 provide letters of reference from two adults who are familiar
18 with the person, but who are not relatives of the person.

19 (2) The service letter shall be a form provided by the
20 Agency for Health Care Administration, which shall be signed
21 by the current and previous health care facility employers of
22 the person seeking employment and shall contain information
23 about the type of work performed by the employee, the duration
24 of the employment, the nature of the employee's separation
25 from employment, and any reasonably substantiated incidents
26 involving violence, threat of violence, abuse, or neglect by
27 the employee toward any other person, including any
28 disciplinary action taken as a result of such conduct.

29 (3) Any employer who is required to obtain a service
30 letter shall obtain a statement signed by the person seeking
31 employment, authorizing a full release for the employer to

1 obtain any and all information pertaining to the facts of the
2 person's current or previous health care facility employment.

3 (4) An employer who is required to obtain a service
4 letter, including a temporary agency, shall obtain a statement
5 signed by the person seeking employment attesting that the
6 information given in the employment application represents a
7 full and complete disclosure of the person's current and
8 previous health care facility employment, and that all
9 information contained in the employment application is true
10 and complete to the best of the knowledge and belief of the
11 person seeking employment. In addition, the application shall
12 contain a written acknowledgment by the person that he or she
13 understands that failure to provide a full and complete
14 disclosure of all information required under this section is a
15 violation of subsection (9) and that such failure may result
16 in civil penalties of not less than \$1,000 nor more than
17 \$5,000 for such violation. Full and complete disclosure by a
18 person seeking employment includes listing all current and
19 previous health care facility employers provided for in
20 subsection (1). If the person seeking employment was employed
21 by a temporary agency, the person shall list on the employment
22 application the temporary agency and all employers for which
23 he or she did temporary work pursuant to such employment. Any
24 employer who does not obtain such signed statements from a
25 person seeking employment is subject to a civil penalty of not
26 less than \$1,000 nor more than \$5,000 for each violation.

27 (5) Any employer, including a temporary agency, who
28 receives a written request for a service letter from any other
29 employer, as required by this section, shall provide that
30 service letter, in a form approved by the Agency for Health
31 Care Administration, within 10 business days after the date

1 the request is received. Any employer who fails or refuses to
2 provide such service letter, or who fails to make a full and
3 complete disclosure of information, as required, is subject to
4 a civil penalty of not less than \$1,000 nor more than \$5,000
5 for such violation.

6 (6) Notwithstanding the provisions of subsection (1),
7 when exigent circumstances exist and an employer covered under
8 this section must fill a position in order to maintain the
9 required level of service, the employer may hire a person
10 seeking employment for up to 30 days on a conditional basis,
11 pending the receipt of the required service letters. The
12 continued employment of such person shall be contingent upon
13 the receipt of the required service letters within 30 days
14 after the original employment date. In addition, the person
15 hired pursuant to this subsection shall be informed, in
16 writing, and shall acknowledge, in writing, that his or her
17 continued employment is contingent upon the receipt of the
18 required service letters.

19 (7) An employer covered under subsection (1) shall
20 make a good-faith attempt to locate the previous employers
21 identified in the employment application of the person seeking
22 employment and to obtain the service letters from each current
23 or previous health care facility employer. The burden of proof
24 to demonstrate a good-faith attempt shall rest with the
25 employer. Any such employer who hires a person seeking
26 employment without obtaining the required service letters and
27 who has not made a good-faith attempt to obtain such service
28 letters is subject to a civil penalty of not less than \$1,000
29 nor more than \$5,000 for each violation.

30 (8) Any individual who falsifies a service letter or
31 who fails to make a full and complete disclosure of all

1 required information in the service letter is subject to a
2 civil penalty of not less than \$1,000 nor more than \$5,000 for
3 each violation.

4 (9) Any individual who fails to make a full and
5 complete disclosure of past employment information in the
6 employment application is subject to a civil penalty of not
7 less than \$1,000 nor more than \$5,000 for each violation.

8 (10) An employer, or any person authorized to act on
9 behalf of the employer, who, pursuant to this section,
10 discloses information about a current or former employee's job
11 performance to a prospective employer is presumed to be acting
12 in good faith, and, unless lack of good faith is shown, is
13 immune from civil liability for such disclosure and its
14 consequences and may not be made the subject of any legal
15 action for libel, slander, or defamation by the current or
16 former employee. For purposes of this section, the
17 presumption of good faith may be rebutted upon a showing that
18 the information disclosed by such employer was knowingly
19 false, was deliberately misleading, or was rendered with
20 malicious purpose; or that the information was disclosed in
21 violation of a nondisclosure agreement or was otherwise
22 confidential according to applicable federal, state, or local
23 law, rule, or regulation.

24 (11) Any information received from a current or
25 previous employer by a prospective employer pursuant to this
26 section which could in any way identify the current or
27 previous employer who provided the information shall be
28 protected from discovery in any legal or administrative
29 proceedings.

30
31

1 (12) The Agency for Health Care Administration shall
2 be the only party that can seek enforcement of a civil penalty
3 under this section.

4 Section 29. Section 435.403, Florida Statutes, is
5 created to read:

6 435.403 Enforcement; penalties.--

7 (1) The Agency for Health Care Administration shall
8 monitor employers licensed by the agency and their employees
9 for compliance with the provisions of s. 435.402. Such
10 monitoring shall be carried out through the agency's routine
11 inspections and surveys or through other regulatory activities
12 conducted by the agency, and through investigations of
13 complaints by any person to the agency alleging noncompliance
14 with the provisions of s. 435.402.

15 (2)(a) If, upon discovery of a violation of s. 435.402
16 in the course of routine inspections and surveys or other
17 regulatory activities, or upon completion of an investigation
18 of a complaint, the agency determines that a violation of s.
19 435.402 has occurred, the agency may issue a notice of
20 noncompliance. The notice shall specify the actions to be
21 taken to correct the violation and the date by which such
22 actions must be completed.

23 (b) Upon determination that corrective action has not
24 been taken as required, the agency, in addition to any other
25 penalties provided by law, may issue a letter of warning to
26 the employer or employee in noncompliance or may impose a
27 civil penalty of not less than \$1,000 nor more than \$5,000.

28 (c) Funds collected through payment of civil penalties
29 shall be deposited in the Resident Protection Trust Fund to be
30 expended as provided in s. 400.063.

31

1 Section 30. Section 435.405, Florida Statutes, is
2 created to read:

3 435.405 Service letters; form.--The service letters
4 required under this part shall be in substantially the
5 following form:

6 SERVICE LETTER

7
8 The provisions of part II of chapter 435, Florida Statutes,
9 require that we obtain a service letter from you as an
10 employer or former employer of the person named below. The
11 provisions of part II of chapter 435, Florida Statutes, also
12 require any employer who receives a request for a service
13 letter to provide the information on this form within 10
14 business days after receipt of the request. This law provides
15 for penalties of \$1,000 to \$10,000 for failing to disclose all
16 applicable and available truthful information known to the
17 employer.

18
19 TO BE COMPLETED BY EMPLOYER REQUESTING A SERVICE LETTER:

20
21 Name of Business or Employer requesting service letter:
22

23 Address of Business or Employer:.....
24
25

26
27 Type of Business or Employer requesting service letter (check
28 one):

- 29 Nursing FacilityAssisted Living Facility
30 Adult Day Care Center Nurse Registry
31 ICF/DD Developmental Services Institution

1 Mental Health Institution Temporary Agency
2 Other (specify)
3
4 Name of Applicant:.....
5 Social Security Number:.....
6 Dates of Employment: From: To:
7
8 TO BE COMPLETED BY EMPLOYER RECEIVING SERVICE LETTER REQUEST:
9
10 The above-named person has applied for employment or licensure
11 with our organization. The applicant indicated on his or her
12 application that the applicant was or is employed by you, and
13 has signed an authorization and release form that permits you
14 to truthfully answer these questions without liability.
15
16 1. Complete Name of Business or Employer:.....
17
18 Address of Business or Employer:.....
19
20
21
22 Type of Business (check one):
23 Nursing Facility Assisted Living Facility
24 Adult Day Care Center Home Health Agency
25 Nurse Registry IDF/DD
26 Developmental Services Institution
27 Mental Health Institution
28 Temporary Agency Other (specify)
29
30 2. Dates of Service for Employee: From: To:
31

1 If this information is not available, please explain:
2

3
4 3. Please answer the following questions:

5
6 A. Type of service performed by the person during the course
7 of his or her employment (check one):

8
9 The employee was directly involved on a daily or
10 frequent basis providing services or care to clients or
11 patients or residents.

12
13 The employee was not directly involved in providing
14 services or care to clients or patients or residents on a
15 daily or frequent basis, but did occasionally provide some
16 care or services.

17
18 The employee did not provide services or care to
19 clients or patients or residents, but did have some contact
20 with them.

21
22 The employee had no contact with clients or patients or
23 residents.

24
25 This information is not available (please explain):
26

27
28 B. Reason for separation from service (check one):

29 Laid-off Resigned

30 Resigned in lieu of discharge Discharged

31 Abandoned Position Other (specify)

1 Information not available (please explain):.....
2
3
4 C. Information relating to employee's performance. Please
5 check all statements that apply to this person and circle the
6 action(s) taken:
7
8 The employee was counseled, warned, reprimanded,
9 suspended, or discharged as a result of reasonably
10 substantiated incidents involving his or her violent behavior
11 or threats of violence in the workplace.
12
13 The employee was counseled, warned, reprimanded,
14 suspended, or discharged as a result of reasonably
15 substantiated incidents involving abuse of patients or clients
16 or residents.
17
18 The employee was counseled, warned, reprimanded,
19 suspended, or discharged as a result of reasonably
20 substantiated incidents involving negligence or neglect of
21 patients or clients or residents.
22
23 The employee was never counseled, warned, reprimanded,
24 suspended, or discharged as a result of reasonably
25 substantiated incidents involving violent behavior in the
26 workplace or abuse or negligence or neglect of patients or
27 clients or residents.
28
29 Not applicable to this employee (please explain):
30
31

1 4. (OPTIONAL) I would rehire this individual Yes No

2

3 I hereby swear or affirm that the information provided above
4 is full and complete disclosure of the facts required, and
5 that the information is true and correct to the best of my
6 knowledge and belief.

7

8

9 (Print name and title of person completing the form)

10

11

12

Signature

Date

13

14 This form is provided by the Agency for Health Care
15 Administration.

16 Reproduce additional copies as needed.

17 Section 31. Paragraph (h) of subsection (2) of section
18 39.202, Florida Statutes, is amended to read:

19 39.202 Confidentiality of reports and records in cases
20 of child abuse or neglect.--

21 (2) Access to such records, excluding the name of the
22 reporter which shall be released only as provided in
23 subsection (4), shall be granted only to the following
24 persons, officials, and agencies:

25 (h) Any appropriate official of the department
26 responsible for:

27 1. Administration or supervision of the department's
28 program for the prevention, investigation, or treatment of
29 child abuse, abandonment, or neglect, or abuse, neglect, or
30 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~,
31 when carrying out his or her official function;

1 2. Taking appropriate administrative action concerning
2 an employee of the department alleged to have perpetrated
3 child abuse, abandonment, or neglect, or abuse, neglect, or
4 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~;
5 or

6 3. Employing and continuing employment of personnel of
7 the department.

8 Section 32. Subsection (24) of section 90.803, Florida
9 Statutes, is amended to read:

10 90.803 Hearsay exceptions; availability of declarant
11 immaterial.--The provision of s. 90.802 to the contrary
12 notwithstanding, the following are not inadmissible as
13 evidence, even though the declarant is available as a witness:

14 (24) HEARSAY EXCEPTION; STATEMENT OF VULNERABLE
15 ~~ELDERLY PERSON OR DISABLED~~ ADULT.--

16 (a) Unless the source of information or the method or
17 circumstances by which the statement is reported indicates a
18 lack of trustworthiness, an out-of-court statement made by a
19 vulnerable ~~an elderly person or disabled~~ adult, as defined in
20 s. 825.101, describing any act of abuse or neglect, any act of
21 exploitation, the offense of battery or aggravated battery or
22 assault or aggravated assault or sexual battery, or any other
23 violent act on the declarant vulnerable ~~elderly person or~~
24 ~~disabled~~ adult, not otherwise admissible, is admissible in
25 evidence in any civil or criminal proceeding if:

26 1. The court finds in a hearing conducted outside the
27 presence of the jury that the time, content, and circumstances
28 of the statement provide sufficient safeguards of reliability.
29 In making its determination, the court may consider the mental
30 and physical age and maturity of the vulnerable ~~elderly person~~
31 ~~or disabled~~ adult, the nature and duration of the abuse or

1 offense, the relationship of the victim to the offender, the
2 reliability of the assertion, the reliability of the
3 vulnerable ~~elderly person or disabled~~ adult, and any other
4 factor deemed appropriate; and

5 2. The vulnerable ~~elderly person or disabled~~ adult
6 either:

7 a. Testifies; or

8 b. Is unavailable as a witness, provided that there is
9 corroborative evidence of the abuse or offense. Unavailability
10 shall include a finding by the court that the vulnerable
11 ~~elderly person's or disabled~~ adult's participation in the
12 trial or proceeding would result in a substantial likelihood
13 of severe emotional, mental, or physical harm, in addition to
14 findings pursuant to s. 90.804(1).

15 (b) In a criminal action, the defendant shall be
16 notified no later than 10 days before the trial that a
17 statement which qualifies as a hearsay exception pursuant to
18 this subsection will be offered as evidence at trial. The
19 notice shall include a written statement of the content of the
20 vulnerable ~~elderly person's or disabled~~ adult's statement, the
21 time at which the statement was made, the circumstances
22 surrounding the statement which indicate its reliability, and
23 such other particulars as necessary to provide full disclosure
24 of the statement.

25 (c) The court shall make specific findings of fact, on
26 the record, as to the basis for its ruling under this
27 subsection.

28 Section 33. Paragraphs (a) and (b) of subsection (3)
29 of section 110.1127, Florida Statutes, are amended to read:

30 110.1127 Employee security checks.--

31

1 (3)(a) All positions in programs providing care to
2 children, the developmentally disabled, or vulnerable adults
3 ~~disabled adults, or elderly persons~~ for 15 hours or more per
4 week; all permanent and temporary employee positions of the
5 central abuse hotline; and all persons working under contract
6 who have access to abuse records are deemed to be persons and
7 positions of special trust or responsibility, and require
8 employment screening pursuant to chapter 435, using the level
9 2 standards set forth in that chapter.

10 (b) The employing agency may grant exemptions from
11 disqualification from working with children, the
12 developmentally disabled, or vulnerable adults ~~disabled~~
13 ~~adults, or elderly persons~~ as provided in s. 435.07.

14 Section 34. Paragraph (a) of subsection (12) of
15 section 112.0455, Florida Statutes, is amended to read:

16 112.0455 Drug-Free Workplace Act.--

17 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

18 (a) A laboratory may analyze initial or confirmation
19 drug specimens only if:

20 1. The laboratory is licensed and approved by the
21 Agency for Health Care Administration using criteria
22 established by the United States Department of Health and
23 Human Services as general guidelines for modeling the state
24 drug testing program. Each applicant for licensure must comply
25 with the following requirements:

26 a. Upon receipt of a completed, signed, and dated
27 application, the agency shall require background screening, in
28 accordance with the level 2 standards for screening set forth
29 in chapter 435, of the managing employee, or other similarly
30 titled individual responsible for the daily operation of the
31 laboratory, and of the financial officer, or other similarly

1 titled individual who is responsible for the financial
2 operation of the laboratory, including billings for services.
3 The applicant must comply with the procedures for level 2
4 background screening as set forth in chapter 435, as well as
5 the requirements of s. 435.03(3).

6 b. The agency may require background screening of any
7 other individual who is an applicant if the agency has
8 probable cause to believe that he or she has been convicted of
9 an offense prohibited under the level 2 standards for
10 screening set forth in chapter 435.

11 c. Proof of compliance with the level 2 background
12 screening requirements of chapter 435 which has been submitted
13 within the previous 5 years in compliance with any other
14 health care licensure requirements of this state is acceptable
15 in fulfillment of screening requirements.

16 d. A provisional license may be granted to an
17 applicant when each individual required by this section to
18 undergo background screening has met the standards for ~~the~~
19 ~~abuse registry background check~~ and the Department of Law
20 Enforcement background check, but the agency has not yet
21 received background screening results from the Federal Bureau
22 of Investigation, or a request for a disqualification
23 exemption has been submitted to the agency as set forth in
24 chapter 435, but a response has not yet been issued. A license
25 may be granted to the applicant upon the agency's receipt of a
26 report of the results of the Federal Bureau of Investigation
27 background screening for each individual required by this
28 section to undergo background screening which confirms that
29 all standards have been met, or upon the granting of a
30 disqualification exemption by the agency as set forth in
31 chapter 435. Any other person who is required to undergo level

1 2 background screening may serve in his or her capacity
2 pending the agency's receipt of the report from the Federal
3 Bureau of Investigation. However, the person may not continue
4 to serve if the report indicates any violation of background
5 screening standards and a disqualification exemption has not
6 been requested of and granted by the agency as set forth in
7 chapter 435.

8 e. Each applicant must submit to the agency, with its
9 application, a description and explanation of any exclusions,
10 permanent suspensions, or terminations of the applicant from
11 the Medicare or Medicaid programs. Proof of compliance with
12 the requirements for disclosure of ownership and control
13 interests under the Medicaid or Medicare programs shall be
14 accepted in lieu of this submission.

15 f. Each applicant must submit to the agency a
16 description and explanation of any conviction of an offense
17 prohibited under the level 2 standards of chapter 435 by a
18 member of the board of directors of the applicant, its
19 officers, or any individual owning 5 percent or more of the
20 applicant. This requirement does not apply to a director of a
21 not-for-profit corporation or organization if the director
22 serves solely in a voluntary capacity for the corporation or
23 organization, does not regularly take part in the day-to-day
24 operational decisions of the corporation or organization,
25 receives no remuneration for his or her services on the
26 corporation or organization's board of directors, and has no
27 financial interest and has no family members with a financial
28 interest in the corporation or organization, provided that the
29 director and the not-for-profit corporation or organization
30 include in the application a statement affirming that the
31

1 | director's relationship to the corporation satisfies the
2 | requirements of this sub-subparagraph.

3 | g. A license may not be granted to any applicant if
4 | the applicant or managing employee has been found guilty of,
5 | regardless of adjudication, or has entered a plea of nolo
6 | contendere or guilty to, any offense prohibited under the
7 | level 2 standards for screening set forth in chapter 435,
8 | unless an exemption from disqualification has been granted by
9 | the agency as set forth in chapter 435.

10 | h. The agency may deny or revoke licensure if the
11 | applicant:

12 | (I) Has falsely represented a material fact in the
13 | application required by sub-subparagraph e. or
14 | sub-subparagraph f., or has omitted any material fact from the
15 | application required by sub-subparagraph e. or
16 | sub-subparagraph f.; or

17 | (II) Has had prior action taken against the applicant
18 | under the Medicaid or Medicare program as set forth in
19 | sub-subparagraph e.

20 | i. An application for license renewal must contain the
21 | information required under sub-subparagraphs e. and f.

22 | 2. The laboratory has written procedures to ensure
23 | chain of custody.

24 | 3. The laboratory follows proper quality control
25 | procedures, including, but not limited to:

26 | a. The use of internal quality controls including the
27 | use of samples of known concentrations which are used to check
28 | the performance and calibration of testing equipment, and
29 | periodic use of blind samples for overall accuracy.

30 |
31 |

1 b. An internal review and certification process for
2 drug test results, conducted by a person qualified to perform
3 that function in the testing laboratory.

4 c. Security measures implemented by the testing
5 laboratory to preclude adulteration of specimens and drug test
6 results.

7 d. Other necessary and proper actions taken to ensure
8 reliable and accurate drug test results.

9 Section 35. Paragraphs (a), (b), and (c) of subsection
10 (7) of section 119.07, Florida Statutes, are amended to read:

11 119.07 Inspection, examination, and duplication of
12 records; exemptions.--

13 (7)(a) Any person or organization, including the
14 Department of Children and Family Services, may petition the
15 court for an order making public the records of the Department
16 of Children and Family Services that pertain to investigations
17 of alleged abuse, neglect, abandonment, or exploitation of a
18 child ~~or a vulnerable, a disabled adult, or an elderly person.~~
19 The court shall determine if good cause exists for public
20 access to the records sought or a portion thereof. In making
21 this determination, the court shall balance the best interest
22 of the vulnerable ~~disabled~~ adult, ~~elderly person,~~ or child who
23 is the focus of the investigation, and in the case of the
24 child, the interest of that child's siblings, together with
25 the privacy right of other persons identified in the reports
26 against the public interest. The public interest in access to
27 such records is reflected in s. 119.01(1), and includes the
28 need for citizens to know of and adequately evaluate the
29 actions of the Department of Children and Family Services and
30 the court system in providing vulnerable ~~disabled~~ adults,
31 ~~elderly persons,~~ and children of this state with the

1 | protections enumerated in ss. 39.001 and 415.101. However,
2 | this subsection does not contravene ss. 39.202 and 415.107,
3 | which protect the name of any person reporting the abuse,
4 | neglect, or exploitation of a child or a vulnerable, ~~a~~
5 | ~~disabled adult, or an elderly person.~~

6 | (b) In cases involving serious bodily injury to a
7 | child or a vulnerable, ~~a disabled adult or an elderly person,~~
8 | the Department of Children and Family Services may petition
9 | the court for an order for the immediate public release of
10 | records of the department which pertain to the protective
11 | ~~investigation of abuse, neglect, abandonment, or exploitation~~
12 | ~~of the child, disabled adult, or elderly person who suffered~~
13 | ~~serious bodily injury.~~ The petition must be personally served
14 | upon the child or vulnerable, ~~disabled adult, or elderly~~
15 | ~~person,~~ the child's parents or guardian, the legal guardian of
16 | that person, if any, and any person named as an alleged
17 | perpetrator in the report of abuse, neglect, abandonment, or
18 | exploitation. The court must determine if good cause exists
19 | for the public release of the records sought no later than 24
20 | hours, excluding Saturdays, Sundays, and legal holidays, after
21 | the date the department filed the petition with the court. If
22 | the court has neither granted nor denied the petition within
23 | the 24-hour time period, the department may release to the
24 | public summary information including:

- 25 | 1. A confirmation that an investigation has been
26 | conducted concerning the alleged victim.
- 27 | 2. The dates and brief description of procedural
28 | activities undertaken during the department's investigation.
- 29 | 3. The date of each judicial proceeding, a summary of
30 | each participant's recommendations made at the judicial
31 | proceedings, and the rulings of the court.

1
2 The summary information may not include the name of, or other
3 identifying information with respect to, any person identified
4 in any investigation. In making a determination to release
5 confidential information, the court shall balance the best
6 interests of the vulnerable ~~disabled~~ adult or ~~elderly~~ person
7 or child who is the focus of the investigation and, in the
8 case of the child, the interests of that child's siblings,
9 together with the privacy rights of other persons identified
10 in the reports against the public interest for access to
11 public records. However, this paragraph does not contravene
12 ss. 39.202 and 415.107, which protect the name of any person
13 reporting abuse, neglect, or exploitation of a child or a
14 vulnerable, ~~a disabled~~ adult, ~~or an elderly~~ person.

15 (c) When the court determines that good cause for
16 public access exists, the court shall direct that the
17 department redact the name of and other identifying
18 information with respect to any person identified in any
19 protective investigation report ~~unfounded report or proposed~~
20 ~~confirmed report or report closed without classification, or~~
21 ~~in any report that has not yet been classified pursuant to s.~~
22 ~~415.1045(7)~~, until such time as the court finds that there is
23 probable cause to believe that the person identified committed
24 an act of alleged abuse, neglect, or abandonment.

25 Section 36. Subsection (1) of section 232.50, Florida
26 Statutes, is amended to read:

27 232.50 Child abuse, abandonment, and neglect
28 policy.--Every school board shall by March 1, 1985:

29 (1) Post in a prominent place in each school a notice
30 that, pursuant to chapter 39, all employees or agents of the
31 district school board have an affirmative duty to report all

1 actual or suspected cases of child abuse, abandonment, or
2 neglect, have immunity from liability if they report such
3 cases in good faith, and have a duty to comply with child
4 protective investigations and all other provisions of law
5 relating to child abuse, abandonment, and neglect. The notice
6 shall also include the statewide toll-free telephone number of
7 the central state abuse hotline registry.

8 Section 37. Subsection (4) and paragraph (b) of
9 subsection (5) of section 242.335, Florida Statutes, are
10 amended to read:

11 242.335 Personnel screening; Florida School for the
12 Deaf and the Blind.--

13 (4) The Florida School for the Deaf and the Blind may
14 not use the criminal records, ~~abuse registry information,~~
15 private investigator findings, or information reference checks
16 obtained by the school pursuant to this section for any
17 purpose other than determining if a person meets the minimum
18 standards for good moral character for personnel employed by
19 the school. The criminal records, ~~abuse registry information,~~
20 private investigator findings, and information from reference
21 checks obtained by the Florida School for the Deaf and the
22 Blind for determining the moral character of employees of the
23 school are confidential and exempt from the provisions of s.
24 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

28 (b) Use the criminal records, ~~abuse registry~~
29 ~~information,~~ private investigator findings, or information
30 from reference checks obtained under this section or
31 information obtained from such records or findings for

1 purposes other than screening for employment or release such
2 information or records to persons for purposes other than
3 screening for employment.

4 Section 38. Paragraph (a) of subsection (8) of section
5 320.0848, Florida Statutes, is amended to read:

6 320.0848 Persons who have disabilities; issuance of
7 disabled parking permits; temporary permits; permits for
8 certain providers of transportation services to persons who
9 have disabilities.--

10 (8) A law enforcement officer may confiscate the
11 disabled parking permit from any person who fraudulently
12 obtains or unlawfully uses such a permit. A law enforcement
13 officer may confiscate any disabled parking permit that is
14 expired, reported as lost or stolen, or defaced, or that does
15 not display a personal identification number.

16 (a) Beginning April 1, 1999, the permit number of each
17 confiscated permit must be submitted to the Department of
18 Highway Safety and Motor Vehicles, and the fact that the
19 permit has been confiscated must be noted on the
20 permitholder's record. If two permits issued to the same
21 person have been confiscated, the Department of Highway Safety
22 and Motor Vehicles shall refer the information to the central
23 ~~Florida~~ abuse hotline of the Department of Children and Family
24 Services for an investigation of potential abuse, neglect, or
25 exploitation of the permit owner.

26 Section 39. Paragraph (c) of subsection (1) of section
27 381.0059, Florida Statutes, is amended to read:

28 381.0059 Background screening requirements for school
29 health services personnel.--

30 (1)

31

1 (c) The person subject to the required background
2 screening or his or her employer must pay the fees required to
3 obtain the background screening. Payment for the screening ~~and~~
4 ~~the abuse registry check~~ must be submitted to the Department
5 of Health. The Florida Department of Law Enforcement shall
6 charge the Department of Health for a level 2 screening at a
7 rate sufficient to cover the costs of such screening pursuant
8 to s. 943.053(3). The Department of Health shall establish a
9 schedule of fees to cover the costs of the level 2 screening
10 ~~and the abuse registry check~~. The applicant or his or her
11 employer who pays for the required screening may be reimbursed
12 by the Department of Health from funds designated for this
13 purpose.

14 Section 40. Paragraph (d) of subsection (1) of section
15 381.60225, Florida Statutes, is amended to read:

16 381.60225 Background screening.--

17 (1) Each applicant for certification must comply with
18 the following requirements:

19 (d) A provisional certification may be granted to the
20 organization, agency, or entity when each individual required
21 by this section to undergo background screening has met the
22 standards for ~~the abuse registry background check and the~~
23 Department of Law Enforcement background check, but the agency
24 has not yet received background screening results from the
25 Federal Bureau of Investigation, or a request for a
26 disqualification exemption has been submitted to the agency as
27 set forth in chapter 435, but a response has not yet been
28 issued. A standard certification may be granted to the
29 organization, agency, or entity upon the agency's receipt of a
30 report of the results of the Federal Bureau of Investigation
31 background screening for each individual required by this

1 section to undergo background screening which confirms that
2 all standards have been met, or upon the granting of a
3 disqualification exemption by the agency as set forth in
4 chapter 435. Any other person who is required to undergo level
5 2 background screening may serve in his or her capacity
6 pending the agency's receipt of the report from the Federal
7 Bureau of Investigation. However, the person may not continue
8 to serve if the report indicates any violation of background
9 screening standards and a disqualification exemption has not
10 been requested of and granted by the agency as set forth in
11 chapter 435.

12 Section 41. Paragraph (d) of subsection (7) of section
13 383.305, Florida Statutes, is amended to read:

14 383.305 Licensure; issuance, renewal, denial,
15 suspension, revocation; fees; background screening.--

16 (7) Each applicant for licensure must comply with the
17 following requirements:

18 (d) A provisional license may be granted to an
19 applicant when each individual required by this section to
20 undergo background screening has met the standards for ~~the~~
21 ~~abuse registry background check~~ and the Department of Law
22 Enforcement background check, but the agency has not yet
23 received background screening results from the Federal Bureau
24 of Investigation, or a request for a disqualification
25 exemption has been submitted to the agency as set forth in
26 chapter 435 but a response has not yet been issued. A standard
27 license may be granted to the applicant upon the agency's
28 receipt of a report of the results of the Federal Bureau of
29 Investigation background screening for each individual
30 required by this section to undergo background screening which
31 confirms that all standards have been met, or upon the

1 granting of a disqualification exemption by the agency as set
2 forth in chapter 435. Any other person who is required to
3 undergo level 2 background screening may serve in his or her
4 capacity pending the agency's receipt of the report from the
5 Federal Bureau of Investigation. However, the person may not
6 continue to serve if the report indicates any violation of
7 background screening standards and a disqualification
8 exemption has not been requested of and granted by the agency
9 as set forth in chapter 435.

10 Section 42. Paragraph (d) of subsection (3) of section
11 390.015, Florida Statutes, is amended to read:

12 390.015 Application for license.--

13 (3) Each applicant for licensure must comply with the
14 following requirements:

15 (d) A provisional license may be granted to an
16 applicant when each individual required by this section to
17 undergo background screening has met the standards for ~~the~~
18 ~~abuse registry background check~~ and the Department of Law
19 Enforcement background check, but the agency has not yet
20 received background screening results from the Federal Bureau
21 of Investigation, or a request for a disqualification
22 exemption has been submitted to the agency as set forth in
23 chapter 435 but a response has not yet been issued. A standard
24 license may be granted to the applicant upon the agency's
25 receipt of a report of the results of the Federal Bureau of
26 Investigation background screening for each individual
27 required by this section to undergo background screening which
28 confirms that all standards have been met, or upon the
29 granting of a disqualification exemption by the agency as set
30 forth in chapter 435. Any other person who is required to
31 undergo level 2 background screening may serve in his or her

1 capacity pending the agency's receipt of the report from the
2 Federal Bureau of Investigation. However, the person may not
3 continue to serve if the report indicates any violation of
4 background screening standards and a disqualification
5 exemption has not been requested of and granted by the agency
6 as set forth in chapter 435.

7 Section 43. Paragraph (c) of subsection (5) and
8 paragraph (d) of subsection (6) of section 393.067, Florida
9 Statutes, are amended to read:

10 393.067 Licensure of residential facilities and
11 comprehensive transitional education programs.--

12 (5) The applicant shall submit evidence which
13 establishes the good moral character of the manager or
14 supervisor of the facility or program and the direct service
15 providers in the facility or program and its component centers
16 or units. A license may be issued if all the screening
17 materials have been timely submitted; however, a license may
18 not be issued or renewed if any of the direct service
19 providers have failed the screening required by s. 393.0655.

20 (c) The department or a residential facility or
21 comprehensive transitional education program may not use the
22 criminal records or, juvenile records, ~~or abuse registry~~
23 ~~information~~ of a person obtained under this subsection for any
24 purpose other than determining if that person meets the
25 minimum standards for good moral character for a manager or
26 supervisor of, or direct service provider in, such a facility
27 or program. The criminal records or, juvenile records, ~~or~~
28 ~~abuse registry information~~ obtained by the department or a
29 residential facility or comprehensive transitional education
30 program for determining the moral character of a manager,
31

1 supervisor, or direct service provider are exempt from s.
2 119.07(1).

3 (6) Each applicant for licensure as an intermediate
4 care facility for the developmentally disabled must comply
5 with the following requirements:

6 (d) A provisional license may be granted to an
7 applicant when each individual required by this section to
8 undergo background screening has met the standards for ~~the~~
9 ~~abuse registry background check~~ and the Department of Law
10 Enforcement background check, but the agency has not yet
11 received background screening results from the Federal Bureau
12 of Investigation, or a request for a disqualification
13 exemption has been submitted to the agency as set forth in
14 chapter 435, but a response has not yet been issued. A
15 standard license may be granted to the applicant upon the
16 agency's receipt of a report of the results of the Federal
17 Bureau of Investigation background screening for each
18 individual required by this section to undergo background
19 screening which confirms that all standards have been met, or
20 upon the granting of a disqualification exemption by the
21 agency as set forth in chapter 435. Any other person who is
22 required to undergo level 2 background screening may serve in
23 his or her capacity pending the agency's receipt of the report
24 from the Federal Bureau of Investigation. However, the person
25 may not continue to serve if the report indicates any
26 violation of background screening standards and a
27 disqualification exemption has not been requested of and
28 granted by the agency as set forth in chapter 435.

29 Section 44. Paragraph (c) of subsection (1) of section
30 393.0674, Florida Statutes, is amended to read:

31 393.0674 Penalties.--

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

4 (c) Use information from the criminal records or
5 central abuse hotline ~~registry~~ obtained under s. 393.0655, s.
6 393.066, or s. 393.067 for any purpose other than screening
7 that person for employment as specified in those sections or
8 release such information to any other person for any purpose
9 other than screening for employment as specified in those
10 sections.

11 Section 45. Paragraph (e) of subsection (5) of section
12 394.459, Florida Statutes, is amended to read:

13 394.459 Rights of patients.--

14 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

15 (e) Each patient receiving mental health treatment in
16 any facility shall have ready access to a telephone in order
17 to report an alleged abuse. The facility staff shall orally
18 and in writing inform each patient of the procedure for
19 reporting abuse and shall make every reasonable effort to
20 present the information in a language the patient understands.
21 A written copy of that procedure, including the telephone
22 number of the central abuse hotline ~~registry~~ and reporting
23 forms, shall be posted in plain view.

24 Section 46. Paragraph (d) of subsection (12) of
25 section 394.875, Florida Statutes, is amended to read:

26 394.875 Crisis stabilization units and residential
27 treatment facilities; authorized services; license required;
28 penalties.--

29 (12) Each applicant for licensure must comply with the
30 following requirements:

31

1 (d) A provisional license may be granted to an
2 applicant when each individual required by this section to
3 undergo background screening has met the standards for ~~the~~
4 ~~abuse registry background check~~ and the Department of Law
5 Enforcement background check, but the agency has not yet
6 received background screening results from the Federal Bureau
7 of Investigation, or a request for a disqualification
8 exemption has been submitted to the agency as set forth in
9 chapter 435, but a response has not yet been issued. A
10 standard license may be granted to the applicant upon the
11 agency's receipt of a report of the results of the Federal
12 Bureau of Investigation background screening for each
13 individual required by this section to undergo background
14 screening which confirms that all standards have been met, or
15 upon the granting of a disqualification exemption by the
16 agency as set forth in chapter 435. Any other person who is
17 required to undergo level 2 background screening may serve in
18 his or her capacity pending the agency's receipt of the report
19 from the Federal Bureau of Investigation. However, the person
20 may not continue to serve if the report indicates any
21 violation of background screening standards and a
22 disqualification exemption has not been requested of and
23 granted by the agency as set forth in chapter 435.

24 Section 47. Subsection (4) of section 395.0055,
25 Florida Statutes, is amended to read:

26 395.0055 Background screening.--Each applicant for
27 licensure must comply with the following requirements:

28 (4) A provisional license may be granted to an
29 applicant when each individual required by this section to
30 undergo background screening has met the standards for ~~the~~
31 ~~abuse registry background check~~ and the Department of Law

1 Enforcement background check, but the agency has not yet
2 received background screening results from the Federal Bureau
3 of Investigation, or a request for a disqualification
4 exemption has been submitted to the agency as set forth in
5 chapter 435 but a response has not yet been issued. A
6 standard license may be granted to the applicant upon the
7 agency's receipt of a report of the results of the Federal
8 Bureau of Investigation background screening for each
9 individual required by this section to undergo background
10 screening which confirms that all standards have been met, or
11 upon the granting of a disqualification exemption by the
12 agency as set forth in chapter 435. Any other person who is
13 required to undergo level 2 background screening may serve in
14 his or her capacity pending the agency's receipt of the report
15 from the Federal Bureau of Investigation; however, the person
16 may not continue to serve if the report indicates any
17 violation of background screening standards and a
18 disqualification exemption has not been requested of and
19 granted by the agency as set forth in chapter 435.

20 Section 48. Paragraph (d) of subsection (4) of section
21 395.0199, Florida Statutes, is amended to read:

22 395.0199 Private utilization review.--

23 (4) Each applicant for registration must comply with
24 the following requirements:

25 (d) A provisional registration may be granted to an
26 applicant when each individual required by this section to
27 undergo background screening has met the standards for ~~the~~
28 ~~abuse registry background check~~ and the Department of Law
29 Enforcement background check, but the agency has not yet
30 received background screening results from the Federal Bureau
31 of Investigation, or a request for a disqualification

1 exemption has been submitted to the agency as set forth in
2 chapter 435 but a response has not yet been issued. A standard
3 registration may be granted to the applicant upon the agency's
4 receipt of a report of the results of the Federal Bureau of
5 Investigation background screening for each individual
6 required by this section to undergo background screening which
7 confirms that all standards have been met, or upon the
8 granting of a disqualification exemption by the agency as set
9 forth in chapter 435. Any other person who is required to
10 undergo level 2 background screening may serve in his or her
11 capacity pending the agency's receipt of the report from the
12 Federal Bureau of Investigation. However, the person may not
13 continue to serve if the report indicates any violation of
14 background screening standards and a disqualification
15 exemption has not been requested of and granted by the agency
16 as set forth in chapter 435.

17 Section 49. Paragraph (g) of subsection (4) of section
18 395.3025, Florida Statutes, is amended to read:

19 395.3025 Patient and personnel records; copies;
20 examination.--

21 (4) Patient records are confidential and must not be
22 disclosed without the consent of the person to whom they
23 pertain, but appropriate disclosure may be made without such
24 consent to:

25 (g) The Department of Children and Family Services or
26 its agent, for the purpose of investigations of cases of
27 abuse, neglect, or exploitation of children or vulnerable
28 ~~disabled adults or elderly persons~~.

29 Section 50. Subsection (3) of section 397.461, Florida
30 Statutes, is amended to read:

31

1 397.461 Unlawful activities relating to personnel;
2 penalties.--It is a misdemeanor of the first degree,
3 punishable as provided in s. 775.082 or s. 775.083, for any
4 person willfully, knowingly, or intentionally to:

5 (3) Use or release any criminal or juvenile ~~or central~~
6 ~~abuse registry~~ information obtained under this chapter for any
7 purpose other than background checks of personnel for
8 employment.

9 Section 51. Subsection (2) of section 400.022, Florida
10 Statutes, is amended to read:

11 400.022 Residents' rights.--

12 (2) The licensee for each nursing home shall orally
13 inform the resident of the resident's rights and provide a
14 copy of the statement required by subsection (1) to each
15 resident or the resident's legal representative at or before
16 the resident's admission to a facility. The licensee shall
17 provide a copy of the resident's rights to each staff member
18 of the facility. Each such licensee shall prepare a written
19 plan and provide appropriate staff training to implement the
20 provisions of this section. The written statement of rights
21 must include a statement that a resident may file a complaint
22 with the agency or district ombudsman council. The statement
23 must be in boldfaced type and shall include the name, address,
24 and telephone numbers of the district ombudsman council and
25 central adult abuse hotline registry where complaints may be
26 lodged.

27 Section 52. Paragraph (d) of subsection (4) of section
28 400.071, Florida Statutes, is amended to read:

29 400.071 Application for license.--

30 (4) Each applicant for licensure must comply with the
31 following requirements:

1 (d) A provisional license may be granted to an
2 applicant when each individual required by this section to
3 undergo background screening has met the standards for ~~the~~
4 ~~abuse registry background check~~ and the Department of Law
5 Enforcement background check, but the agency has not yet
6 received background screening results from the Federal Bureau
7 of Investigation, or a request for a disqualification
8 exemption has been submitted to the agency as set forth in
9 chapter 435, but a response has not yet been issued. A
10 license may be granted to the applicant upon the agency's
11 receipt of a report of the results of the Federal Bureau of
12 Investigation background screening for each individual
13 required by this section to undergo background screening which
14 confirms that all standards have been met, or upon the
15 granting of a disqualification exemption by the agency as set
16 forth in chapter 435. Any other person who is required to
17 undergo level 2 background screening may serve in his or her
18 capacity pending the agency's receipt of the report from the
19 Federal Bureau of Investigation; however, the person may not
20 continue to serve if the report indicates any violation of
21 background screening standards and a disqualification
22 exemption has not been requested of and granted by the agency
23 as set forth in chapter 435.

24 Section 53. Paragraphs (a), (c), and (e) of subsection
25 (2) and subsections (3) and (8) of section 400.215, Florida
26 Statutes, are amended to read:

27 400.215 Personnel screening requirement.--

28 (2) Employers and employees shall comply with the
29 requirements of s. 435.05.

30 (a) Notwithstanding the provisions of s. 435.05(1),
31 facilities must have in their possession evidence that level 1

1 screening has been completed before allowing an employee to
2 begin working with patients as provided in subsection (1). All
3 information necessary for conducting background screening
4 using level 1 standards as specified in s. 435.03(1) ~~and for~~
5 ~~conducting a search of the central abuse registry and tracking~~
6 ~~system as specified in s. 435.03(3)(a) shall be submitted by~~
7 the nursing facility to the agency. Results of the background
8 screening ~~and the abuse registry check~~ shall be provided by
9 the agency to the requesting nursing facility. ~~An applicant~~
10 ~~who has been qualified under a level 1 criminal screening and~~
11 ~~who, under penalty of perjury, attests to not having been~~
12 ~~classified in the central abuse registry and tracking system~~
13 ~~as a perpetrator in a confirmed report of abuse, neglect, or~~
14 ~~exploitation may be allowed to work on a probationary status~~
15 ~~in the nursing facility, under supervision, for a period not~~
16 ~~to exceed 30 days, pending the results of an abuse registry~~
17 ~~screening.~~

18 (c) The agency shall establish and maintain a database
19 of background screening information which shall include the
20 results of both level 1 and level 2 screening ~~and central~~
21 ~~abuse registry and tracking system checks.~~ The Department of
22 Law Enforcement shall timely provide to the agency,
23 electronically, the results of each statewide screening for
24 incorporation into the database. ~~The Department of Children~~
25 ~~and Family Services shall provide the agency with electronic~~
26 ~~access to the central abuse registry and tracking system. The~~
27 ~~agency shall search the registry to identify any confirmed~~
28 ~~report and shall access such report for incorporation into the~~
29 ~~database.~~ The agency shall, upon request from any facility,
30 agency, or program required by or authorized by law to screen
31 its employees or applicants, notify the administrator of the

1 facility, agency, or program of the qualifying or
2 disqualifying status of the employee or applicant named in the
3 request.

4 ~~(e) Notwithstanding the confidentiality provisions of~~
5 ~~s. 415.107, the agency shall provide no later than 45 days~~
6 ~~after the effective date of this paragraph, a direct-access~~
7 ~~electronic screening capability to all enrolled facilities or~~
8 ~~agencies required by law to restrict employment to only an~~
9 ~~applicant who does not have a disqualifying report in the~~
10 ~~central abuse registry and tracking system. The agency shall,~~
11 ~~upon request, provide to such facility or agency a user code~~
12 ~~by which the facility or agency may query the listing of all~~
13 ~~persons disqualified because of a confirmed classification.~~
14 ~~The direct-access screening system shall allow for the~~
15 ~~electronic matching of an applicant's identifying information,~~
16 ~~including name, date of birth, race, sex, and social security~~
17 ~~number, against the listing of disqualified persons. The~~
18 ~~agency may charge a fee for issuing the user code sufficient~~
19 ~~to cover the cost of establishing and maintaining the~~
20 ~~direct-access screening system. The direct-access screening~~
21 ~~system shall provide immediately to the user only the~~
22 ~~electronic notification of applicant clearance or~~
23 ~~disqualification. The system shall also maintain for~~
24 ~~appropriate entry into the agency screening database an~~
25 ~~electronic record of the inquiry on behalf of the applicant.~~

26 (3) The applicant is responsible for paying the fees
27 associated with obtaining the required screening. Payment for
28 the screening ~~and the abuse registry check~~ shall be submitted
29 to the agency. The agency shall establish a schedule of fees
30 to cover the costs of level 1 and level 2 screening ~~and the~~
31 ~~abuse registry check~~. Facilities may reimburse employees for

1 these costs. The Department of Law Enforcement shall charge
2 the agency for a level 1 or level 2 screening a rate
3 sufficient to cover the costs of such screening pursuant to s.
4 943.053(3). The agency shall, as allowable, reimburse nursing
5 facilities for the cost of conducting background screening as
6 required by this section. This reimbursement will not be
7 subject to any rate ceilings or payment targets in the
8 Medicaid Reimbursement plan.

9 (8) There is no monetary or unemployment liability on
10 the part of, and no cause of action for damages arising
11 against an employer that, upon notice of a disqualifying
12 offense listed under chapter 435 ~~or a confirmed report of~~
13 ~~abuse, neglect, or exploitation~~ or an act of domestic
14 violence, terminates the employee against whom the report was
15 issued, whether or not the employee has filed for an exemption
16 with the Department of Health or the Agency for Health Care
17 Administration.

18 Section 54. Paragraph (g) of subsection (1) of section
19 400.414, Florida Statutes, is amended to read:

20 400.414 Denial, revocation, or suspension of license;
21 imposition of administrative fine; grounds.--

22 (1) The agency may deny, revoke, or suspend any
23 license issued under this part, or impose an administrative
24 fine in the manner provided in chapter 120, for any of the
25 following actions by an assisted living facility, any person
26 subject to level 2 background screening under s. 400.4174, or
27 any facility employee:

28 (g) A determination that ~~confirmed report of adult~~
29 ~~abuse, neglect, or exploitation, as defined in s. 415.102,~~
30 ~~which has been upheld following a chapter 120 hearing or a~~
31 ~~waiver of such proceedings where the perpetrator is an~~

1 employee, volunteer, administrator, or owner, or person who
2 otherwise has access to the residents of a facility does not
3 meet the criteria specified in s. 435.03(2), and the owner or
4 administrator has not taken action to remove the person
5 ~~perpetrator~~. Exemptions from disqualification may be granted
6 as set forth in s. 435.07. No administrative action may be
7 taken against the facility if the person ~~perpetrator~~ is
8 granted an exemption.

9 Section 55. Paragraph (c) of subsection (1) and
10 subsection (3) of section 400.4174, Florida Statutes, are
11 amended to read:

12 400.4174 Background screening; exemptions; reports of
13 abuse in facilities.--

14 (1)

15 (c) The agency may grant a provisional license to a
16 facility applying for an initial license when each individual
17 required by this subsection to undergo screening has completed
18 the ~~abuse registry and~~ Department of Law Enforcement
19 background checks, but has not yet received results from the
20 Federal Bureau of Investigation, or when a request for an
21 exemption from disqualification has been submitted to the
22 agency pursuant to s. 435.07, but a response has not been
23 issued.

24 ~~(3) When an employee, volunteer, administrator, or~~
25 ~~owner of a facility is the subject of a confirmed report of~~
26 ~~adult abuse, neglect, or exploitation, as defined in s.~~
27 ~~415.102, and the protective investigator knows that the~~
28 ~~individual is an employee, volunteer, administrator, or owner~~
29 ~~of a facility, the agency shall be notified of the confirmed~~
30 ~~report.~~

31

1 Section 56. Subsection (4) of section 400.426, Florida
2 Statutes, is amended to read:

3 400.426 Appropriateness of placements; examinations of
4 residents.--

5 (4) If possible, each resident shall have been
6 examined by a licensed physician or a licensed nurse
7 practitioner within 60 days before admission to the facility.
8 The signed and completed medical examination report shall be
9 submitted to the owner or administrator of the facility who
10 shall use the information contained therein to assist in the
11 determination of the appropriateness of the resident's
12 admission and continued stay in the facility. The medical
13 examination report shall become a permanent part of the record
14 of the resident at the facility and shall be made available to
15 the agency during inspection or upon request. An assessment
16 that has been completed through the Comprehensive Assessment
17 and Review for Long-Term Care Services (CARES) Program
18 fulfills the requirements for a medical examination under this
19 subsection and s. 400.407(4)~~(3)~~(b)6.

20 Section 57. Subsection (2) of section 400.428, Florida
21 Statutes, is amended to read:

22 400.428 Resident bill of rights.--

23 (2) The administrator of a facility shall ensure that
24 a written notice of the rights, obligations, and prohibitions
25 set forth in this part is posted in a prominent place in each
26 facility and read or explained to residents who cannot read.
27 This notice shall include the name, address, and telephone
28 numbers of the district ombudsman council and central adult
29 abuse hotline ~~registry~~ and, when applicable, the Advocacy
30 Center for Persons with Disabilities, Inc., and the district
31 human rights advocacy committee, where complaints may be

1 lodged. The facility must ensure a resident's access to a
2 telephone to call the district ombudsman council, central
3 ~~adult abuse hotline registry~~, Advocacy Center for Persons with
4 Disabilities, Inc., and district human rights advocacy
5 committee.

6 Section 58. Subsection (20) of section 400.462,
7 Florida Statutes, is amended to read:

8 400.462 Definitions.--As used in this part, the term:

9 (20) "Screening" means the assessment of the
10 background of home health agency personnel, nurse registry
11 personnel, and persons registered under s. 400.509 and
12 includes employment or contractual history checks, ~~records~~
13 ~~checks of the department's central abuse hotline under chapter~~
14 ~~415 relating to vulnerable adults~~, and statewide criminal
15 records correspondence checks through the Department of Law
16 Enforcement.

17 Section 59. Paragraph (d) of subsection (4) of section
18 400.471, Florida Statutes, is amended to read:

19 400.471 Application for license; fee; provisional
20 license; temporary permit.--

21 (4) Each applicant for licensure must comply with the
22 following requirements:

23 (d) A provisional license may be granted to an
24 applicant when each individual required by this section to
25 undergo background screening has met the standards for ~~the~~
26 ~~abuse registry background check~~ and the Department of Law
27 Enforcement background check, but the agency has not yet
28 received background screening results from the Federal Bureau
29 of Investigation. A standard license may be granted to the
30 licensee upon the agency's receipt of a report of the results
31 of the Federal Bureau of Investigation background screening

1 for each individual required by this section to undergo
2 background screening which confirms that all standards have
3 been met, or upon the granting of a disqualification exemption
4 by the agency as set forth in chapter 435. Any other person
5 who is required to undergo level 2 background screening may
6 serve in his or her capacity pending the agency's receipt of
7 the report from the Federal Bureau of Investigation. However,
8 the person may not continue to serve if the report indicates
9 any violation of background screening standards and a
10 disqualification exemption has not been requested of and
11 granted by the agency as set forth in chapter 435.

12 Section 60. Section 400.495, Florida Statutes, is
13 amended to read:

14 400.495 Notice of toll-free telephone number for
15 central abuse hotline registry.--On or before the first day
16 home health services are provided to a patient, any home
17 health agency or nurse registry licensed under this part must
18 inform the patient and his or her immediate family, if
19 appropriate, of the right to report abusive, neglectful, or
20 exploitative practices. The statewide toll-free telephone
21 number for the central abuse hotline registry must be provided
22 to patients in a manner that is clearly legible and must
23 include the words: "To report abuse, neglect, or exploitation,
24 please call toll-free ...(phone number)...." The Agency for
25 Health Care Administration shall adopt rules that provide for
26 90 days' advance notice of a change in the toll-free telephone
27 number and that outline due process procedures, as provided
28 under chapter 120, for home health agency personnel and nurse
29 registry personnel who are reported to the central abuse
30 hotline registry. Home health agencies and nurse registries

31

1 shall establish appropriate policies and procedures for
2 providing such notice to patients.

3 Section 61. Paragraph (d) of subsection (2) of section
4 400.506, Florida Statutes, is amended to read:

5 400.506 Licensure of nurse registries; requirements;
6 penalties.--

7 (2) Each applicant for licensure must comply with the
8 following requirements:

9 (d) A provisional license may be granted to an
10 applicant when each individual required by this section to
11 undergo background screening has met the standards for ~~the~~
12 ~~abuse registry background check~~ and the Department of Law
13 Enforcement background check but the agency has not yet
14 received background screening results from the Federal Bureau
15 of Investigation. A standard license may be granted to the
16 applicant upon the agency's receipt of a report of the results
17 of the Federal Bureau of Investigation background screening
18 for each individual required by this section to undergo
19 background screening which confirms that all standards have
20 been met, or upon the granting of a disqualification exemption
21 by the agency as set forth in chapter 435. Any other person
22 who is required to undergo level 2 background screening may
23 serve in his or her capacity pending the agency's receipt of
24 the report from the Federal Bureau of Investigation. However,
25 the person may not continue to serve if the report indicates
26 any violation of background screening standards and a
27 disqualification exemption has not been requested of and
28 granted by the agency as set forth in chapter 435.

29 Section 62. Subsection (6) of section 400.509, Florida
30 Statutes, is amended to read:

31

1 400.509 Registration of particular service providers
2 exempt from licensure; certificate of registration; regulation
3 of registrants.--

4 (6) On or before the first day on which services are
5 provided to a patient or client, any registrant under this
6 part must inform the patient or client and his or her
7 immediate family, if appropriate, of the right to report
8 abusive, neglectful, or exploitative practices. The statewide
9 toll-free telephone number for the central abuse hotline
10 ~~registry~~ must be provided to patients or clients in a manner
11 that is clearly legible and must include the words: "To report
12 abuse, neglect, or exploitation, please call toll-free
13 ...(phone number)...." Registrants must establish appropriate
14 policies and procedures for providing such notice to patients
15 or clients.

16 Section 63. Subsections (3), (4), (5), and (6) and
17 paragraph (a) of subsection (7) of section 400.512, Florida
18 Statutes, are amended to read:

19 400.512 Screening of home health agency personnel;
20 nurse registry personnel; and companions and homemakers.--The
21 agency shall require employment or contractor screening as
22 provided in chapter 435, using the level 1 standards for
23 screening set forth in that chapter, for home health agency
24 personnel; persons referred for employment by nurse
25 registries; and persons employed by companion or homemaker
26 services registered under s. 400.509.

27 (3) As a prerequisite to operating as a home health
28 agency, nurse registry, or companion or homemaker service
29 under s. 400.509, the administrator or managing employee,
30 respectively, must submit to the agency his or her name and
31 any other information necessary to conduct a complete

1 screening according to this section. The agency shall submit
2 the information to the Department of Law Enforcement ~~and the~~
3 ~~department's abuse hotline~~ for state processing. The agency
4 shall review the record of the administrator or manager with
5 respect to the offenses specified in this section and shall
6 notify the owner of its findings. If disposition information
7 is missing on a criminal record, the administrator or manager,
8 upon request of the agency, must obtain and supply within 30
9 days the missing disposition information to the agency.
10 Failure to supply missing information within 30 days or to
11 show reasonable efforts to obtain such information will result
12 in automatic disqualification.

13 (4) Proof of compliance with the screening
14 requirements of chapter 435 shall be accepted in lieu of the
15 requirements of this section if the person has been
16 continuously employed or registered without a breach in
17 service that exceeds 180 days, the proof of compliance is not
18 more than 2 years old, and the person has been screened
19 ~~through the central abuse registry and tracking system of the~~
20 ~~department~~ and by the Department of Law Enforcement. A home
21 health agency, nurse registry, or companion or homemaker
22 service registered under s. 400.509 shall directly provide
23 proof of compliance to another home health agency, nurse
24 registry, or companion or homemaker service registered under
25 s. 400.509. The recipient home health agency, nurse registry,
26 or companion or homemaker service registered under s. 400.509
27 may not accept any proof of compliance directly from the
28 person who requires screening. Proof of compliance with the
29 screening requirements of this section shall be provided upon
30 request to the person screened by the home health agencies;

31

1 nurse registries; or companion or homemaker services
2 registered under s. 400.509.

3 (5) There is no monetary liability on the part of, and
4 no cause of action for damages arises against, a licensed home
5 health agency, licensed nurse registry, or companion or
6 homemaker service registered under s. 400.509, that, upon
7 notice that the employee or contractor has been found guilty
8 of, regardless of adjudication, or entered a plea of nolo
9 contendere or guilty to, any offense prohibited under s.
10 435.03 or under any similar statute of another jurisdiction of
11 ~~a confirmed report of adult abuse, neglect, or exploitation,~~
12 terminates the employee or contractor ~~against whom the report~~
13 ~~was issued~~, whether or not the employee or contractor has
14 filed for an exemption with the agency in accordance with
15 chapter 435 and whether or not the time for filing has
16 expired.

17 (6) The costs of processing the statewide
18 correspondence criminal records checks ~~and the search of the~~
19 ~~department's central abuse hotline~~ must be borne by the home
20 health agency; the nurse registry; or the companion or
21 homemaker service registered under s. 400.509, or by the
22 person being screened, at the discretion of the home health
23 agency, nurse registry, or s. 400.509 registrant.

24 (7)(a) It is a misdemeanor of the first degree,
25 punishable under s. 775.082 or s. 775.083, for any person
26 willfully, knowingly, or intentionally to:

27 1. Fail, by false statement, misrepresentation,
28 impersonation, or other fraudulent means, to disclose in any
29 application for voluntary or paid employment a material fact
30 used in making a determination as to such person's
31 qualifications to be an employee under this section;

1 2. Operate or attempt to operate an entity licensed or
2 registered under this part with persons who do not meet the
3 minimum standards for good moral character as contained in
4 this section; or

5 3. Use information from the criminal records ~~or~~
6 ~~central abuse hotline~~ obtained under this section for any
7 purpose other than screening that person for employment as
8 specified in this section or release such information to any
9 other person for any purpose other than screening for
10 employment under this section.

11 Section 64. Paragraph (c) of subsection (1) and
12 subsection (3) of section 400.5572, Florida Statutes, are
13 amended to read:

14 400.5572 Background screening.--

15 (1)

16 (c) The agency may grant a provisional license to an
17 adult day care center applying for an initial license when
18 each individual required by this subsection to undergo
19 screening has completed the ~~abuse registry and~~ Department of
20 Law Enforcement background check checks, but has not yet
21 received results from the Federal Bureau of Investigation, or
22 when a request for an exemption from disqualification has been
23 submitted to the agency pursuant to s. 435.07, but a response
24 has not been issued.

25 ~~(3) When an employee, volunteer, operator, or owner of~~
26 ~~an adult day care center is the subject of a confirmed report~~
27 ~~of adult abuse, neglect, or exploitation, as defined in s.~~
28 ~~415.102, and the protective investigator knows that the~~
29 ~~individual is an employee, volunteer, operator, or owner of a~~
30 ~~center, the agency shall be notified of the confirmed report.~~

31

1 Section 65. Subsection (3) of section 400.6065,
2 Florida Statutes, is amended to read:

3 400.6065 Background screening.--

4 (3) The agency may grant a provisional license to a
5 hospice applying for an initial license when each individual
6 required by this section to undergo screening has completed
7 the ~~abuse registry~~ and Department of Law Enforcement
8 background check ~~checks~~, but has not yet received results from
9 the Federal Bureau of Investigation.

10 Section 66. Subsection (2) of section 400.628, Florida
11 Statutes, is amended to read:

12 400.628 Residents' bill of rights.--

13 (2) The provider shall ensure that residents and their
14 legal representatives are made aware of the rights,
15 obligations, and prohibitions set forth in this part.
16 Residents must also be given the names, addresses, and
17 telephone numbers of the district ombudsman council and the
18 central adult abuse hotline registry where they may lodge
19 complaints.

20 Section 67. Paragraph (d) of subsection (4) of section
21 400.801, Florida Statutes, is amended to read:

22 400.801 Homes for special services.--

23 (4) Each applicant for licensure must comply with the
24 following requirements:

25 (d) A provisional license may be granted to an
26 applicant when each individual required by this section to
27 undergo background screening has met the standards for ~~the~~
28 ~~abuse registry background check~~ and the Department of Law
29 Enforcement background check, but the agency has not yet
30 received background screening results from the Federal Bureau
31 of Investigation, or a request for a disqualification

1 exemption has been submitted to the agency as set forth in
2 chapter 435, but a response has not yet been issued. A
3 standard license may be granted to the applicant upon the
4 agency's receipt of a report of the results of the Federal
5 Bureau of Investigation background screening for each
6 individual required by this section to undergo background
7 screening which confirms that all standards have been met, or
8 upon the granting of a disqualification exemption by the
9 agency as set forth in chapter 435. Any other person who is
10 required to undergo level 2 background screening may serve in
11 his or her capacity pending the agency's receipt of the report
12 from the Federal Bureau of Investigation. However, the person
13 may not continue to serve if the report indicates any
14 violation of background screening standards and a
15 disqualification exemption has not been requested of and
16 granted by the agency as set forth in chapter 435.

17 Section 68. Paragraph (d) of subsection (3) of section
18 400.805, Florida Statutes, is amended to read:

19 400.805 Transitional living facilities.--

20 (3) Each applicant for licensure must comply with the
21 following requirements:

22 (d) A provisional license may be granted to an
23 applicant when each individual required by this section to
24 undergo background screening has met the standards for ~~the~~
25 ~~abuse registry background check and~~ the Department of Law
26 Enforcement background check, but the agency has not yet
27 received background screening results from the Federal Bureau
28 of Investigation, or a request for a disqualification
29 exemption has been submitted to the agency as set forth in
30 chapter 435, but a response has not yet been issued. A
31 standard license may be granted to the applicant upon the

1 agency's receipt of a report of the results of the Federal
2 Bureau of Investigation background screening for each
3 individual required by this section to undergo background
4 screening which confirms that all standards have been met, or
5 upon the granting of a disqualification exemption by the
6 agency as set forth in chapter 435. Any other person who is
7 required to undergo level 2 background screening may serve in
8 his or her capacity pending the agency's receipt of the report
9 from the Federal Bureau of Investigation. However, the person
10 may not continue to serve if the report indicates any
11 violation of background screening standards and a
12 disqualification exemption has not been requested of and
13 granted by the agency as set forth in chapter 435.

14 Section 69. Paragraph (d) of subsection (5) of section
15 400.906, Florida Statutes, is amended to read:

16 400.906 Initial application for license.--

17 (5) Each applicant for licensure must comply with the
18 following requirements:

19 (d) A provisional license may be granted to an
20 applicant when each individual required by this section to
21 undergo background screening has met the standards for ~~the~~
22 ~~abuse registry background check~~ and the Department of Law
23 Enforcement background check, but the agency has not yet
24 received background screening results from the Federal Bureau
25 of Investigation, or a request for a disqualification
26 exemption has been submitted to the agency as set forth in
27 chapter 435, but a response has not yet been issued. A
28 standard license may be granted to the applicant upon the
29 agency's receipt of a report of the results of the Federal
30 Bureau of Investigation background screening for each
31 individual required by this section to undergo background

1 screening which confirms that all standards have been met, or
2 upon the granting of a disqualification exemption by the
3 agency as set forth in chapter 435. Any other person who is
4 required to undergo level 2 background screening may serve in
5 his or her capacity pending the agency's receipt of the report
6 from the Federal Bureau of Investigation. However, the person
7 may not continue to serve if the report indicates any
8 violation of background screening standards and a
9 disqualification exemption has not been requested of and
10 granted by the agency as set forth in chapter 435.

11 Section 70. Subsection (10) of section 400.931,
12 Florida Statutes, is amended to read:

13 400.931 Application for license; fee; provisional
14 license; temporary permit.--

15 (10) When a change of the general manager of a home
16 medical equipment provider occurs, the licensee must notify
17 the agency of the change within 45 days thereof and must
18 provide evidence of compliance with the background screening
19 requirements in subsection (5); except that a general manager
20 who has met the standards for ~~the abuse registry background~~
21 ~~check~~ and the Department of Law Enforcement background check,
22 but for whom background screening results from the Federal
23 Bureau of Investigation have not yet been received, may be
24 employed pending receipt of the Federal Bureau of
25 Investigation background screening report. An individual may
26 not continue to serve as general manager if the Federal Bureau
27 of Investigation background screening report indicates any
28 violation of background screening standards.

29 Section 71. Section 400.95, Florida Statutes, is
30 amended to read:

31

1 400.95 Notice of toll-free telephone number for
2 central abuse hotline ~~registry~~.--On or before the first day
3 home medical equipment is delivered to the patient's home, any
4 home medical equipment provider licensed under this part must
5 inform the consumer and his or her immediate family, if
6 appropriate, of the right to report abusive, neglectful, or
7 exploitative practices. The statewide toll-free telephone
8 number for the central abuse hotline ~~registry~~ must be provided
9 to consumers in a manner that is clearly legible and must
10 include the words: "To report abuse, neglect, or
11 exploitation, please call toll-free 1-800-962-2873." Home
12 medical equipment providers shall establish appropriate
13 policies and procedures for providing such notice to
14 consumers.

15 Section 72. Subsections (3), (4), (5), and (6) and
16 paragraph (a) of subsection (7) of section 400.953, Florida
17 Statutes, are amended to read:

18 400.953 Background screening of home medical equipment
19 provider personnel.--The agency shall require employment
20 screening as provided in chapter 435, using the level 1
21 standards for screening set forth in that chapter, for home
22 medical equipment provider personnel.

23 (3) Proof of compliance with the screening
24 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
25 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
26 985.407 or this part must be accepted in lieu of the
27 requirements of this section if the person has been
28 continuously employed in the same type of occupation for which
29 he or she is seeking employment without a breach in service
30 that exceeds 180 days, the proof of compliance is not more
31 than 2 years old, and the person has been screened ~~through the~~

1 ~~central abuse registry and tracking system of the department~~
2 and by the Department of Law Enforcement. An employer or
3 contractor shall directly provide proof of compliance to
4 another employer or contractor, and a potential employer or
5 contractor may not accept any proof of compliance directly
6 from the person requiring screening. Proof of compliance with
7 the screening requirements of this section shall be provided,
8 upon request, to the person screened by the home medical
9 equipment provider.

10 (4) There is no monetary liability on the part of, and
11 no cause of action for damages arising against, a licensed
12 home medical equipment provider that, upon notice that an
13 employee has been found guilty of, regardless of adjudication,
14 or entered a plea of nolo contendere or guilty to, any offense
15 prohibited under s. 435.03 or under any similar statute of
16 another jurisdiction ~~of a confirmed report of adult abuse,~~
17 ~~neglect, or exploitation under chapter 415,~~ terminates the
18 employee ~~against whom the report was issued,~~ whether or not
19 the employee has filed for an exemption with the agency and
20 whether or not the time for filing has expired.

21 (5) The costs of processing the statewide
22 correspondence criminal records checks ~~and the search of the~~
23 ~~department's central abuse registry~~ must be borne by the home
24 medical equipment provider or by the person being screened, at
25 the discretion of the home medical equipment provider.

26 (6) Neither the agency nor the home medical equipment
27 provider may use the criminal records or ~~juvenile records,~~ ~~or~~
28 ~~central abuse registry information~~ of a person for any purpose
29 other than determining whether that person meets minimum
30 standards of good moral character for home medical equipment
31 provider personnel.

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

4 1. Fail, by false statement, misrepresentation,
5 impersonation, or other fraudulent means, to disclose in any
6 application for paid employment a material fact used in making
7 a determination as to the person's qualifications to be an
8 employee under this section;

9 2. Operate or attempt to operate an entity licensed
10 under this part with persons who do not meet the minimum
11 standards for good moral character as contained in this
12 section; or

13 3. Use information from the criminal records ~~or~~
14 ~~central abuse registry~~ obtained under this section for any
15 purpose other than screening that person for employment as
16 specified in this section, or release such information to any
17 other person for any purpose other than screening for
18 employment under this section.

19 Section 73. Subsection (1) of section 400.955, Florida
20 Statutes, is amended to read:

21 400.955 Procedures for screening of home medical
22 equipment provider personnel.--

23 (1) A person employed by a home medical equipment
24 provider shall, within 5 working days after starting to work,
25 submit to the home medical equipment provider a complete set
26 of information necessary to conduct a screening under this
27 section. The person must sign an affidavit stating whether he
28 or she meets the minimum standards for good moral character
29 under this section. The home medical equipment provider shall
30 submit the information to the Department of Law Enforcement
31 ~~and to the department's central abuse registry and tracking~~

1 ~~system~~ for processing. If disposition information is missing
2 on a criminal record, it is the responsibility of the person
3 being screened to obtain and supply the missing information
4 within 30 days. Failure to supply the missing information or
5 to show reasonable efforts to obtain such information will
6 result in automatic disqualification for employment.

7 Section 74. Paragraph (d) of subsection (10) of
8 section 400.962, Florida Statutes, is amended to read:

9 400.962 License required; license application.--

10 (10)

11 (d) A provisional license may be granted to an
12 applicant when each individual required by this section to
13 undergo background screening has met the standards for ~~the~~
14 ~~abuse registry background check~~ and the Department of Law
15 Enforcement background check, but the agency has not yet
16 received background screening results from the Federal Bureau
17 of Investigation, or a request for a disqualification
18 exemption has been submitted to the agency as set forth in
19 chapter 435, but a response has not yet been issued. A license
20 may be granted to the applicant upon the agency's receipt of a
21 report of the results of the Federal Bureau of Investigation
22 background screening for each individual required by this
23 section to undergo background screening which confirms that
24 all standards have been met, or upon the granting of a
25 disqualification exemption by the agency as set forth in
26 chapter 435. Any other person who is required to undergo level
27 2 background screening may serve in his or her capacity
28 pending the agency's receipt of the report from the Federal
29 Bureau of Investigation; however, the person may not continue
30 to serve if the report indicates any violation of background
31

1 screening standards and a disqualification exemption has not
2 been granted by the agency as set forth in chapter 435.

3 Section 75. Subsections (4) and (8) of section
4 400.964, Florida Statutes, are amended to read:

5 400.964 Personnel screening requirement.--

6 (4) The applicant is responsible for paying the fees
7 associated with obtaining the required screening. Payment for
8 the screening ~~and the abuse registry check~~ must be submitted
9 to the agency as prescribed by the agency.

10 (8) There is no monetary or unemployment liability on
11 the part of, and no cause of action for damages arises against
12 an employer that, upon notice of a disqualifying offense
13 listed under chapter 435 ~~or a confirmed report of abuse,~~
14 ~~neglect, or exploitation~~ or an act of domestic violence,
15 terminates the employee ~~against whom the report was issued,~~
16 whether or not the employee has filed for an exemption with
17 the Department of Health or the Agency for Health Care
18 Administration.

19 Section 76. Paragraph (d) of subsection (2) of section
20 402.3025, Florida Statutes, is amended to read:

21 402.3025 Public and nonpublic schools.--For the
22 purposes of ss. 402.301-402.319, the following shall apply:

23 (2) NONPUBLIC SCHOOLS.--

24 (d)1. Programs for children who are at least 3 years
25 of age, but under 5 years of age, which are not licensed under
26 ss. 402.301-402.319 shall substantially comply with the
27 minimum child care standards promulgated pursuant to ss.
28 402.305-402.3057.

29 2. The department or local licensing agency shall
30 enforce compliance with such standards, where possible, to
31 eliminate or minimize duplicative inspections or visits by

1 staff enforcing the minimum child care standards and staff
2 enforcing other standards under the jurisdiction of the
3 department.

4 3. The department or local licensing agency may
5 commence and maintain all proper and necessary actions and
6 proceedings for any or all of the following purposes:

7 a. To protect the health, sanitation, safety, and
8 well-being of all children under care.

9 b. To enforce its rules and regulations.

10 c. To use corrective action plans, whenever possible,
11 to attain compliance prior to the use of more restrictive
12 enforcement measures.

13 d. To make application for injunction to the proper
14 circuit court, and the judge of that court shall have
15 jurisdiction upon hearing and for cause shown to grant a
16 temporary or permanent injunction, or both, restraining any
17 person from violating or continuing to violate any of the
18 provisions of ss. 402.301-402.319. Any violation of this
19 section or of the standards applied under ss. 402.305-402.3057
20 which threatens harm to any child in the school's programs for
21 children who are at least 3 years of age, but are under 5
22 years of age, or repeated violations of this section or the
23 standards under ss. 402.305-402.3057, shall be grounds to seek
24 an injunction to close a program in a school.

25 e. To impose an administrative fine, not to exceed
26 \$100, for each violation of the minimum child care standards
27 promulgated pursuant to ss. 402.305-402.3057.

28 4. It is a misdemeanor of the first degree, punishable
29 as provided in s. 775.082 or s. 775.083, for any person
30 willfully, knowingly, or intentionally to:
31

1 a. Fail, by false statement, misrepresentation,
2 impersonation, or other fraudulent means, to disclose in any
3 required written documentation for exclusion from licensure
4 pursuant to this section a material fact used in making a
5 determination as to such exclusion; or

6 b. Use information from the criminal records ~~or~~
7 ~~central abuse registry~~ obtained under s. 402.305 or s.
8 402.3055 for any purpose other than screening that person for
9 employment as specified in those sections or release such
10 information to any other person for any purpose other than
11 screening for employment as specified in those sections.

12 5. It is a felony of the third degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084, for any
14 person willfully, knowingly, or intentionally to use
15 information from the juvenile records of any person obtained
16 under s. 402.305 or s. 402.3055 for any purpose other than
17 screening for employment as specified in those sections or to
18 release information from such records to any other person for
19 any purpose other than screening for employment as specified
20 in those sections.

21 Section 77. Paragraph (c) of subsection (5) of section
22 402.3125, Florida Statutes, is amended to read:

23 402.3125 Display and appearance of license; posting of
24 violations; information to be provided to parents.--

25 (5) The department shall develop a model brochure for
26 distribution by the department and by local licensing agencies
27 to every child care facility in the state. Pursuant thereto:

28 (c) The brochure shall, at a minimum, contain the
29 following information:

30 1. A statement that the facility is licensed and has
31 met state standards for licensure as established by s. 402.305

1 or that the facility is licensed by a local licensing agency
2 and has met or exceeded the state standards, pursuant to ss.
3 402.306 and 402.307. Such statement shall include a listing of
4 specific standards that licensed facilities must meet pursuant
5 to s. 402.305.

6 2. A statement indicating that information about the
7 licensure status of the child care facility can be obtained by
8 telephoning the department office or the office of the local
9 licensing agency issuing the license at a telephone number or
10 numbers which shall be printed upon or otherwise affixed to
11 the brochure.

12 3. The statewide toll-free telephone number of the
13 central Florida abuse hotline Registry, together with a notice
14 that reports of suspected and actual cases of child physical
15 abuse, sexual abuse, and neglect are received and referred for
16 investigation by the hotline registry.

17 4. The date that the current license for the facility
18 was issued and the date of its scheduled expiration if it is
19 not renewed.

20 5. Any other information relating to competent child
21 care that the department deems would be helpful to parents and
22 other caretakers in their selection of a child care facility.

23 Section 78. Paragraph (d) of subsection (6) of section
24 402.313, Florida Statutes, is amended to read:

25 402.313 Family day care homes.--

26 (6) The department shall prepare a brochure on family
27 day care for distribution by the department and by local
28 licensing agencies, if appropriate, to family day care homes
29 for distribution to parents utilizing such child care, and to
30 all interested persons, including physicians and other health
31 professionals; mental health professionals; school teachers or

1 other school personnel; social workers or other professional
2 child care, foster care, residential, or institutional
3 workers; and law enforcement officers. The brochure shall, at
4 a minimum, contain the following information:

5 (d) The statewide toll-free telephone number of the
6 central Florida abuse hotline Registry, together with a notice
7 that reports of suspected and actual child physical abuse,
8 sexual abuse, and neglect are received and referred for
9 investigation by the hotline registry.

10 Section 79. Paragraph (b) of subsection (11) of
11 section 409.175, Florida Statutes, is amended to read:

12 409.175 Licensure of family foster homes, residential
13 child-caring agencies, and child-placing agencies.--

14 (11)

15 (b) It is unlawful for any person, agency, summer day
16 camp, or summer 24-hour camp providing care for children to:

17 1. Willfully or intentionally fail to comply with the
18 requirements for the screening of personnel or the dismissal
19 of personnel found not to be in compliance with the
20 requirements for good moral character as specified in
21 paragraph (4)(a).

22 2. Use information from the criminal records ~~or~~
23 ~~central abuse registry~~ obtained under this section for any
24 purpose other than screening a person for employment as
25 specified in this section or to release such information to
26 any other person for any purpose other than screening for
27 employment as specified in this section.

28 Section 80. Subsection (29) of section 409.912,
29 Florida Statutes, is amended to read:

30 409.912 Cost-effective purchasing of health care.--The
31 agency shall purchase goods and services for Medicaid

1 recipients in the most cost-effective manner consistent with
2 the delivery of quality medical care. The agency shall
3 maximize the use of prepaid per capita and prepaid aggregate
4 fixed-sum basis services when appropriate and other
5 alternative service delivery and reimbursement methodologies,
6 including competitive bidding pursuant to s. 287.057, designed
7 to facilitate the cost-effective purchase of a case-managed
8 continuum of care. The agency shall also require providers to
9 minimize the exposure of recipients to the need for acute
10 inpatient, custodial, and other institutional care and the
11 inappropriate or unnecessary use of high-cost services.

12 (29) Each managed care plan that is under contract
13 with the agency to provide health care services to Medicaid
14 recipients shall annually conduct a background check with the
15 Florida Department of Law Enforcement of all persons with
16 ownership interest of 5 percent or more or executive
17 management responsibility for the managed care plan and shall
18 submit to the agency information concerning any such person
19 who has been found guilty of, regardless of adjudication, or
20 has entered a plea of nolo contendere or guilty to, any of the
21 offenses listed in s. 435.03 ~~or has a confirmed report of~~
22 ~~abuse, neglect, or exploitation pursuant to chapter 415.~~

23 Section 81. Subsection (5) of section 430.205, Florida
24 Statutes, is amended to read:

25 430.205 Community care service system.--

26 (5) Any person who has been classified as a
27 functionally impaired elderly person is eligible to receive
28 community-care-for-the-elderly core services. Those elderly
29 persons who are determined by adult protective investigations
30 ~~services~~ to be vulnerable adults ~~elderly persons~~ in need of
31 services, pursuant to s. 415.104(3)(b) ~~415.1045(2)(b)~~, or to

1 be victims of abuse, neglect, or exploitation who are in need
2 of immediate services to prevent further harm and are referred
3 by the adult protective services program, shall be given
4 primary consideration for receiving
5 community-care-for-the-elderly services. As used in this
6 subsection, "primary consideration" means that an assessment
7 and services must commence within 72 hours after referral to
8 the department or as established in accordance with department
9 contracts by local protocols developed between department
10 service providers and the adult protective services program.

11 Section 82. Subsection (1) of section 447.208, Florida
12 Statutes, is amended to read:

13 447.208 Procedure with respect to certain appeals
14 under s. 447.207.--

15 (1) Any person filing an appeal pursuant to subsection
16 (8) or subsection (9) of s. 447.207 shall be entitled to a
17 hearing pursuant to subsections (4) and (5) of s. 447.503 and
18 in accordance with chapter 120; however, the hearing shall be
19 conducted within 30 days of the filing of an appeal with the
20 commission, unless an extension of time is granted by the
21 commission for good cause ~~or unless the basis for the appeal~~
22 ~~is an allegation of abuse or neglect under s. 415.1075, in~~
23 ~~which case the hearing by the Public Employees Relations~~
24 ~~Commission may not be held until the confirmed report of abuse~~
25 ~~or neglect has been upheld pursuant to the procedures for~~
26 ~~appeal in s. 415.1075.~~ Discovery may be granted only upon a
27 showing of extraordinary circumstances. A party requesting
28 discovery shall demonstrate a substantial need for the
29 information requested and an inability to obtain relevant
30 information by other means. To the extent that chapter 120 is

31

1 inconsistent with these provisions, the procedures contained
2 in this section shall govern.

3 Section 83. Section 447.401, Florida Statutes, is
4 amended to read:

5 447.401 Grievance procedures.--Each public employer
6 and bargaining agent shall negotiate a grievance procedure to
7 be used for the settlement of disputes between employer and
8 employee, or group of employees, involving the interpretation
9 or application of a collective bargaining agreement. Such
10 grievance procedure shall have as its terminal step a final
11 and binding disposition by an impartial neutral, mutually
12 selected by the parties; however, when the issue under appeal
13 is an allegation of abuse, abandonment, or neglect by an
14 employee under s. 39.201 or s. 415.1034 ~~s. 415.1075~~, the
15 grievance may not be decided until the abuse, abandonment, or
16 neglect of a child has been judicially determined ~~or until a~~
17 ~~confirmed report of abuse or neglect of a disabled adult or~~
18 ~~elderly person has been upheld pursuant to the procedures for~~
19 ~~appeal in s. 415.1075~~. However, an arbiter or other neutral
20 shall not have the power to add to, subtract from, modify, or
21 alter the terms of a collective bargaining agreement. If an
22 employee organization is certified as the bargaining agent of
23 a unit, the grievance procedure then in existence may be the
24 subject of collective bargaining, and any agreement which is
25 reached shall supersede the previously existing procedure.
26 All public employees shall have the right to a fair and
27 equitable grievance procedure administered without regard to
28 membership or nonmembership in any organization, except that
29 certified employee organizations shall not be required to
30 process grievances for employees who are not members of the
31 organization. A career service employee shall have the option

1 of utilizing the civil service appeal procedure, an unfair
2 labor practice procedure, or a grievance procedure established
3 under this section, but such employee is precluded from
4 availing himself or herself to more than one of these
5 procedures.

6 Section 84. Paragraph (e) of subsection (1) of section
7 464.018, Florida Statutes, is amended to read:

8 464.018 Disciplinary actions.--

9 (1) The following acts shall be grounds for
10 disciplinary action set forth in this section:

11 (e) Having been found guilty of, regardless of
12 adjudication, or having entered a plea of nolo contendere or
13 guilty to, any offense prohibited under s. 435.03 or under any
14 similar statute of another jurisdiction ~~a confirmed report of~~
15 ~~abuse, neglect, or exploitation as defined in s. 415.102(6)~~
16 ~~which has been uncontested or upheld under the procedures of~~
17 ~~s. 415.1075; or having committed an act that ~~which~~ constitutes~~
18 domestic violence as defined in s. 741.28.

19 Section 85. Subsections (1) and (2) of section
20 468.828, Florida Statutes, are amended to read:

21 468.828 Background screening information; rulemaking
22 authority.--

23 (1) The Agency for Health Care Administration shall
24 allow the department to electronically access its background
25 screening database and records, ~~and the Department of Children~~
26 ~~and Family Services shall allow the department to~~
27 ~~electronically access its central abuse registry and tracking~~
28 ~~system under chapter 415.~~

29 (2) An employer, or an agent thereof, may not use
30 criminal records or, ~~juvenile records, or information obtained~~
31 ~~from the central abuse hotline under chapter 415~~ for any

1 purpose other than determining if the person meets the
2 requirements of this part. Such records and information
3 obtained by the department shall remain confidential and
4 exempt from s. 119.07(1).

5 Section 86. Section 468.826, Florida Statutes, is
6 amended to read:

7 468.826 Exemption from liability.--If an employer
8 terminates or denies employment to a certified nursing
9 assistant whose certification is inactive as shown on the
10 certified nursing assistant registry or whose name appears ~~on~~
11 ~~the central abuse registry and tracking system of the~~
12 ~~Department of Children and Family Services~~ or on a criminal
13 screening report of the Department of Law Enforcement, the
14 employer is not civilly liable for such termination and a
15 cause of action may not be brought against the employer for
16 damages, regardless of whether the employee has filed for an
17 exemption from the department under s. 468.824(1). There may
18 not be any monetary liability on the part of, and a cause of
19 action for damages may not arise against, any licensed
20 facility, its governing board or members thereof, medical
21 staff, disciplinary board, agents, investigators, witnesses,
22 employees, or any other person for any action taken in good
23 faith without intentional fraud in carrying out this section.

24 Section 87. Paragraph (d) of subsection (2) of section
25 483.30, Florida Statutes, is amended to read:

26 483.30 Licensing of centers.--

27 (2) Each applicant for licensure must comply with the
28 following requirements:

29 (d) A provisional license may be granted to an
30 applicant when each individual required by this section to
31 undergo background screening has met the standards for ~~the~~

1 ~~abuse registry background check~~ and the Department of Law
2 Enforcement background check, but the agency has not yet
3 received background screening results from the Federal Bureau
4 of Investigation, or a request for a disqualification
5 exemption has been submitted to the agency as set forth in
6 chapter 435 but a response has not yet been issued. A license
7 may be granted to the applicant upon the agency's receipt of a
8 report of the results of the Federal Bureau of Investigation
9 background screening for each individual required by this
10 section to undergo background screening which confirms that
11 all standards have been met, or upon the granting of a
12 disqualification exemption by the agency as set forth in
13 chapter 435. Any other person who is required to undergo level
14 2 background screening may serve in his or her capacity
15 pending the agency's receipt of the report from the Federal
16 Bureau of Investigation. However, the person may not continue
17 to serve if the report indicates any violation of background
18 screening standards and a disqualification exemption has not
19 been requested of and granted by the agency as set forth in
20 chapter 435.

21 Section 88. Paragraph (d) of subsection (2) of section
22 483.101, Florida Statutes, is amended to read:

23 483.101 Application for clinical laboratory license.--

24 (2) Each applicant for licensure must comply with the
25 following requirements:

26 (d) A provisional license may be granted to an
27 applicant when each individual required by this section to
28 undergo background screening has met the standards for ~~the~~
29 ~~abuse registry background check~~ and the Department of Law
30 Enforcement background check but the agency has not yet
31 received background screening results from the Federal Bureau

1 of Investigation, or a request for a disqualification
2 exemption has been submitted to the agency as set forth in
3 chapter 435 but a response has not yet been issued. A license
4 may be granted to the applicant upon the agency's receipt of a
5 report of the results of the Federal Bureau of Investigation
6 background screening for each individual required by this
7 section to undergo background screening which confirms that
8 all standards have been met, or upon the granting of a
9 disqualification exemption by the agency as set forth in
10 chapter 435. Any other person who is required to undergo level
11 2 background screening may serve in his or her capacity
12 pending the agency's receipt of the report from the Federal
13 Bureau of Investigation. However, the person may not continue
14 to serve if the report indicates any violation of background
15 screening standards and a disqualification exemption has not
16 been requested of and granted by the agency as set forth in
17 chapter 435.

18 Section 89. Paragraph (a) of subsection (2) of section
19 509.032, Florida Statutes, is amended to read:

20 509.032 Duties.--

21 (2) INSPECTION OF PREMISES.--

22 (a) The division has responsibility and jurisdiction
23 for all inspections required by this chapter. The division
24 has responsibility for quality assurance. Each licensed
25 establishment shall be inspected at least biannually and at
26 such other times as the division determines is necessary to
27 ensure the public's health, safety, and welfare. The division
28 shall establish a system to determine inspection frequency.
29 Public lodging units classified as resort condominiums or
30 resort dwellings are not subject to this requirement, but
31 shall be made available to the division upon request. If,

1 during the inspection of a public lodging establishment
2 classified for renting to transient or nontransient tenants,
3 an inspector identifies vulnerable ~~disabled~~ adults ~~or elderly~~
4 ~~persons~~ who appear to be victims of neglect, as defined in s.
5 415.102, or, in the case of a building that is not equipped
6 with automatic sprinkler systems, tenants or clients who may
7 be unable to self-preserve in an emergency, the division shall
8 convene meetings with the following agencies as appropriate to
9 the individual situation: the Department of Health, the
10 Department of Elderly Affairs, the area agency on aging, the
11 local fire marshal, the landlord and affected tenants and
12 clients, and other relevant organizations, to develop a plan
13 which improves the prospects for safety of affected residents
14 and, if necessary, identifies alternative living arrangements
15 such as facilities licensed under part II or part III of
16 chapter 400.

17 Section 90. Subsection (3) of section 744.309, Florida
18 Statutes, is amended to read:

19 744.309 Who may be appointed guardian of a resident
20 ward.--

21 (3) DISQUALIFIED PERSONS.--No person who has been
22 convicted of a felony or who, from any incapacity or illness,
23 is incapable of discharging the duties of a guardian, or who
24 is otherwise unsuitable to perform the duties of a guardian,
25 shall be appointed to act as guardian. Further, no person who
26 has been judicially determined to have committed abuse,
27 abandonment, or neglect against a child as defined in s. 39.01
28 or s. 984.03(1), (2), and (39), or who has been found guilty
29 of, regardless of adjudication, or entered a plea of nolo
30 contendere or guilty to, any offense prohibited under s.
31 435.03 or under any similar statute of another jurisdiction,~~a~~

1 ~~confirmed report of abuse, neglect, or exploitation which has~~
2 ~~been uncontested or upheld pursuant to the provisions of ss.~~
3 ~~415.104 and 415.1075 shall be appointed to act as a guardian.~~
4 Except as provided in subsection (5) or subsection (6), a
5 person who provides substantial services to the proposed ward
6 in a professional or business capacity, or a creditor of the
7 proposed ward, may not be appointed guardian and retain that
8 previous professional or business relationship. A person may
9 not be appointed a guardian if he or she is in the employ of
10 any person, agency, government, or corporation that provides
11 service to the proposed ward in a professional or business
12 capacity, except that a person so employed may be appointed if
13 he or she is the spouse, adult child, parent, or sibling of
14 the proposed ward or the court determines that the potential
15 conflict of interest is insubstantial and that the appointment
16 would clearly be in the proposed ward's best interest. The
17 court may not appoint a guardian in any other circumstance in
18 which a conflict of interest may occur.

19 Section 91. Subsection (12) of section 744.474,
20 Florida Statutes, is amended to read:

21 744.474 Reasons for removal of guardian.--A guardian
22 may be removed for any of the following reasons, and the
23 removal shall be in addition to any other penalties prescribed
24 by law:

25 (12) Having been found guilty of, regardless of
26 adjudication, or entered a plea of nolo contendere or guilty
27 to, any offense prohibited under s. 435.03 or under any
28 similar statute of another jurisdiction ~~A confirmed report~~
29 ~~pursuant to a protective investigation made by the Department~~
30 ~~of Children and Family Services, which has been uncontested or~~
31

1 ~~has been upheld, in accordance with s. 415.1075, that the~~
2 ~~guardian has abused, neglected, or exploited the ward.~~

3 Section 92. Section 744.7081, Florida Statutes, is
4 amended to read:

5 744.7081 Access to records by Statewide Public
6 Guardianship Office; confidentiality.--Notwithstanding any
7 other provision of law to the contrary, any medical,
8 financial, or mental health records held by an agency, or the
9 court and its agencies, which are necessary to evaluate the
10 public guardianship system, to assess the need for additional
11 public guardianship, or to develop required reports, shall be
12 provided to the Statewide Public Guardianship Office upon that
13 office's request. Any confidential or exempt information
14 provided to the Statewide Public Guardianship Office shall
15 continue to be held confidential or exempt as otherwise
16 provided by law. All records held by the Statewide Public
17 Guardianship Office relating to the medical, financial, or
18 mental health of vulnerable ~~citizens who are elderly persons~~
19 ~~or disabled~~ adults as defined in chapter 415, persons with a
20 developmental disability as defined in chapter 393, or persons
21 with a mental illness as defined in chapter 394, shall be
22 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
23 of the State Constitution. This section is subject to the Open
24 Government Sunset Review Act of 1995 in accordance with s.
25 119.15, and shall stand repealed on October 2, 2004, unless
26 reviewed and saved from repeal through reenactment by the
27 Legislature.

28 Section 93. Subsection (1) and paragraph (a) of
29 subsection (2) of section 768.735, Florida Statutes, are
30 amended to read:

31 768.735 Punitive damages; exceptions; limitation.--

1 (1) Sections 768.72(2)-(4), 768.725, and 768.73 do not
2 apply to any civil action based upon child abuse or abuse of a
3 vulnerable adult, ~~abuse of the elderly, or abuse of the~~
4 ~~developmentally disabled~~ or any civil action arising under
5 chapter 400. Such actions are governed by applicable statutes
6 and controlling judicial precedent.

7 (2)(a) In any civil action based upon child abuse,
8 abuse of a vulnerable adult ~~the elderly, or abuse of the~~
9 ~~developmentally disabled~~, or actions arising under chapter 400
10 and involving the award of punitive damages, the judgment for
11 the total amount of punitive damages awarded to a claimant may
12 not exceed three times the amount of compensatory damages
13 awarded to each person entitled thereto by the trier of fact,
14 except as provided in paragraph (b). This subsection does not
15 apply to any class action.

16 Section 94. Paragraphs (b), (c), and (d) of subsection
17 (1) of section 775.084, Florida Statutes, are amended to read:

18 775.084 Violent career criminals; habitual felony
19 offenders and habitual violent felony offenders; three-time
20 violent felony offenders; definitions; procedure; enhanced
21 penalties or mandatory minimum prison terms.--

22 (1) As used in this act:

23 (b) "Habitual violent felony offender" means a
24 defendant for whom the court may impose an extended term of
25 imprisonment, as provided in paragraph (4)(b), if it finds
26 that:

27 1. The defendant has previously been convicted of a
28 felony or an attempt or conspiracy to commit a felony and one
29 or more of such convictions was for:

- 30 a. Arson;
31 b. Sexual battery;

- 1 c. Robbery;
- 2 d. Kidnapping;
- 3 e. Aggravated child abuse;
- 4 f. Aggravated abuse of a vulnerable ~~an elderly person~~
- 5 ~~or disabled~~ adult;
- 6 g. Aggravated assault with a deadly weapon;
- 7 h. Murder;
- 8 i. Manslaughter;
- 9 j. Aggravated manslaughter of a vulnerable ~~an elderly~~
- 10 ~~person or disabled~~ adult;
- 11 k. Aggravated manslaughter of a child;
- 12 l. Unlawful throwing, placing, or discharging of a
- 13 destructive device or bomb;
- 14 m. Armed burglary;
- 15 n. Aggravated battery; or
- 16 o. Aggravated stalking.
- 17 2. The felony for which the defendant is to be
- 18 sentenced was committed:
- 19 a. While the defendant was serving a prison sentence
- 20 or other sentence, or court-ordered or lawfully imposed
- 21 supervision that is imposed as a result of a prior conviction
- 22 for an enumerated felony; or
- 23 b. Within 5 years of the date of the conviction of the
- 24 last prior enumerated felony, or within 5 years of the
- 25 defendant's release from a prison sentence, probation,
- 26 community control, control release, conditional release,
- 27 parole, or court-ordered or lawfully imposed supervision or
- 28 other sentence that is imposed as a result of a prior
- 29 conviction for an enumerated felony, whichever is later.
- 30
- 31

1 3. The defendant has not received a pardon on the
2 ground of innocence for any crime that is necessary for the
3 operation of this paragraph.

4 4. A conviction of a crime necessary to the operation
5 of this paragraph has not been set aside in any postconviction
6 proceeding.

7 (c) "Three-time violent felony offender" means a
8 defendant for whom the court must impose a mandatory minimum
9 term of imprisonment, as provided in paragraph (4)(c), if it
10 finds that:

11 1. The defendant has previously been convicted as an
12 adult two or more times of a felony, or an attempt to commit a
13 felony, and two or more of such convictions were for
14 committing, or attempting to commit, any of the following
15 offenses or combination thereof:

- 16 a. Arson;
17 b. Sexual battery;
18 c. Robbery;
19 d. Kidnapping;
20 e. Aggravated child abuse;
21 f. Aggravated abuse of a vulnerable ~~an elderly person~~
22 ~~or disabled~~ adult;
23 g. Aggravated assault with a deadly weapon;
24 h. Murder;
25 i. Manslaughter;
26 j. Aggravated manslaughter of a vulnerable ~~an elderly~~
27 ~~person or disabled~~ adult;
28 k. Aggravated manslaughter of a child;
29 l. Unlawful throwing, placing, or discharging of a
30 destructive device or bomb;
31 m. Armed burglary;

1 n. Aggravated battery;
2 o. Aggravated stalking;
3 p. Home invasion/robbery;
4 q. Carjacking; or
5 r. An offense which is in violation of a law of any
6 other jurisdiction if the elements of the offense are
7 substantially similar to the elements of any felony offense
8 enumerated in sub-subparagraphs a.-q., or an attempt to commit
9 any such felony offense.

10 2. The felony for which the defendant is to be
11 sentenced is one of the felonies enumerated in
12 sub-subparagraphs 1.a.-q. and was committed:

13 a. While the defendant was serving a prison sentence
14 or other sentence imposed as a result of a prior conviction
15 for any offense enumerated in sub-subparagraphs 1.a.-r.; or
16 b. Within 5 years after the date of the conviction of
17 the last prior offense enumerated in sub-subparagraphs
18 1.a.-r., or within 5 years after the defendant's release from
19 a prison sentence, probation, community control, or other
20 sentence imposed as a result of a prior conviction for any
21 offense enumerated in sub-subparagraphs 1.a.-r., whichever is
22 later.

23 3. The defendant has not received a pardon on the
24 ground of innocence for any crime that is necessary for the
25 operation of this paragraph.

26 4. A conviction of a crime necessary to the operation
27 of this paragraph has not been set aside in any postconviction
28 proceeding.

29 (d) "Violent career criminal" means a defendant for
30 whom the court must impose imprisonment pursuant to paragraph
31 (4)(d), if it finds that:

- 1 1. The defendant has previously been convicted as an
2 adult three or more times for an offense in this state or
3 other qualified offense that is:
- 4 a. Any forcible felony, as described in s. 776.08;
5 b. Aggravated stalking, as described in s. 784.048(3)
6 and (4);
7 c. Aggravated child abuse, as described in s.
8 827.03(2);
9 d. Aggravated abuse of a vulnerable ~~an elderly person~~
10 ~~or disabled~~ adult, as described in s. 825.102(2);
11 e. Lewd or lascivious battery, lewd or lascivious
12 molestation, lewd or lascivious conduct, or lewd or lascivious
13 exhibition, as described in s. 800.04;
14 f. Escape, as described in s. 944.40; or
15 g. A felony violation of chapter 790 involving the use
16 or possession of a firearm.
- 17 2. The defendant has been incarcerated in a state
18 prison or a federal prison.
- 19 3. The primary felony offense for which the defendant
20 is to be sentenced is a felony enumerated in subparagraph 1.
21 and was committed on or after October 1, 1995, and:
- 22 a. While the defendant was serving a prison sentence
23 or other sentence, or court-ordered or lawfully imposed
24 supervision that is imposed as a result of a prior conviction
25 for an enumerated felony; or
26 b. Within 5 years after the conviction of the last
27 prior enumerated felony, or within 5 years after the
28 defendant's release from a prison sentence, probation,
29 community control, control release, conditional release,
30 parole, or court-ordered or lawfully imposed supervision or
31

1 other sentence that is imposed as a result of a prior
2 conviction for an enumerated felony, whichever is later.

3 4. The defendant has not received a pardon for any
4 felony or other qualified offense that is necessary for the
5 operation of this paragraph.

6 5. A conviction of a felony or other qualified offense
7 necessary to the operation of this paragraph has not been set
8 aside in any postconviction proceeding.

9 Section 95. Paragraph (a) of subsection (2) and
10 paragraph (a) of subsection (3) of section 775.087, Florida
11 Statutes, are amended to read:

12 775.087 Possession or use of weapon; aggravated
13 battery; felony reclassification; minimum sentence.--

14 (2)(a)1. Any person who is convicted of a felony or an
15 attempt to commit a felony, regardless of whether the use of a
16 weapon is an element of the felony, and the conviction was
17 for:

- 18 a. Murder;
- 19 b. Sexual battery;
- 20 c. Robbery;
- 21 d. Burglary;
- 22 e. Arson;
- 23 f. Aggravated assault;
- 24 g. Aggravated battery;
- 25 h. Kidnapping;
- 26 i. Escape;
- 27 j. Aircraft piracy;
- 28 k. Aggravated child abuse;
- 29 l. Aggravated abuse of a vulnerable ~~an elderly person~~
30 ~~or disabled~~ adult;

31

1 m. Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;
3 n. Carjacking;
4 o. Home-invasion robbery;
5 p. Aggravated stalking;
6 q. Trafficking in cannabis, trafficking in cocaine,
7 capital importation of cocaine, trafficking in illegal drugs,
8 capital importation of illegal drugs, trafficking in
9 phencyclidine, capital importation of phencyclidine,
10 trafficking in methaqualone, capital importation of
11 methaqualone, trafficking in amphetamine, capital importation
12 of amphetamine, trafficking in flunitrazepam, or other
13 violation of s. 893.135(1); or
14 r. Possession of a firearm by a felon
15
16 and during the commission of the offense, such person actually
17 possessed a "firearm" or "destructive device" as those terms
18 are defined in s. 790.001, shall be sentenced to a minimum
19 term of imprisonment of 10 years, except that a person who is
20 convicted for aggravated assault, possession of a firearm by a
21 felon, or burglary of a conveyance shall be sentenced to a
22 minimum term of imprisonment of 3 years if such person
23 possessed a "firearm" or "destructive device" during the
24 commission of the offense.
25 2. Any person who is convicted of a felony or an
26 attempt to commit a felony listed in sub-subparagraphs
27 (a)1.a.-q., regardless of whether the use of a weapon is an
28 element of the felony, and during the course of the commission
29 of the felony such person discharged a "firearm" or
30 "destructive device" as defined in s. 790.001 shall be
31 sentenced to a minimum term of imprisonment of 20 years.

1 3. Any person who is convicted of a felony or an
2 attempt to commit a felony listed in sub-subparagraphs
3 (a)1.a.-q., regardless of whether the use of a weapon is an
4 element of the felony, and during the course of the commission
5 of the felony such person discharged a "firearm" or
6 "destructive device" as defined in s. 790.001 and, as the
7 result of the discharge, death or great bodily harm was
8 inflicted upon any person, the convicted person shall be
9 sentenced to a minimum term of imprisonment of not less than
10 25 years and not more than a term of imprisonment of life in
11 prison.

12 (3)(a)1. Any person who is convicted of a felony or an
13 attempt to commit a felony, regardless of whether the use of a
14 firearm is an element of the felony, and the conviction was
15 for:

- 16 a. Murder;
17 b. Sexual battery;
18 c. Robbery;
19 d. Burglary;
20 e. Arson;
21 f. Aggravated assault;
22 g. Aggravated battery;
23 h. Kidnapping;
24 i. Escape;
25 j. Sale, manufacture, delivery, or intent to sell,
26 manufacture, or deliver any controlled substance;
27 k. Aircraft piracy;
28 l. Aggravated child abuse;
29 m. Aggravated abuse of a vulnerable ~~an elderly person~~
30 ~~or disabled~~ adult;
31

1 n. Unlawful throwing, placing, or discharging of a
2 destructive device or bomb;
3 o. Carjacking;
4 p. Home-invasion robbery;
5 q. Aggravated stalking; or
6 r. Trafficking in cannabis, trafficking in cocaine,
7 capital importation of cocaine, trafficking in illegal drugs,
8 capital importation of illegal drugs, trafficking in
9 phencyclidine, capital importation of phencyclidine,
10 trafficking in methaqualone, capital importation of
11 methaqualone, trafficking in amphetamine, capital importation
12 of amphetamine, trafficking in flunitrazepam, or other
13 violation of s. 893.135(1);
14

15 and during the commission of the offense, such person
16 possessed a semiautomatic firearm and its high-capacity
17 detachable box magazine or a machine gun as defined in s.
18 790.001, shall be sentenced to a minimum term of imprisonment
19 of 15 years.

20 2. Any person who is convicted of a felony or an
21 attempt to commit a felony listed in subparagraph (a)1.,
22 regardless of whether the use of a weapon is an element of the
23 felony, and during the course of the commission of the felony
24 such person discharged a semiautomatic firearm and its
25 high-capacity box magazine or a "machine gun" as defined in s.
26 790.001 shall be sentenced to a minimum term of imprisonment
27 of 20 years.

28 3. Any person who is convicted of a felony or an
29 attempt to commit a felony listed in subparagraph (a)1.,
30 regardless of whether the use of a weapon is an element of the
31 felony, and during the course of the commission of the felony

1 such person discharged a semiautomatic firearm and its
2 high-capacity box magazine or a "machine gun" as defined in s.
3 790.001 and, as the result of the discharge, death or great
4 bodily harm was inflicted upon any person, the convicted
5 person shall be sentenced to a minimum term of imprisonment of
6 not less than 25 years and not more than a term of
7 imprisonment of life in prison.

8 Section 96. Subsection (1) of section 775.0877,
9 Florida Statutes, is amended to read:

10 775.0877 Criminal transmission of HIV; procedures;
11 penalties.--

12 (1) In any case in which a person has been convicted
13 of or has pled nolo contendere or guilty to, regardless of
14 whether adjudication is withheld, any of the following
15 offenses, or the attempt thereof, which offense or attempted
16 offense involves the transmission of body fluids from one
17 person to another:

- 18 (a) Section 794.011, relating to sexual battery,
19 (b) Section 826.04, relating to incest,
20 (c) Section 800.04(1), (2), and (3), relating to lewd,
21 lascivious, or indecent assault or act upon any person less
22 than 16 years of age,
23 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
24 relating to assault,
25 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
26 relating to aggravated assault,
27 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
28 relating to battery,
29 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
30 relating to aggravated battery,
31 (h) Section 827.03(1), relating to child abuse,

1 (i) Section 827.03(2), relating to aggravated child
2 abuse,

3 (j) Section 825.102(1), relating to abuse of a
4 vulnerable ~~an elderly person or disabled~~ adult,

5 (k) Section 825.102(2), relating to aggravated abuse
6 of a vulnerable ~~an elderly person or disabled~~ adult,

7 (l) Section 827.071, relating to sexual performance by
8 person less than 18 years of age,

9 (m) Sections 796.03, 796.07, and 796.08, relating to
10 prostitution, or

11 (n) Section 381.0041(11)(b), relating to donation of
12 blood, plasma, organs, skin, or other human tissue,

13

14 the court shall order the offender to undergo HIV testing, to
15 be performed under the direction of the Department of Health
16 in accordance with s. 381.004, unless the offender has
17 undergone HIV testing voluntarily or pursuant to procedures
18 established in s. 381.004(3)(h)6. or s. 951.27, or any other
19 applicable law or rule providing for HIV testing of criminal
20 offenders or inmates, subsequent to her or his arrest for an
21 offense enumerated in paragraphs (a)-(n) for which she or he
22 was convicted or to which she or he pled nolo contendere or
23 guilty. The results of an HIV test performed on an offender
24 pursuant to this subsection are not admissible in any criminal
25 proceeding arising out of the alleged offense.

26 Section 97. Paragraph (a) of subsection (6) of section
27 775.21, Florida Statutes, is amended to read:

28 775.21 The Florida Sexual Predators Act; definitions;
29 legislative findings, purpose, and intent; criteria;
30 designation; registration; community and public notification;
31 immunity; penalties.--

1 (6) REGISTRATION.--

2 (a) A sexual predator must register with the
3 department by providing the following information to the
4 department:

5 1. Name, social security number, age, race, sex, date
6 of birth, height, weight, hair and eye color, photograph,
7 address of legal residence and address of any current
8 temporary residence, including a rural route address and a
9 post office box, date and place of any employment, date and
10 place of each conviction, fingerprints, and a brief
11 description of the crime or crimes committed by the offender.
12 A post office box shall not be provided in lieu of a physical
13 residential address. If the sexual predator's place of
14 residence is a motor vehicle, trailer, mobile home, or
15 manufactured home, as defined in chapter 320, the sexual
16 predator shall also provide to the department written notice
17 of the vehicle identification number; the license tag number;
18 the registration number; and a description, including color
19 scheme, of the motor vehicle, trailer, mobile home, or
20 manufactured home. If a sexual predator's place of residence
21 is a vessel, live-aboard vessel, or houseboat, as defined in
22 chapter 327, the sexual predator shall also provide to the
23 department written notice of the hull identification number;
24 the manufacturer's serial number; the name of the vessel,
25 live-aboard vessel, or houseboat; the registration number; and
26 a description, including color scheme, of the vessel,
27 live-aboard vessel, or houseboat.

28 2. Any other information determined necessary by the
29 department, including criminal and corrections records;
30 nonprivileged personnel and treatment, ~~and abuse registry~~
31 records; and evidentiary genetic markers when available.

1 Section 98. Paragraph (a) of subsection (1) and
2 subsections (3) and (4) of section 782.04, Florida Statutes,
3 are amended to read:

4 782.04 Murder.--

5 (1)(a) The unlawful killing of a human being:

6 1. When perpetrated from a premeditated design to
7 effect the death of the person killed or any human being;

8 2. When committed by a person engaged in the
9 perpetration of, or in the attempt to perpetrate, any:

10 a. Trafficking offense prohibited by s. 893.135(1),

11 b. Arson,

12 c. Sexual battery,

13 d. Robbery,

14 e. Burglary,

15 f. Kidnapping,

16 g. Escape,

17 h. Aggravated child abuse,

18 i. Aggravated abuse of a vulnerable ~~an elderly person~~
19 ~~or disabled~~ adult,

20 j. Aircraft piracy,

21 k. Unlawful throwing, placing, or discharging of a
22 destructive device or bomb,

23 l. Carjacking,

24 m. Home-invasion robbery,

25 n. Aggravated stalking, or

26 o. Murder of another human being; or

27 3. Which resulted from the unlawful distribution of
28 any substance controlled under s. 893.03(1), cocaine as
29 described in s. 893.03(2)(a)4., or opium or any synthetic or
30 natural salt, compound, derivative, or preparation of opium by
31

1 a person 18 years of age or older, when such drug is proven to
2 be the proximate cause of the death of the user,
3
4 is murder in the first degree and constitutes a capital
5 felony, punishable as provided in s. 775.082.

6 (3) When a person is killed in the perpetration of, or
7 in the attempt to perpetrate, any:

- 8 (a) Trafficking offense prohibited by s. 893.135(1),
9 (b) Arson,
10 (c) Sexual battery,
11 (d) Robbery,
12 (e) Burglary,
13 (f) Kidnapping,
14 (g) Escape,
15 (h) Aggravated child abuse,
16 (i) Aggravated abuse of a vulnerable ~~an elderly person~~
17 ~~or disabled~~ adult,
18 (j) Aircraft piracy,
19 (k) Unlawful throwing, placing, or discharging of a
20 destructive device or bomb,
21 (l) Carjacking,
22 (m) Home-invasion robbery,
23 (n) Aggravated stalking, or
24 (o) Murder of another human being,

25
26 by a person other than the person engaged in the perpetration
27 of or in the attempt to perpetrate such felony, the person
28 perpetrating or attempting to perpetrate such felony is guilty
29 of murder in the second degree, which constitutes a felony of
30 the first degree, punishable by imprisonment for a term of
31

1 years not exceeding life or as provided in s. 775.082, s.
2 775.083, or s. 775.084.
3 (4) The unlawful killing of a human being, when
4 perpetrated without any design to effect death, by a person
5 engaged in the perpetration of, or in the attempt to
6 perpetrate, any felony other than any:
7 (a) Trafficking offense prohibited by s. 893.135(1),
8 (b) Arson,
9 (c) Sexual battery,
10 (d) Robbery,
11 (e) Burglary,
12 (f) Kidnapping,
13 (g) Escape,
14 (h) Aggravated child abuse,
15 (i) Aggravated abuse of a vulnerable ~~an elderly person~~
16 ~~or disabled~~ adult,
17 (j) Aircraft piracy,
18 (k) Unlawful throwing, placing, or discharging of a
19 destructive device or bomb,
20 (l) Unlawful distribution of any substance controlled
21 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
22 or opium or any synthetic or natural salt, compound,
23 derivative, or preparation of opium by a person 18 years of
24 age or older, when such drug is proven to be the proximate
25 cause of the death of the user,
26 (m) Carjacking,
27 (n) Home-invasion robbery,
28 (o) Aggravated stalking, or
29 (p) Murder of another human being,
30
31

1 is murder in the third degree and constitutes a felony of the
2 second degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

4 Section 99. Subsection (2) of section 782.07, Florida
5 Statutes, is amended to read:

6 782.07 Manslaughter; aggravated manslaughter of an
7 elderly person or disabled adult; aggravated manslaughter of a
8 child.--

9 (2) A person who causes the death of any vulnerable
10 ~~elderly person or disabled~~ adult by culpable negligence under
11 s. 825.102(3) commits aggravated manslaughter of a vulnerable
12 ~~an elderly person or disabled~~ adult, a felony of the first
13 degree, punishable as provided in s. 775.082, s. 775.083, or
14 s. 775.084.

15 Section 100. Section 825.101, Florida Statutes, is
16 amended to read:

17 825.101 Definitions.--As used in this chapter:

18 (1) "Business relationship" means a relationship
19 between two or more individuals or entities where there exists
20 an oral or written contract or agreement for goods or
21 services.

22 (2) "Caregiver" means a person who has been entrusted
23 with or has assumed responsibility for the care or the
24 property of a vulnerable ~~an elderly person or disabled~~ adult.
25 "Caregiver" includes, but is not limited to, relatives,
26 court-appointed or voluntary guardians, adult household
27 members, neighbors, health care providers, and employees and
28 volunteers of facilities as defined in subsection (7).

29 (3) "Deception" means:

30 (a) Misrepresenting or concealing a material fact
31 relating to:

1 1. Services rendered, disposition of property, or use
2 of property, when such services or property are intended to
3 benefit a vulnerable ~~an elderly person or disabled~~ adult;

4 2. Terms of a contract or agreement entered into with
5 a vulnerable ~~an elderly person or disabled~~ adult; or

6 3. An existing or preexisting condition of any
7 property involved in a contract or agreement entered into with
8 a vulnerable ~~an elderly person or disabled~~ adult; or

9 (b) Using any misrepresentation, false pretense, or
10 false promise in order to induce, encourage, or solicit a
11 vulnerable ~~an elderly person or disabled~~ adult to enter into a
12 contract or agreement.

13 ~~(4) "Disabled adult" means a person 18 years of age or~~
14 ~~older who suffers from a condition of physical or mental~~
15 ~~incapacitation due to a developmental disability, organic~~
16 ~~brain damage, or mental illness, or who has one or more~~
17 ~~physical or mental limitations that restrict the person's~~
18 ~~ability to perform the normal activities of daily living.~~

19 ~~(5) "Elderly person" means a person 60 years of age or~~
20 ~~older who is suffering from the infirmities of aging as~~
21 ~~manifested by advanced age or organic brain damage, or other~~
22 ~~physical, mental, or emotional dysfunctioning, to the extent~~
23 ~~that the ability of the person to provide adequately for the~~
24 ~~person's own care or protection is impaired.~~

25 ~~(4)(6)~~ "Endeavor" means to attempt or try.

26 ~~(5)(7)~~ "Facility" means any location providing day or
27 residential care or treatment for vulnerable ~~elderly persons~~
28 ~~or disabled~~ adults. The term "facility" may include, but is
29 not limited to, any hospital, training center, state
30 institution, nursing home, assisted living facility, adult

31

1 family-care home, adult day care center, group home, mental
2 health treatment center, or continuing care community.

3 (6)~~(8)~~ "Intimidation" means the communication by word
4 or act to a vulnerable ~~an elderly person or disabled~~ adult
5 that the vulnerable ~~elderly person or disabled~~ adult will be
6 deprived of food, nutrition, clothing, shelter, supervision,
7 medicine, medical services, money, or financial support or
8 will suffer physical violence.

9 (7)~~(9)~~ "Lacks capacity to consent" means an impairment
10 by reason of mental illness, developmental disability, organic
11 brain disorder, physical illness or disability, chronic use of
12 drugs, chronic intoxication, short-term memory loss, or other
13 cause, that causes a vulnerable ~~an elderly person or disabled~~
14 adult to lack sufficient understanding or capacity to make or
15 communicate reasonable decisions concerning the vulnerable
16 ~~elderly person's or disabled~~ adult's person or property.

17 (8)~~(10)~~ "Obtains or uses" means any manner of:

18 (a) Taking or exercising control over property; or

19 (b) Making any use, disposition, or transfer of
20 property.

21 (9)~~(11)~~ "Position of trust and confidence" with
22 respect to a vulnerable ~~an elderly person or a disabled~~ adult
23 means the position of a person who:

24 (a) Is a parent, spouse, adult child, or other
25 relative by blood or marriage of the vulnerable ~~elderly person~~
26 ~~or disabled~~ adult;

27 (b) Is a joint tenant or tenant in common with the
28 vulnerable ~~elderly person or disabled~~ adult;

29 (c) Has a legal or fiduciary relationship with the
30 vulnerable ~~elderly person or disabled~~ adult, including, but
31

1 not limited to, a court-appointed or voluntary guardian,
2 trustee, attorney, or conservator; or

3 (d) Is a caregiver of the vulnerable ~~elderly person or~~
4 ~~disabled~~ adult or is any other person who has been entrusted
5 with or has assumed responsibility for the use or management
6 of the vulnerable ~~elderly person's or disabled~~ adult's funds,
7 assets, or property.

8 (10)~~(12)~~ "Property" means anything of value and
9 includes:

10 (a) Real property, including things growing on,
11 affixed to, and found in land.

12 (b) Tangible or intangible personal property,
13 including rights, privileges, interests, and claims.

14 (c) Services.

15 (11)~~(13)~~ "Services" means anything of value resulting
16 from a person's physical or mental labor or skill, or from the
17 use, possession, or presence of property, and includes:

18 (a) Repairs or improvements to property.

19 (b) Professional services.

20 (c) Private, public, or governmental communication,
21 transportation, power, water, or sanitation services.

22 (d) Lodging accommodations.

23 (e) Admissions to places of exhibition or
24 entertainment.

25 (12)~~(14)~~ "Value" means value determined according to
26 any of the following:

27 (a)1. The market value of the property at the time and
28 place of the offense or, if the market value cannot be
29 satisfactorily ascertained, the cost of replacing the property
30 within a reasonable time after the offense.

31

1 2. In the case of a written instrument such as a
2 check, draft, or promissory note, which does not have a
3 readily ascertainable market value, the value is the amount
4 due or collectible. The value of any other instrument that
5 creates, releases, discharges, or otherwise affects any
6 valuable legal right, privilege, or obligation is the greatest
7 amount of economic loss that the owner of the instrument might
8 reasonably suffer by the loss of the instrument.

9 3. The value of a trade secret that does not have a
10 readily ascertainable market value is any reasonable value
11 representing the damage to the owner suffered by reason of
12 losing advantage over those who do not know of or use the
13 trade secret.

14 (b) If the value of the property cannot be
15 ascertained, the trier of fact may find the value to be not
16 less than a certain amount; if no such minimum value can be
17 ascertained, the value is an amount less than \$100.

18 (c) Amounts of value of separate properties involved
19 in exploitation committed pursuant to one scheme or course of
20 conduct, whether the exploitation involves the same person or
21 several persons, may be aggregated in determining the degree
22 of the offense.

23 (13) "Vulnerable adult" means a person 18 years of age
24 or older who suffers from an incapacitation due to a
25 developmental disability, organic brain damage, mental
26 illness, or one or more physical or mental limitations that
27 substantially restrict the ability of the person to provide
28 adequately for his or her own care and protection.

29 Section 101. Section 825.102, Florida Statutes, is
30 amended to read:

31

1 825.102 Abuse, aggravated abuse, and neglect of a
2 vulnerable ~~an elderly person or disabled~~ adult; penalties.--

3 (1) "Abuse of a vulnerable ~~an elderly person or~~
4 ~~disabled~~ adult" means:

5 (a) Intentional infliction of physical or
6 psychological injury upon a vulnerable ~~an elderly person or~~
7 ~~disabled~~ adult;

8 (b) An intentional act that could reasonably be
9 expected to result in physical or psychological injury to a
10 vulnerable ~~an elderly person or disabled~~ adult; or

11 (c) Active encouragement of any person to commit an
12 act that results or could reasonably be expected to result in
13 physical or psychological injury to a vulnerable ~~an elderly~~
14 ~~person or disabled~~ adult.

15
16 A person who knowingly or willfully abuses a vulnerable ~~an~~
17 ~~elderly person or disabled~~ adult without causing great bodily
18 harm, permanent disability, or permanent disfigurement to the
19 vulnerable ~~elderly person or disabled~~ adult commits a felony
20 of the third degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

22 (2) "Aggravated abuse of a vulnerable ~~an elderly~~
23 ~~person or disabled~~ adult" occurs when a person:

24 (a) Commits aggravated battery on a vulnerable ~~an~~
25 ~~elderly person or disabled~~ adult;

26 (b) Willfully tortures, maliciously punishes, or
27 willfully and unlawfully cages a vulnerable, ~~an elderly person~~
28 ~~or disabled~~ adult; or

29 (c) Knowingly or willfully abuses a vulnerable ~~an~~
30 ~~elderly person or disabled~~ adult and in so doing causes great
31

1 | bodily harm, permanent disability, or permanent disfigurement
2 | to the vulnerable ~~elderly person or disabled~~ adult.

3 |
4 | A person who commits aggravated abuse of a vulnerable ~~an~~
5 | ~~elderly person or disabled~~ adult commits a felony of the
6 | second degree, punishable as provided in s. 775.082, s.
7 | 775.083, or s. 775.084.

8 | (3)(a) "Neglect of a vulnerable ~~an elderly person or~~
9 | ~~disabled~~ adult" means:

10 | 1. A caregiver's failure or omission to provide a
11 | vulnerable ~~an elderly person or disabled~~ adult with the care,
12 | supervision, and services necessary to maintain the vulnerable
13 | ~~elderly person's or disabled~~ adult's physical and mental
14 | health, including, but not limited to, food, nutrition,
15 | clothing, shelter, supervision, medicine, and medical services
16 | that a prudent person would consider essential for the
17 | well-being of the vulnerable ~~elderly person or disabled~~ adult;
18 | or

19 | 2. A caregiver's failure to make a reasonable effort
20 | to protect a vulnerable ~~an elderly person or disabled~~ adult
21 | from abuse, neglect, or exploitation by another person.

22 |
23 | Neglect of a vulnerable ~~an elderly person or disabled~~ adult
24 | may be based on repeated conduct or on a single incident or
25 | omission that results in, or could reasonably be expected to
26 | result in, serious physical or psychological injury, or a
27 | substantial risk of death, to a vulnerable ~~an elderly person~~
28 | ~~or disabled~~ adult.

29 | (b) A person who willfully or by culpable negligence
30 | neglects a vulnerable ~~an elderly person or disabled~~ adult and
31 | in so doing causes great bodily harm, permanent disability, or

1 permanent disfigurement to the vulnerable ~~elderly person or~~
2 ~~disabled~~ adult commits a felony of the second degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

5 (c) A person who willfully or by culpable negligence
6 neglects a vulnerable ~~an elderly person or disabled~~ adult
7 without causing great bodily harm, permanent disability, or
8 permanent disfigurement to the vulnerable ~~elderly person or~~
9 ~~disabled~~ adult commits a felony of the third degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084.

12 Section 102. Section 825.1025, Florida Statutes, is
13 amended to read:

14 825.1025 Lewd or lascivious offenses committed upon or
15 in the presence of a vulnerable ~~an elderly person or disabled~~
16 adult.--

17 (1) As used in this section, "sexual activity" means
18 the oral, anal, or vaginal penetration by, or union with, the
19 sexual organ of another or the anal or vaginal penetration of
20 another by any other object; however, sexual activity does not
21 include an act done for a bona fide medical purpose.

22 (2)(a) "Lewd or lascivious battery upon a vulnerable
23 ~~an elderly person or disabled~~ adult" occurs when a person
24 encourages, forces, or entices a vulnerable ~~an elderly person~~
25 ~~or disabled~~ adult to engage in sadomasochistic abuse, sexual
26 bestiality, prostitution, or any other act involving sexual
27 activity, when the person knows or reasonably should know that
28 the vulnerable ~~elderly person or disabled~~ adult either lacks
29 the capacity to consent or fails to give consent.

30 (b) A person who commits lewd or lascivious battery
31 upon a vulnerable ~~an elderly person or disabled~~ adult commits

1 a felony of the second degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

3 (3)(a) "Lewd or lascivious molestation of a vulnerable
4 ~~an elderly person or disabled~~ adult" occurs when a person
5 intentionally touches in a lewd or lascivious manner the
6 breasts, genitals, genital area, or buttocks, or the clothing
7 covering them, of a vulnerable ~~an elderly person or disabled~~
8 adult when the person knows or reasonably should know that the
9 vulnerable ~~elderly person or disabled~~ adult either lacks the
10 capacity to consent or fails to give consent.

11 (b) A person who commits lewd or lascivious
12 molestation of a vulnerable ~~an elderly person or disabled~~
13 adult commits a felony of the third degree, punishable as
14 provided in s. 775.082, s. 775.083, or s. 775.084.

15 (4)(a) "Lewd or lascivious exhibition in the presence
16 of a vulnerable ~~an elderly person or disabled~~ adult" occurs
17 when a person, in the presence of a vulnerable ~~an elderly~~
18 ~~person or disabled~~ adult:

19 1. Intentionally masturbates;
20 2. Intentionally exposes his or her genitals in a lewd
21 or lascivious manner; or

22 3. Intentionally commits any other lewd or lascivious
23 act that does not involve actual physical or sexual contact
24 with the vulnerable ~~elderly person or disabled~~ adult,
25 including but not limited to, sadomasochistic abuse, sexual
26 bestiality, or the simulation of any act involving sexual
27 activity,

28
29 when the person knows or reasonably should know that the
30 vulnerable ~~elderly person or disabled~~ adult either lacks the
31

1 capacity to consent or fails to give consent to having such
2 act committed in his or her presence.

3 (b) A person who commits a lewd or lascivious
4 exhibition in the presence of a vulnerable ~~an elderly person~~
5 ~~or disabled~~ adult commits a felony of the third degree,
6 punishable as provided in s. 775.082, s. 775.083, or s.
7 775.084.

8 Section 103. Section 825.103, Florida Statutes, is
9 amended to read:

10 825.103 Exploitation of a vulnerable ~~an elderly person~~
11 ~~or disabled~~ adult; penalties.--

12 (1) "Exploitation of a vulnerable ~~an elderly person or~~
13 ~~disabled~~ adult" means:

14 (a) Knowingly, by deception or intimidation, obtaining
15 or using, or endeavoring to obtain or use, a vulnerable ~~an~~
16 ~~elderly person's or disabled~~ adult's funds, assets, or
17 property with the intent to temporarily or permanently deprive
18 the vulnerable ~~elderly person or disabled~~ adult of the use,
19 benefit, or possession of the funds, assets, or property, or
20 to benefit someone other than the vulnerable ~~elderly person or~~
21 ~~disabled~~ adult, by a person who:

22 1. Stands in a position of trust and confidence with
23 the vulnerable ~~elderly person or disabled~~ adult; or

24 2. Has a business relationship with the vulnerable
25 ~~elderly person or disabled~~ adult; or

26 (b) Obtaining or using, endeavoring to obtain or use,
27 or conspiring with another to obtain or use a vulnerable ~~an~~
28 ~~elderly person's or disabled~~ adult's funds, assets, or
29 property with the intent to temporarily or permanently deprive
30 the vulnerable ~~elderly person or disabled~~ adult of the use,
31 benefit, or possession of the funds, assets, or property, or

1 to benefit someone other than the vulnerable ~~elderly person or~~
2 ~~disabled~~ adult, by a person who knows or reasonably should
3 know that the vulnerable ~~elderly person or disabled~~ adult
4 lacks the capacity to consent.

5 (2)(a) If the funds, assets, or property involved in
6 the exploitation of the vulnerable ~~elderly person or disabled~~
7 adult is valued at \$100,000 or more, the offender commits a
8 felony of the first degree, punishable as provided in s.
9 775.082, s. 775.083, or s. 775.084.

10 (b) If the funds, assets, or property involved in the
11 exploitation of the vulnerable ~~elderly person or disabled~~
12 adult is valued at \$20,000 or more, but less than \$100,000,
13 the offender commits a felony of the second degree, punishable
14 as provided in s. 775.082, s. 775.083, or s. 775.084.

15 (c) If the funds, assets, or property involved in the
16 exploitation of a vulnerable ~~an elderly person or disabled~~
17 adult is valued at less than \$20,000, the offender commits a
18 felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

20 Section 104. Section 825.105, Florida Statutes, is
21 amended to read:

22 825.105 Good faith assistance.--This chapter is not
23 intended to impose criminal liability on a person who makes a
24 good faith effort to assist a vulnerable ~~an elderly person or~~
25 ~~disabled~~ adult in the management of the funds, assets, or
26 property of the vulnerable ~~elderly person or disabled~~ adult,
27 which effort fails through no fault of the person.

28 Section 105. Section 825.106, Florida Statutes, is
29 amended to read:

30 825.106 Criminal actions involving vulnerable ~~elderly~~
31 ~~persons or disabled~~ adults; speedy trial.--In a criminal

1 action in which a vulnerable ~~an elderly person or disabled~~
2 adult is a victim, the state may move the court to advance the
3 trial on the docket. The presiding judge, after consideration
4 of the age and health of the victim, may advance the trial on
5 the docket. The motion may be filed and served with the
6 information or charges or at any time thereafter.

7 Section 106. Paragraph (a) of subsection (1) of
8 section 895.02, Florida Statutes, is amended to read:

9 895.02 Definitions.--As used in ss. 895.01-895.08, the
10 term:

11 (1) "Racketeering activity" means to commit, to
12 attempt to commit, to conspire to commit, or to solicit,
13 coerce, or intimidate another person to commit:

14 (a) Any crime which is chargeable by indictment or
15 information under the following provisions of the Florida
16 Statutes:

17 1. Section 210.18, relating to evasion of payment of
18 cigarette taxes.

19 2. Section 403.727(3)(b), relating to environmental
20 control.

21 3. Section 414.39, relating to public assistance
22 fraud.

23 4. Section 409.920, relating to Medicaid provider
24 fraud.

25 5. Section 440.105 or s. 440.106, relating to workers'
26 compensation.

27 6. Part IV of chapter 501, relating to telemarketing.

28 7. Chapter 517, relating to sale of securities and
29 investor protection.

30 8. Section 550.235, s. 550.3551, or s. 550.3605,
31 relating to dogracing and horseracing.

- 1 9. Chapter 550, relating to jai alai frontons.
- 2 10. Chapter 552, relating to the manufacture,
- 3 distribution, and use of explosives.
- 4 11. Chapter 562, relating to beverage law enforcement.
- 5 12. Section 624.401, relating to transacting insurance
- 6 without a certificate of authority, s. 624.437(4)(c)1.,
- 7 relating to operating an unauthorized multiple-employer
- 8 welfare arrangement, or s. 626.902(1)(b), relating to
- 9 representing or aiding an unauthorized insurer.
- 10 13. Section 655.50, relating to reports of currency
- 11 transactions, when such violation is punishable as a felony.
- 12 14. Chapter 687, relating to interest and usurious
- 13 practices.
- 14 15. Section 721.08, s. 721.09, or s. 721.13, relating
- 15 to real estate timeshare plans.
- 16 16. Chapter 782, relating to homicide.
- 17 17. Chapter 784, relating to assault and battery.
- 18 18. Chapter 787, relating to kidnapping.
- 19 19. Chapter 790, relating to weapons and firearms.
- 20 20. Section 796.03, s. 796.04, s. 796.05, or s.
- 21 796.07, relating to prostitution.
- 22 21. Chapter 806, relating to arson.
- 23 22. Section 810.02(2)(c), relating to specified
- 24 burglary of a dwelling or structure.
- 25 23. Chapter 812, relating to theft, robbery, and
- 26 related crimes.
- 27 24. Chapter 815, relating to computer-related crimes.
- 28 25. Chapter 817, relating to fraudulent practices,
- 29 false pretenses, fraud generally, and credit card crimes.
- 30
- 31

- 1 26. Chapter 825, relating to abuse, neglect, or
2 exploitation of a vulnerable ~~an elderly person or disabled~~
3 adult.
- 4 27. Section 827.071, relating to commercial sexual
5 exploitation of children.
- 6 28. Chapter 831, relating to forgery and
7 counterfeiting.
- 8 29. Chapter 832, relating to issuance of worthless
9 checks and drafts.
- 10 30. Section 836.05, relating to extortion.
- 11 31. Chapter 837, relating to perjury.
- 12 32. Chapter 838, relating to bribery and misuse of
13 public office.
- 14 33. Chapter 843, relating to obstruction of justice.
- 15 34. Section 847.011, s. 847.012, s. 847.013, s.
16 847.06, or s. 847.07, relating to obscene literature and
17 profanity.
- 18 35. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
19 or s. 849.25, relating to gambling.
- 20 36. Chapter 874, relating to criminal street gangs.
- 21 37. Chapter 893, relating to drug abuse prevention and
22 control.
- 23 38. Chapter 896, relating to offenses related to
24 financial transactions.
- 25 39. Sections 914.22 and 914.23, relating to tampering
26 with a witness, victim, or informant, and retaliation against
27 a witness, victim, or informant.
- 28 40. Sections 918.12 and 918.13, relating to tampering
29 with jurors and evidence.
- 30 Section 107. Paragraph (a) of subsection (4) of
31 section 907.041, Florida Statutes, is amended to read:

1 907.041 Pretrial detention and release.--
2 (4) PRETRIAL DETENTION.--
3 (a) As used in this subsection, "dangerous crime"
4 means any of the following:
5 1. Arson;
6 2. Aggravated assault;
7 3. Aggravated battery;
8 4. Illegal use of explosives;
9 5. Child abuse or aggravated child abuse;
10 6. Abuse of a vulnerable ~~an elderly person or disabled~~
11 adult, or aggravated abuse of a vulnerable ~~an elderly person~~
12 ~~or disabled~~ adult;
13 7. Hijacking;
14 8. Kidnapping;
15 9. Homicide;
16 10. Manslaughter;
17 11. Sexual battery;
18 12. Robbery;
19 13. Carjacking;
20 14. Lewd, lascivious, or indecent assault or act upon
21 or in presence of a child under the age of 16 years;
22 15. Sexual activity with a child, who is 12 years of
23 age or older but less than 18 years of age, by or at
24 solicitation of person in familial or custodial authority;
25 16. Burglary of a dwelling;
26 17. Stalking and aggravated stalking;
27 18. Act of domestic violence as defined in s. 741.28;
28 and
29 19. Attempting or conspiring to commit any such crime;
30 and home-invasion robbery.
31

1 Section 108. Paragraph (e) of subsection (5) of
2 section 916.107, Florida Statutes, is amended to read:

3 916.107 Rights of forensic clients.--

4 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

5 (e) Each client committed pursuant to this chapter
6 shall have ready access to a telephone in order to report an
7 alleged abuse. The facility or program staff shall orally and
8 in writing inform each client of the procedure for reporting
9 abuse and shall present the information in a language the
10 client understands. A written copy of that procedure,
11 including the telephone number of the central abuse hotline
12 ~~registry~~ and reporting forms, shall be posted in plain view.

13 Section 109. Paragraphs (e), (f), (g), (h), and (i) of
14 subsection (3) of section 921.0022, Florida Statutes, are
15 amended to read:

16 921.0022 Criminal Punishment Code; offense severity
17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

19	20	21	22	23
	Florida	Felony		
	Statute	Degree		Description
24			(e)	LEVEL 5
25	316.027(1)(a)	3rd		Accidents involving personal
26				injuries, failure to stop;
27				leaving scene.
28	316.1935(4)	2nd		Aggravated fleeing or eluding.

1	322.34(6)	3rd	Careless operation of motor
2			vehicle with suspended license,
3			resulting in death or serious
4			bodily injury.
5	327.30(5)	3rd	Vessel accidents involving
6			personal injury; leaving scene.
7	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
8			knowing HIV positive.
9	790.01(2)	3rd	Carrying a concealed firearm.
10	790.162	2nd	Threat to throw or discharge
11			destructive device.
12	790.163	2nd	False report of deadly explosive.
13	790.165(2)	3rd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.221(1)	2nd	Possession of short-barreled
16			shotgun or machine gun.
17	790.23	2nd	Felons in possession of firearms
18			or electronic weapons or devices.
19	800.04(6)(c)	3rd	Lewd or lascivious conduct;
20			offender less than 18 years.
21	800.04(7)(b)	2nd	Lewd or lascivious exhibition;
22			offender 18 years or older.
23	806.111(1)	3rd	Possess, manufacture, or dispense
24			fire bomb with intent to damage
25			any structure or property.
26	812.019(1)	2nd	Stolen property; dealing in or
27			trafficking in.
28	812.131(2)(b)	3rd	Robbery by sudden snatching.
29	812.16(2)	3rd	Owning, operating, or conducting
30			a chop shop.
31			

1	817.034(4)(a)2.	2nd	Communications fraud, value
2			\$20,000 to \$50,000.
3	825.1025(4)	3rd	Lewd or lascivious exhibition in
4			the presence of <u>a vulnerable an</u>
5			elderly person or disabled adult.
6	827.071(4)	2nd	Possess with intent to promote
7			any photographic material, motion
8			picture, etc., which includes
9			sexual conduct by a child.
10	843.01	3rd	Resist officer with violence to
11			person; resist arrest with
12			violence.
13	874.05(2)	2nd	Encouraging or recruiting another
14			to join a criminal street gang;
15			second or subsequent offense.
16	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
17			cocaine (or other s.
18			893.03(1)(a), (1)(b), (1)(d),
19			(2)(a), or (2)(b) drugs).
20	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
21			cannabis (or other s.
22			893.03(1)(c), (2)(c), (3), or (4)
23			drugs) within 1,000 feet of a
24			child care facility or school.
25	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
26			cocaine (or other s.
27			893.03(1)(a), (1)(b), (1)(d),
28			(2)(a), or (2)(b) drugs) within
29			200 feet of university or public
30			park.
31			

1	893.13(1)(e)	2nd	Sell, manufacture, or deliver
2			cannabis or other drug prohibited
3			under s. 893.03(1)(c), (2)(c),
4			(3), or (4) within 1,000 feet of
5			property used for religious
6			services or a specified business
7			site.
8	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
9			cocaine (or other s.
10			893.03(1)(a), (1)(b), (1)(d), or
11			(2)(a), or (2)(b) drugs) within
12			200 feet of public housing
13			facility.
14	893.13(4)(b)	2nd	Deliver to minor cannabis (or
15			other s. 893.03(1)(c), (2)(c),
16			(3), or (4) drugs).
17			(f) LEVEL 6
18	316.027(1)(b)	2nd	Accident involving death, failure
19			to stop; leaving scene.
20	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
21			conviction.
22	775.0875(1)	3rd	Taking firearm from law
23			enforcement officer.
24	775.21(10)	3rd	Sexual predators; failure to
25			register; failure to renew
26			driver's license or
27			identification card.
28	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
29			without intent to kill.
30	784.021(1)(b)	3rd	Aggravated assault; intent to
31			commit felony.

1	784.041	3rd	Felony battery.
2	784.048(3)	3rd	Aggravated stalking; credible
3			threat.
4	784.048(5)	3rd	Aggravated stalking of person
5			under 16.
6	784.07(2)(c)	2nd	Aggravated assault on law
7			enforcement officer.
8	784.08(2)(b)	2nd	Aggravated assault on a person 65
9			years of age or older.
10	784.081(2)	2nd	Aggravated assault on specified
11			official or employee.
12	784.082(2)	2nd	Aggravated assault by detained
13			person on visitor or other
14			detainee.
15	784.083(2)	2nd	Aggravated assault on code
16			inspector.
17	787.02(2)	3rd	False imprisonment; restraining
18			with purpose other than those in
19			s. 787.01.
20	790.115(2)(d)	2nd	Discharging firearm or weapon on
21			school property.
22	790.161(2)	2nd	Make, possess, or throw
23			destructive device with intent to
24			do bodily harm or damage
25			property.
26	790.164(1)	2nd	False report of deadly explosive
27			or act of arson or violence to
28			state property.
29	790.19	2nd	Shooting or throwing deadly
30			missiles into dwellings, vessels,
31			or vehicles.

1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	800.04(5)(d)	3rd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			less than 18 years.
10	800.04(6)(b)	2nd	Lewd or lascivious conduct;
11			offender 18 years of age or
12			older.
13	806.031(2)	2nd	Arson resulting in great bodily
14			harm to firefighter or any other
15			person.
16	810.02(3)(c)	2nd	Burglary of occupied structure;
17			unarmed; no assault or battery.
18	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
19			but less than \$100,000, grand
20			theft in 2nd degree.
21	812.13(2)(c)	2nd	Robbery, no firearm or other
22			weapon (strong-arm robbery).
23	817.034(4)(a)1.	1st	Communications fraud, value
24			greater than \$50,000.
25	817.4821(5)	2nd	Possess cloning paraphernalia
26			with intent to create cloned
27			cellular telephones.
28	825.102(1)	3rd	Abuse of <u>a vulnerable</u> an elderly
29			person or disabled adult.
30	825.102(3)(c)	3rd	Neglect of <u>a vulnerable</u> an
31			elderly person or disabled adult.

1	825.1025(3)	3rd	Lewd or lascivious molestation of
2			<u>a vulnerable</u> an elderly person or
3			disabled adult.
4	825.103(2)(c)	3rd	Exploiting <u>a vulnerable</u> an
5			elderly person or disabled adult
6			and property is valued at less
7			than \$20,000.
8	827.03(1)	3rd	Abuse of a child.
9	827.03(3)(c)	3rd	Neglect of a child.
10	827.071(2)&(3)	2nd	Use or induce a child in a sexual
11			performance, or promote or direct
12			such performance.
13	836.05	2nd	Threats; extortion.
14	836.10	2nd	Written threats to kill or do
15			bodily injury.
16	843.12	3rd	Aids or assists person to escape.
17	847.0135(3)	3rd	Solicitation of a child, via a
18			computer service, to commit an
19			unlawful sex act.
20	914.23	2nd	Retaliation against a witness,
21			victim, or informant, with bodily
22			injury.
23	943.0435(9)	3rd	Sex offenders; failure to comply
24			with reporting requirements.
25	944.35(3)(a)2.	3rd	Committing malicious battery upon
26			or inflicting cruel or inhuman
27			treatment on an inmate or
28			offender on community
29			supervision, resulting in great
30			bodily harm.
31	944.40	2nd	Escapes.

1	944.46	3rd	Harboring, concealing, aiding
2			escaped prisoners.
3	944.47(1)(a)5.	2nd	Introduction of contraband
4			(firearm, weapon, or explosive)
5			into correctional facility.
6	951.22(1)	3rd	Intoxicating drug, firearm, or
7			weapon introduced into county
8			facility.
9			(g) LEVEL 7
10	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
11			injury.
12	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
13			bodily injury.
14	402.319(2)	2nd	Misrepresentation and negligence
15			or intentional act resulting in
16			great bodily harm, permanent
17			disfiguration, permanent
18			disability, or death.
19	409.920(2)	3rd	Medicaid provider fraud.
20	494.0018(2)	1st	Conviction of any violation of
21			ss. 494.001-494.0077 in which the
22			total money and property
23			unlawfully obtained exceeded
24			\$50,000 and there were five or
25			more victims.
26	782.051(3)	2nd	Attempted felony murder of a
27			person by a person other than the
28			perpetrator or the perpetrator of
29			an attempted felony.
30			
31			

1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
31			

1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	796.03	2nd	Procuring any person under 16
9			years for prostitution.
10	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
11			victim less than 12 years of age;
12			offender less than 18 years.
13	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
14			victim 12 years of age or older
15			but less than 16 years; offender
16			18 years or older.
17	806.01(2)	2nd	Maliciously damage structure by
18			fire or explosive.
19	810.02(3)(a)	2nd	Burglary of occupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
22			unarmed; no assault or battery.
23	810.02(3)(d)	2nd	Burglary of occupied conveyance;
24			unarmed; no assault or battery.
25	812.014(2)(a)	1st	Property stolen, valued at
26			\$100,000 or more; property stolen
27			while causing other property
28			damage; 1st degree grand theft.
29			
30			
31			

1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.131(2)(a)	2nd	Robbery by sudden snatching.
6	812.133(2)(b)	1st	Carjacking; no firearm, deadly
7			weapon, or other weapon.
8	825.102(3)(b)	2nd	Neglecting <u>a vulnerable</u> an
9			elderly person or disabled adult
10			causing great bodily harm,
11			disability, or disfigurement.
12	825.1025(2)	2nd	Lewd or lascivious battery upon <u>a</u>
13			<u>vulnerable</u> an elderly person or
14			disabled adult.
15	825.103(2)(b)	2nd	Exploiting <u>a vulnerable</u> an
16			elderly person or disabled adult
17			and property is valued at \$20,000
18			or more, but less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	837.05(2)	3rd	Giving false information about
26			alleged capital felony to a law
27			enforcement officer.
28	872.06	2nd	Abuse of a dead human body.
29			
30			
31			

1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b)) within
5			1,000 feet of a child care
6			facility or school.
7	893.13(1)(e)	1st	Sell, manufacture, or deliver
8			cocaine or other drug prohibited
9			under s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), or (2)(b), within
11			1,000 feet of property used for
12			religious services or a specified
13			business site.
14	893.13(4)(a)	1st	Deliver to minor cocaine (or
15			other s. 893.03(1)(a), (1)(b),
16			(1)(d), (2)(a), or (2)(b) drugs).
17	893.135(1)(a)1.	1st	Trafficking in cannabis, more
18			than 50 lbs., less than 2,000
19			lbs.
20	893.135		
21	(1)(b)1.a.	1st	Trafficking in cocaine, more than
22			28 grams, less than 200 grams.
23	893.135		
24	(1)(c)1.a.	1st	Trafficking in illegal drugs,
25			more than 4 grams, less than 14
26			grams.
27	893.135		
28	(1)(d)1.	1st	Trafficking in phencyclidine,
29			more than 28 grams, less than 200
30			grams.
31			

1	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
2			than 200 grams, less than 5
3			kilograms.
4	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
5			than 14 grams, less than 28
6			grams.
7	893.135		
8	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
9			grams or more, less than 14
10			grams.
11			(h) LEVEL 8
12	316.193		
13	(3)(c)3.a.	2nd	DUI manslaughter.
14	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
15	777.03(2)(a)	1st	Accessory after the fact, capital
16			felony.
17	782.04(4)	2nd	Killing of human without design
18			when engaged in act or attempt of
19			any felony other than arson,
20			sexual battery, robbery,
21			burglary, kidnapping, aircraft
22			piracy, or unlawfully discharging
23			bomb.
24	782.051(2)	1st	Attempted felony murder while
25			perpetrating or attempting to
26			perpetrate a felony not
27			enumerated in s. 782.04(3).
28	782.071(2)	1st	Committing vehicular homicide and
29			failing to render aid or give
30			information.
31			

1	782.072(2)	1st	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	800.04(4)	2nd	Lewd or lascivious battery.
12	806.01(1)	1st	Maliciously damage dwelling or
13			structure by fire or explosive,
14			believing person in structure.
15	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
16	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
17			or dangerous weapon.
18	810.02(2)(c)	1st	Burglary of a dwelling or
19			structure causing structural
20			damage or \$1,000 or more property
21			damage.
22	812.13(2)(b)	1st	Robbery with a weapon.
23	812.135(2)	1st	Home-invasion robbery.
24	825.102(2)	2nd	Aggravated abuse of <u>a vulnerable</u>
25			an elderly person or disabled
26			adult.
27	825.103(2)(a)	1st	Exploiting <u>a vulnerable an</u>
28			elderly person or disabled adult
29			and property is valued at
30			\$100,000 or more.
31			

1	837.02(2)	2nd	Perjury in official proceedings
2			relating to prosecution of a
3			capital felony.
4	837.021(2)	2nd	Making contradictory statements
5			in official proceedings relating
6			to prosecution of a capital
7			felony.
8	860.121(2)(c)	1st	Shooting at or throwing any
9			object in path of railroad
10			vehicle resulting in great bodily
11			harm.
12	860.16	1st	Aircraft piracy.
13	893.13(1)(b)	1st	Sell or deliver in excess of 10
14			grams of any substance specified
15			in s. 893.03(1)(a) or (b).
16	893.13(2)(b)	1st	Purchase in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.13(6)(c)	1st	Possess in excess of 10 grams of
20			any substance specified in s.
21			893.03(1)(a) or (b).
22	893.135(1)(a)2.	1st	Trafficking in cannabis, more
23			than 2,000 lbs., less than 10,000
24			lbs.
25	893.135		
26	(1)(b)1.b.	1st	Trafficking in cocaine, more than
27			200 grams, less than 400 grams.
28	893.135		
29	(1)(c)1.b.	1st	Trafficking in illegal drugs,
30			more than 14 grams, less than 28
31			grams.

1	893.135		
2	(1)(d)1.b.	1st	Trafficking in phencyclidine,
3			more than 200 grams, less than
4			400 grams.
5	893.135		
6	(1)(e)1.b.	1st	Trafficking in methaqualone, more
7			than 5 kilograms, less than 25
8			kilograms.
9	893.135		
10	(1)(f)1.b.	1st	Trafficking in amphetamine, more
11			than 28 grams, less than 200
12			grams.
13	893.135		
14	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
15			grams or more, less than 28
16			grams.
17	895.03(1)	1st	Use or invest proceeds derived
18			from pattern of racketeering
19			activity.
20	895.03(2)	1st	Acquire or maintain through
21			racketeering activity any
22			interest in or control of any
23			enterprise or real property.
24	895.03(3)	1st	Conduct or participate in any
25			enterprise through pattern of
26			racketeering activity.
27			(i) LEVEL 9
28	316.193		
29	(3)(c)3.b.	1st	DUI manslaughter; failing to
30			render aid or give information.
31			

1	782.04(1)	1st	Attempt, conspire, or solicit to
2			commit premeditated murder.
3	782.04(3)	1st,PBL	Accomplice to murder in
4			connection with arson, sexual
5			battery, robbery, burglary, and
6			other specified felonies.
7	782.051(1)	1st	Attempted felony murder while
8			perpetrating or attempting to
9			perpetrate a felony enumerated in
10			s. 782.04(3).
11	782.07(2)	1st	Aggravated manslaughter of <u>a</u>
12			<u>vulnerable</u> an elderly person or
13			disabled adult.
14	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
15			reward or as a shield or hostage.
16	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
17			or facilitate commission of any
18			felony.
19	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
20			interfere with performance of any
21			governmental or political
22			function.
23	787.02(3)(a)	1st	False imprisonment; child under
24			age 13; perpetrator also commits
25			aggravated child abuse, sexual
26			battery, or lewd or lascivious
27			battery, molestation, conduct, or
28			exhibition.
29	790.161	1st	Attempted capital destructive
30			device offense.
31			

1	794.011(2)	1st	Attempted sexual battery; victim
2			less than 12 years of age.
3	794.011(2)	Life	Sexual battery; offender younger
4			than 18 years and commits sexual
5			battery on a person less than 12
6			years.
7	794.011(4)	1st	Sexual battery; victim 12 years
8			or older, certain circumstances.
9	794.011(8)(b)	1st	Sexual battery; engage in sexual
10			conduct with minor 12 to 18 years
11			by person in familial or
12			custodial authority.
13	800.04(5)(b)	1st	Lewd or lascivious molestation;
14			victim less than 12 years;
15			offender 18 years or older.
16	812.13(2)(a)	1st,PBL	Robbery with firearm or other
17			deadly weapon.
18	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
19			deadly weapon.
20	827.03(2)	1st	Aggravated child abuse.
21	847.0145(1)	1st	Selling, or otherwise
22			transferring custody or control,
23			of a minor.
24	847.0145(2)	1st	Purchasing, or otherwise
25			obtaining custody or control, of
26			a minor.
27	859.01	1st	Poisoning food, drink, medicine,
28			or water with intent to kill or
29			injure another person.
30	893.135	1st	Attempted capital trafficking
31			offense.

1 893.135(1)(a)3. 1st Trafficking in cannabis, more
2 than 10,000 lbs.
3 893.135
4 (1)(b)1.c. 1st Trafficking in cocaine, more than
5 400 grams, less than 150
6 kilograms.
7 893.135
8 (1)(c)1.c. 1st Trafficking in illegal drugs,
9 more than 28 grams, less than 30
10 kilograms.
11 893.135
12 (1)(d)1.c. 1st Trafficking in phencyclidine,
13 more than 400 grams.
14 893.135
15 (1)(e)1.c. 1st Trafficking in methaqualone, more
16 than 25 kilograms.
17 893.135
18 (1)(f)1.c. 1st Trafficking in amphetamine, more
19 than 200 grams.

20 Section 110. Paragraph (d) of subsection (5) of
21 section 921.141, Florida Statutes, is amended to read:

22 921.141 Sentence of death or life imprisonment for
23 capital felonies; further proceedings to determine sentence.--

24 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating
25 circumstances shall be limited to the following:

26 (d) The capital felony was committed while the
27 defendant was engaged, or was an accomplice, in the commission
28 of, or an attempt to commit, or flight after committing or
29 attempting to commit, any: robbery; sexual battery; aggravated
30 child abuse; abuse of a vulnerable ~~an elderly person or~~
31 ~~disabled~~ adult resulting in great bodily harm, permanent

1 disability, or permanent disfigurement; arson; burglary;
2 kidnapping; aircraft piracy; or unlawful throwing, placing, or
3 discharging of a destructive device or bomb.

4 Section 111. Subsection (5) of section 943.0542,
5 Florida Statutes, is amended to read:

6 943.0542 Access to criminal history information
7 provided by the department to qualified entities.--

8 (5) The determination whether the criminal history
9 record shows that the employee or volunteer has been convicted
10 of or is under pending indictment for any crime that bears
11 upon the fitness of the employee or volunteer to have
12 responsibility for the safety and well-being of children or
13 vulnerable adults, ~~the elderly, or disabled persons~~ shall
14 solely be made by the qualified entity. This section does not
15 require the department to make such a determination on behalf
16 of any qualified entity.

17 Section 112. Paragraph (a) of subsection (4) of
18 section 943.0585, Florida Statutes, is amended to read:

19 943.0585 Court-ordered expunction of criminal history
20 records.--The courts of this state have jurisdiction over
21 their own procedures, including the maintenance, expunction,
22 and correction of judicial records containing criminal history
23 information to the extent such procedures are not inconsistent
24 with the conditions, responsibilities, and duties established
25 by this section. Any court of competent jurisdiction may
26 order a criminal justice agency to expunge the criminal
27 history record of a minor or an adult who complies with the
28 requirements of this section. The court shall not order a
29 criminal justice agency to expunge a criminal history record
30 until the person seeking to expunge a criminal history record
31 has applied for and received a certificate of eligibility for

1 expunction pursuant to subsection (2). A criminal history
2 record that relates to a violation of chapter 794, s. 800.04,
3 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
4 violation enumerated in s. 907.041 may not be expunged,
5 without regard to whether adjudication was withheld, if the
6 defendant was found guilty of or pled guilty or nolo
7 contendere to the offense, or if the defendant, as a minor,
8 was found to have committed, or pled guilty or nolo contendere
9 to committing, the offense as a delinquent act. The court may
10 only order expunction of a criminal history record pertaining
11 to one arrest or one incident of alleged criminal activity,
12 except as provided in this section. The court may, at its sole
13 discretion, order the expunction of a criminal history record
14 pertaining to more than one arrest if the additional arrests
15 directly relate to the original arrest. If the court intends
16 to order the expunction of records pertaining to such
17 additional arrests, such intent must be specified in the
18 order. A criminal justice agency may not expunge any record
19 pertaining to such additional arrests if the order to expunge
20 does not articulate the intention of the court to expunge a
21 record pertaining to more than one arrest. This section does
22 not prevent the court from ordering the expunction of only a
23 portion of a criminal history record pertaining to one arrest
24 or one incident of alleged criminal activity. Notwithstanding
25 any law to the contrary, a criminal justice agency may comply
26 with laws, court orders, and official requests of other
27 jurisdictions relating to expunction, correction, or
28 confidential handling of criminal history records or
29 information derived therefrom. This section does not confer
30 any right to the expunction of any criminal history record,
31

1 and any request for expunction of a criminal history record
2 may be denied at the sole discretion of the court.

3 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
4 criminal history record of a minor or an adult which is
5 ordered expunged by a court of competent jurisdiction pursuant
6 to this section must be physically destroyed or obliterated by
7 any criminal justice agency having custody of such record;
8 except that any criminal history record in the custody of the
9 department must be retained in all cases. A criminal history
10 record ordered expunged that is retained by the department is
11 confidential and exempt from the provisions of s. 119.07(1)
12 and s. 24(a), Art. I of the State Constitution and not
13 available to any person or entity except upon order of a court
14 of competent jurisdiction. A criminal justice agency may
15 retain a notation indicating compliance with an order to
16 expunge.

17 (a) The person who is the subject of a criminal
18 history record that is expunged under this section or under
19 other provisions of law, including former s. 893.14, former s.
20 901.33, and former s. 943.058, may lawfully deny or fail to
21 acknowledge the arrests covered by the expunged record, except
22 when the subject of the record:

- 23 1. Is a candidate for employment with a criminal
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief
27 under this section or s. 943.059;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to
30 contract with the Department of Children and Family Services
31 or the Department of Juvenile Justice or to be employed or

1 used by such contractor or licensee in a sensitive position
2 having direct contact with children, the developmentally
3 disabled, or vulnerable adults ~~the aged, or the elderly~~ as
4 provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s.
5 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
6 415.102(4), ~~s. 415.1075(4)~~, s. 985.407, or chapter 400; or

7 6. Is seeking to be employed or licensed by the Office
8 of Teacher Education, Certification, Staff Development, and
9 Professional Practices of the Department of Education, any
10 district school board, or any local governmental entity that
11 licenses child care facilities.

12 Section 113. Paragraph (a) of subsection (4) of
13 section 943.059, Florida Statutes, is amended to read:

14 943.059 Court-ordered sealing of criminal history
15 records.--The courts of this state shall continue to have
16 jurisdiction over their own procedures, including the
17 maintenance, sealing, and correction of judicial records
18 containing criminal history information to the extent such
19 procedures are not inconsistent with the conditions,
20 responsibilities, and duties established by this section. Any
21 court of competent jurisdiction may order a criminal justice
22 agency to seal the criminal history record of a minor or an
23 adult who complies with the requirements of this section. The
24 court shall not order a criminal justice agency to seal a
25 criminal history record until the person seeking to seal a
26 criminal history record has applied for and received a
27 certificate of eligibility for sealing pursuant to subsection
28 (2). A criminal history record that relates to a violation of
29 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,
30 s. 893.135, or a violation enumerated in s. 907.041 may not be
31 sealed, without regard to whether adjudication was withheld,

1 | if the defendant was found guilty of or pled guilty or nolo
2 | contendere to the offense, or if the defendant, as a minor,
3 | was found to have committed or pled guilty or nolo contendere
4 | to committing the offense as a delinquent act. The court may
5 | only order sealing of a criminal history record pertaining to
6 | one arrest or one incident of alleged criminal activity,
7 | except as provided in this section. The court may, at its sole
8 | discretion, order the sealing of a criminal history record
9 | pertaining to more than one arrest if the additional arrests
10 | directly relate to the original arrest. If the court intends
11 | to order the sealing of records pertaining to such additional
12 | arrests, such intent must be specified in the order. A
13 | criminal justice agency may not seal any record pertaining to
14 | such additional arrests if the order to seal does not
15 | articulate the intention of the court to seal records
16 | pertaining to more than one arrest. This section does not
17 | prevent the court from ordering the sealing of only a portion
18 | of a criminal history record pertaining to one arrest or one
19 | incident of alleged criminal activity. Notwithstanding any law
20 | to the contrary, a criminal justice agency may comply with
21 | laws, court orders, and official requests of other
22 | jurisdictions relating to sealing, correction, or confidential
23 | handling of criminal history records or information derived
24 | therefrom. This section does not confer any right to the
25 | sealing of any criminal history record, and any request for
26 | sealing a criminal history record may be denied at the sole
27 | discretion of the court.

28 | (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
29 | criminal history record of a minor or an adult which is
30 | ordered sealed by a court of competent jurisdiction pursuant
31 | to this section is confidential and exempt from the provisions

1 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
2 and is available only to the person who is the subject of the
3 record, to the subject's attorney, to criminal justice
4 agencies for their respective criminal justice purposes, or to
5 those entities set forth in subparagraphs (a)1., 4., 5., and
6 6. for their respective licensing and employment purposes.

7 (a) The subject of a criminal history record sealed
8 under this section or under other provisions of law, including
9 former s. 893.14, former s. 901.33, and former s. 943.058, may
10 lawfully deny or fail to acknowledge the arrests covered by
11 the sealed record, except when the subject of the record:

- 12 1. Is a candidate for employment with a criminal
13 justice agency;
- 14 2. Is a defendant in a criminal prosecution;
- 15 3. Concurrently or subsequently petitions for relief
16 under this section or s. 943.0585;
- 17 4. Is a candidate for admission to The Florida Bar;
- 18 5. Is seeking to be employed or licensed by or to
19 contract with the Department of Children and Family Services
20 or the Department of Juvenile Justice or to be employed or
21 used by such contractor or licensee in a sensitive position
22 having direct contact with children, the developmentally
23 disabled, or vulnerable adults ~~the aged, or the elderly~~ as
24 provided in s. 110.1127(3), s. 393.063(15), s. 394.4572(1), s.
25 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
26 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
- 27 6. Is seeking to be employed or licensed by the Office
28 of Teacher Education, Certification, Staff Development, and
29 Professional Practices of the Department of Education, any
30 district school board, or any local governmental entity which
31 licenses child care facilities.

1 Section 114. Subsections (6) through (13) of section
2 960.03, Florida Statutes, are amended, to read:

3 960.03 Definitions.--As used in ss. 960.01-960.28,
4 unless the context otherwise requires, the term:

5 ~~(6) "Disabled adult" means a person 18 years of age or~~
6 ~~older who suffers from a condition of physical or mental~~
7 ~~incapacitation due to a developmental disability or organic~~
8 ~~brain damage or mental limitations that restrict the person's~~
9 ~~ability to perform the normal activities of daily living.~~

10 ~~(7) "Elderly person" means a person 60 years of age or~~
11 ~~older who is suffering from the infirmities of aging as~~
12 ~~manifested by advanced age or organic brain damage, or other~~
13 ~~physical, mental, or emotional dysfunction, to the extent that~~
14 ~~the ability of the person to provide adequately for his or her~~
15 ~~own care or protection is impaired.~~

16 (6)~~(8)~~ "Hearing officer" means a hearing officer
17 designated by the Attorney General.

18 (7)~~(9)~~ "Intervenor" means any person who goes to the
19 aid of another and suffers bodily injury or death as a direct
20 result of acting, not recklessly, to prevent the commission of
21 a crime, to lawfully apprehend a person reasonably suspected
22 of having committed a crime, or to aid the victim of a crime.

23 (8)~~(10)~~ "Out-of-pocket loss" means unreimbursed and
24 unreimbursable expenses or indebtedness incurred for medical
25 care, nonmedical remedial care, psychological counseling, or
26 other treatment rendered in accordance with a religious method
27 of healing or for other services necessary as a result of the
28 injury or death upon which such claim is based.

29 (9)~~(11)~~ "Property loss" means the loss of tangible
30 personal property directly caused by a criminal or delinquent
31 act of another.

1 ~~(10)(12)~~ "Treatment" means:

2 (a) Medical, dental, psychological, mental health,
3 chiropractic, or physical rehabilitation services;

4 (b) Nonmedical remedial care; or

5 (c) Other treatment rendered in accordance with a
6 religious method of healing.

7 ~~(11)(13)~~ "Victim" means:

8 (a) A person who suffers personal physical injury or
9 death as a direct result of a crime;

10 (b) A person less than 16 years of age who was present
11 at the scene of a crime, saw or heard the crime, and suffered
12 a psychiatric or psychological injury because of the crime,
13 but who was not physically injured; or

14 (c) A person against whom a forcible felony was
15 committed and who suffers a psychiatric or psychological
16 injury as a direct result of that crime but who does not
17 otherwise sustain a personal physical injury or death.

18 (12) "Vulnerable adult" means a person 18 years of age
19 or older who suffers from an incapacitation due to a
20 developmental disability, organic brain damage, mental
21 illness, or one or more physical or mental limitations that
22 substantially restrict the ability of the person to provide
23 adequately for his or her own care and protection.

24 Section 115. Section 960.195, Florida Statutes, is
25 amended to read:

26 960.195 Awards to vulnerable ~~elderly persons or~~
27 ~~disabled~~ adults for property loss.--Notwithstanding the
28 criteria in s. 960.13, for crime victim compensation awards,
29 the department may award a maximum of \$500 to vulnerable
30 ~~elderly persons or disabled~~ adults who suffer a property loss

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1 that causes a substantial diminution in their quality of life
2 when:

3 (1) There is proof that a criminal or delinquent act
4 was committed;

5 (2) The criminal or delinquent act is reported to law
6 enforcement authorities within 72 hours;

7 (3) The victim cooperates with law enforcement
8 authorities in the investigation of the criminal or delinquent
9 act;

10 (4) There is proof that the tangible personal property
11 in question belonged to the claimant;

12 (5) The claimant did not contribute to the criminal or
13 delinquent act;

14 (6) There is no other source of reimbursement or
15 indemnification available to the claimant; and

16 (7) The claimant would not be able to replace the
17 tangible personal property in question without incurring a
18 serious financial hardship.

19 Section 116. Paragraph (e) of subsection (4) of
20 section 985.05, Florida Statutes, is amended to read:

21 985.05 Court records.--

22 (4) A court record of proceedings under this part is
23 not admissible in evidence in any other civil or criminal
24 proceeding, except that:

25 (e) Records of proceedings under this part may be used
26 to prove disqualification pursuant to ss. 110.1127, 393.0655,
27 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
28 ~~985.407, and for proof in a chapter 120 proceeding pursuant to~~
29 ~~s. 415.1075.~~

30 Section 117. Sections 415.1065, 415.1075, 415.1085,
31 and 415.109, Florida Statutes, are repealed.

1 Section 118. This act shall take effect September 1,
2 2000.

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5 LEGISLATIVE SUMMARY

6 Revises and reorganizes provisions relating to the
7 protection of vulnerable adults from abuse, neglect, and
8 exploitation, and to the management, maintenance, and use
9 of information relating to reports of such abuse,
10 neglect, and exploitation. Requires operators of health
11 care facilities that serve vulnerable adults to obtain
12 information from the previous employers of persons
13 seeking employment. Provides procedures therefor, and
14 penalties for noncompliance by the employer or the person
15 seeking employment. Provides for enforcement by the
16 Agency for Health Care Administration. (See bill for
17 details.)
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