

By the Committee on Health, Aging and Long-Term Care; and
Senator Clary

317-1994A-00

1 A bill to be entitled
2 An act relating to protection of vulnerable
3 persons; amending s. 400.6065, F.S.; providing
4 employment screening requirements for hospice
5 personnel; providing penalties; renumbering and
6 amending s. 402.48, F.S.; revising the
7 definition of the term "health care services
8 pool"; providing background screening
9 requirements for applicants for registration,
10 managing employees, and financial officers of
11 such entities, and certain others; providing
12 penalties; requiring such entities to obtain a
13 certificate of registration from the Agency for
14 Health Care Administration; providing for
15 injunction; revising application procedures;
16 revising responsibilities regarding temporary
17 employees; increasing a penalty; transferring
18 powers, duties, functions, and appropriations
19 relating to health care services pools from the
20 Department of Health to the Agency for Health
21 Care Administration; amending s. 415.102, F.S.;
22 revising definitions; amending s. 415.103,
23 F.S.; providing for a central abuse hotline to
24 receive reports of abuse, neglect, or
25 exploitation of vulnerable adults; amending s.
26 415.1034, F.S.; conforming provisions relating
27 to mandatory reporting; amending s. 415.1035,
28 F.S.; providing duty of the Department of
29 Children and Family Services to ensure that
30 facilities inform residents of their right to
31 report abuse, neglect, or exploitation;

1 amending s. 415.1036, F.S.; conforming
2 provisions relating to immunity of persons
3 making reports; amending ss. 415.104 and
4 415.1045, F.S.; revising provisions relating to
5 protective investigations; extending the time
6 limit for completion of the department's
7 investigation; providing for access to records
8 and documents; providing for working agreements
9 with law enforcement entities; amending s.
10 415.105, F.S.; authorizing the department to
11 petition the court to enjoin interference with
12 the provision of protective services; amending
13 s. 415.1051, F.S.; providing for enforcement of
14 court-ordered protective services when any
15 person interferes; amending s. 415.1052, F.S.,
16 relating to interference with investigations or
17 provision of services; amending s. 415.1055,
18 F.S.; deleting provisions relating to
19 notification to subjects, reporters, law
20 enforcement, and state attorneys of a report
21 alleging abuse, neglect, or exploitation;
22 amending s. 415.106, F.S., relating to
23 cooperation by criminal justice and other
24 agencies; amending s. 415.107, F.S.; providing
25 certain access to confidential records and
26 reports; providing that information in the
27 central abuse hotline may not be used for
28 employment screening; amending s. 415.1102,
29 F.S.; revising provisions relating to adult
30 protection teams; amending s. 415.111, F.S.,
31 relating to criminal penalties; amending s.

1 415.1111, F.S.; revising provisions relating to
2 civil penalties; amending s. 415.1113, F.S.,
3 relating to administrative fines for false
4 reporting; amending s. 415.113, F.S., relating
5 to treatment by spiritual means; amending s.
6 435.03, F.S.; revising provisions relating to
7 level 1 and level 2 screening standards;
8 amending s. 435.05, F.S.; revising provisions
9 relating to screening requirements for covered
10 employees; amending s. 435.07, F.S., relating
11 to exemptions; amending s. 435.08, F.S.,
12 relating to payment for processing records
13 checks; amending s. 435.09, F.S., relating to
14 confidentiality of background check
15 information; creating ss. 435.401, 435.402,
16 435.403, and 435.405, F.S.; providing special
17 work history checks for caregivers of
18 vulnerable adults; providing definitions;
19 requiring certain organizations that hire,
20 contract with, or register for referral such
21 caregivers to obtain service letters regarding
22 applicants from all previous such organizations
23 with whom the applicant worked within a
24 specified period; providing duties of such
25 applicants and organizations; providing
26 penalties; providing for conditional
27 employment, contract, or registration for
28 referral for a specified period; providing for
29 good-faith efforts to perform required duties;
30 providing for certain burden of proof;
31 providing penalties for persons or

1 organizations that knowingly provide certain
2 false or incomplete information; providing
3 certain immunity from civil liability;
4 protecting certain information from discovery
5 in legal or administrative proceedings;
6 providing for enforcement by the Agency for
7 Health Care Administration; providing for
8 disposition of fines; requiring rules; amending
9 ss. 20.43, 455.712, and 468.520, F.S.; deleting
10 references to health care services pools in
11 provisions relating to the Department of
12 Health; conforming a cross-reference; amending
13 ss. 39.202, 110.1127, 112.0455, 119.07, 232.50,
14 242.335, 320.0848, 381.0059, 381.60225,
15 383.305, 390.015, 393.067, 393.0674, 394.459,
16 394.875, 355.0055, 395.0199, 395.3025, 397.461,
17 400.022, 400.071, 400.215, 400.414, 400.4174,
18 400.426, 400.428, 400.462, 400.471, 400.495,
19 400.506, 400.509, 400.512, 400.5572, 400.628,
20 400.801, 400.805, 400.906, 400.931, 400.95,
21 400.953, 400.955, 400.962, 400.964, 402.3025,
22 402.3125, 402.313, 409.175, 409.912, 430.205,
23 447.208, 447.401, 464.018, 468.826, 468.828,
24 483.101, 483.30, 509.032, 744.309, 744.474,
25 744.7081, 775.21, 916.107, 943.0585, and
26 985.05, F.S.; conforming to the act provisions
27 relating to protection of vulnerable adults and
28 the central abuse hotline; repealing s.
29 415.1065, F.S., relating to management of
30 records of the central abuse registry and
31 tracking system; repealing s. 415.1075, F.S.,

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

13

14 Be It Enacted by the Legislature of the State of Florida:

15

16 Section 1. Subsection (3) of section 400.6065, Florida
17 Statutes, is amended, and subsections (4) through (8) are
18 added to that section, to read:

19 400.6065 Background screening.--

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

26 (4) The agency shall require employment or contractor
27 screening as provided in chapter 435, using the level 1
28 standards for screening set forth in that chapter, for hospice
29 personnel.

30

31

1 (5) The agency may grant exemptions from
2 disqualification from employment under this section as
3 provided in s. 435.07.

4 (6) The administration of each hospice must sign an
5 affidavit annually, under penalty of perjury, stating that all
6 personnel employed or contracted with on or after October 1,
7 1998, who provide hospice services in a facility, or who enter
8 the home of a patient in their service capacity, have been
9 screened.

10 (7) Proof of compliance with the screening
11 requirements of chapter 435 shall be accepted in lieu of the
12 requirements of this section if the person has been
13 continuously employed or registered without a breach in
14 service that exceeds 180 days, the proof of compliance is not
15 more than 2 years old, and the person has been screened, at
16 the discretion of the hospice.

17 (8)(a) It is a misdemeanor of the first degree,
18 punishable under s. 775.082 or s. 775.083, for any person
19 willfully, knowingly, or intentionally to:

20 1. Fail, by false statement, misrepresentation,
21 impersonation, or other fraudulent means, to disclose in any
22 application for voluntary or paid employment a material fact
23 used in making a determination as to such person's
24 qualifications to be employed or contracted with under this
25 section;

26 2. Operate or attempt to operate an entity licensed
27 under this part with persons who do not meet the minimum
28 standards for good moral character as contained in this
29 section; or

30 3. Use information from the criminal records obtained
31 under this section for any purpose other than screening as

1 specified in this section, or release such information to any
2 other person for any purpose other than screening under this
3 section.

4 (b) It is a felony of the third degree, punishable
5 under s. 775.082, s. 775.083, or s. 775.084, for any person
6 willfully, knowingly, or intentionally to use information from
7 the juvenile records of a person obtained under this section
8 for any purpose other than screening for employment under this
9 section.

10 Section 2. Part XII of chapter 400, Florida Statutes,
11 consisting of s. 400.980, Florida Statutes, is created,
12 entitled "Health Care Services Pools."

13 Section 3. Section 402.48, Florida Statutes, is
14 transferred, renumbered as section 400.980, Florida Statutes,
15 and amended to read:

16 400.980 ~~402.48~~ Health care services pools.--

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

18 (a) "Agency" means the Agency for Health Care
19 Administration. ~~"Department" means the Department of Health.~~

20 (b) "Health care services pool" means any person,
21 firm, corporation, partnership, or association engaged for
22 hire in the business of providing temporary employment in
23 health care facilities, residential facilities, and agencies
24 for licensed, certified, or trained health care personnel
25 including, without limitation, nursing assistants, nurses'
26 aides, and orderlies. However, the term does not include
27 nursing registries, a facility licensed under chapter 400, a
28 health care services pool established within a health care
29 facility to provide services only within the confines of such
30 facility, or any individual contractor directly providing

31

1 temporary services to a health care facility without use or
2 benefit of a contracting agent.

3 (2) Each person who operates a health care services
4 pool must register each separate business location with the
5 agency ~~department~~. The agency ~~department~~ shall adopt rules
6 and provide forms required for such registration and shall
7 impose a registration fee in an amount sufficient to cover the
8 cost of administering this section. In addition, the
9 registrant must provide the agency ~~department~~ with any change
10 of information contained on the original registration
11 application within 14 days prior to ~~after~~ the change. The
12 agency ~~department~~ may inspect the offices of any health care
13 services pool at any reasonable time for the purpose of
14 determining compliance with this section or the rules adopted
15 under this section.

16 (3) Each application for registration must include:

17 (a) The name and address of any person who has an
18 ownership interest in the business, and, in the case of a
19 corporate owner, copies of the articles of incorporation,
20 bylaws, and names and addresses of all officers and directors
21 of the corporation.

22 (b) Any other information required by the agency
23 ~~department~~.

24 (4) Each applicant for registration must comply with
25 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 1 standards for screening set forth
29 in chapter 435, of every individual who will have contact with
30 patients. The agency shall require background screening of the
31 managing employee or other similarly titled individual who is

1 responsible for the operation of the entity, and of the
2 financial officer or other similarly titled individual who is
3 responsible for the financial operation of the entity,
4 including billings for services in accordance with the level 2
5 standards for background screening as set forth in chapter
6 435.

7 (b) The agency may require background screening of any
8 other individual who is affiliated with the applicant if the
9 agency has a reasonable basis for believing that he or she has
10 been convicted of a crime or has committed any other offense
11 prohibited under the level 2 standards for screening set forth
12 in chapter 435.

13 (c) Proof of compliance with the level 2 background
14 screening requirements of chapter 435 which has been submitted
15 within the previous 5 years in compliance with any other
16 health care or assisted living licensure requirements of this
17 state is acceptable in fulfillment of paragraph (a).

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

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

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

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

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

8 (h) The provisions of this section which require an
9 applicant for registration to undergo background screening
10 shall stand repealed on June 30, 2001, unless reviewed and
11 saved from repeal through reenactment by the Legislature.

12 (i) Failure to provide all required documentation
13 within 30 days after a written request from the agency will
14 result in denial of the application for registration.

15 (j) The agency must take final action on an
16 application for registration within 60 days after receipt of
17 all required documentation.

18 (k) The agency may deny, revoke, or suspend the
19 registration of any applicant or registrant who:

20 1. Has falsely represented a material fact in the
21 application required by paragraph (e) or paragraph (f), or has
22 omitted any material fact from the application required by
23 paragraph (e) or paragraph (f); or

24 2. Has had prior action taken against the applicant
25 under the Medicaid or Medicare program as set forth in
26 paragraph (e).

27 3. Fails to comply with this section or applicable
28 rules.

29 4. Commits an intentional, reckless, or negligent act
30 that materially affects the health or safety of a person
31 receiving services.

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

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

9 (b) Operate or attempt to operate an entity registered
10 under this part with persons who do not meet the minimum
11 standards of chapter 435 as contained in this section; or

12 (c) Use information from the criminal records obtained
13 under this section for any purpose other than screening an
14 applicant for temporary employment as specified in this
15 section, or release such information to any other person for
16 any purpose other than screening for employment under this
17 section.

18 (6) It is a felony of the third degree, punishable
19 under s. 775.082, s. 775.083, or s. 775.084, for any person
20 willfully, knowingly, or intentionally to use information from
21 the juvenile records of a person obtained under this section
22 for any purpose other than screening for employment under this
23 section.

24 (7) It is unlawful for a person to offer or advertise
25 services, as defined by rule, to the public without obtaining
26 a certificate of registration from the Agency for Health Care
27 Administration. It is unlawful for any holder of a certificate
28 of registration to advertise or hold out to the public that he
29 or she holds a certificate of registration for other than that
30 for which he or she actually holds a certificate of

31

1 registration. Any person who violates this subsection is
2 subject to injunctive proceedings under s. 400.515.

3 (8)(4) Each registration shall be for a period of 2
4 years. The application for renewal must be received by the
5 agency department at least 30 ~~20~~ days before the expiration
6 date of the registration. An application for a new
7 registration is required within 30 days prior to ~~upon~~ the sale
8 of a controlling interest in a health care services pool.

9 (9)(5) A health care services pool may not require an
10 employee to recruit new employees from persons employed at a
11 health care facility to which the health care services pool
12 employee is assigned. Nor shall a health care facility to
13 which employees of a health care services pool are assigned
14 recruit new employees from the health care services pool.

15 (10)(6) A health care services pool shall document
16 that each temporary employee provided to a health care
17 facility ~~is licensed and~~ has met the licensing, certification,
18 training, or ~~and~~ continuing education requirements, as
19 established by the appropriate regulatory agency, for the
20 position in which he or she will be working.

21 (11)(7) When referring persons for temporary
22 employment in health care facilities, a health care services
23 pool shall comply with all pertinent state and federal laws,
24 rules, and regulations ~~of the appropriate regulatory agency~~
25 relating to health, background screening, and other
26 qualifications required of persons working in a facility of
27 that type of personnel employed in health care facilities.

28 (12)(8)(a) As a condition of registration and prior to
29 the issuance or renewal of a certificate of registration, a
30 health care services pool applicant must prove financial
31 responsibility to pay claims, and costs ancillary thereto,

1 arising out of the rendering of services or failure to render
2 services by the pool or by its employees in the course of
3 their employment with the pool. The agency ~~department~~ shall
4 promulgate rules establishing minimum financial responsibility
5 coverage amounts which shall be adequate to pay potential
6 claims and costs ancillary thereto.

7 (b) Each health care services pool shall give written
8 notification to the agency ~~department~~ within 20 days after any
9 change in the method of assuring financial responsibility or
10 upon cancellation or nonrenewal of professional liability
11 insurance. Unless the pool demonstrates that it is otherwise
12 in compliance with the requirements of this section, the
13 agency ~~department~~ shall suspend the registration ~~license~~ of
14 the pool pursuant to ss. 120.569 and 120.57. Any suspension
15 under this section shall remain in effect until the pool
16 demonstrates compliance with the requirements of this section.

17 (c) Proof of financial responsibility must be
18 demonstrated to the satisfaction of the agency ~~department~~,
19 through one of the following methods:

20 1. Establishing and maintaining an escrow account
21 consisting of cash or assets eligible for deposit in
22 accordance with s. 625.52;

23 2. Obtaining and maintaining an unexpired irrevocable
24 letter of credit established pursuant to chapter 675. Such
25 letters of credit shall be nontransferable and nonassignable
26 and shall be issued by any bank or savings association
27 organized and existing under the laws of this state or any
28 bank or savings association organized under the laws of the
29 United States that has its principal place of business in this
30 state or has a branch office which is authorized under the
31

1 laws of this state or of the United States to receive deposits
2 in this state; or
3 3. Obtaining and maintaining professional liability
4 coverage from one of the following:
5 a. An authorized insurer as defined under s. 624.09;
6 b. An eligible surplus lines insurer as defined under
7 s. 626.918(2);
8 c. A risk retention group or purchasing group as
9 defined under s. 627.942; or
10 d. A plan of self-insurance as provided in s. 627.357.
11 (d) If financial responsibility requirements are met
12 by maintaining an escrow account or letter of credit, as
13 provided in this section, upon the entry of an adverse final
14 judgment arising from a medical malpractice arbitration award
15 from a claim of medical malpractice either in contract or
16 tort, or from noncompliance with the terms of a settlement
17 agreement arising from a claim of medical malpractice either
18 in contract or tort, the financial institution holding the
19 escrow account or the letter of credit shall pay directly to
20 the claimant the entire amount of the judgment together with
21 all accrued interest or the amount maintained in the escrow
22 account or letter of credit as required by this section,
23 whichever is less, within 60 days after the date such judgment
24 became final and subject to execution, unless otherwise
25 mutually agreed to in writing by the parties. If timely
26 payment is not made, the agency ~~department~~ shall suspend the
27 registration license of the pool pursuant to procedures set
28 forth by the department through rule. Nothing in this
29 paragraph shall abrogate a judgment debtor's obligation to
30 satisfy the entire amount of any judgment.
31

1 (e) Each health care services pool carrying
2 claims-made coverage must demonstrate proof of extended
3 reporting coverage through either tail or nose coverage, in
4 the event the policy is canceled, replaced, or not renewed.
5 Such extended coverage shall provide coverage for incidents
6 that occurred during the claims-made policy period but were
7 reported after the policy period.

8 (f) The financial responsibility requirements of this
9 section shall apply to claims for incidents that occur on or
10 after January 1, 1991, or the initial date of registration in
11 this state, whichever is later.

12 (g) Meeting the financial responsibility requirements
13 of this section must be established at the time of issuance or
14 renewal of a certificate of registration.

15 ~~(13)(9)~~ The agency department shall adopt rules to
16 implement this section, including rules providing for the
17 establishment of:

18 (a) Minimum standards for the operation and
19 administration of health care personnel pools, including
20 procedures for recordkeeping and personnel.

21 (b) Fines for the violation of this section in an
22 amount not to exceed ~~\$2,500~~~~\$1,000~~ and suspension or
23 revocation of registration.

24 (c) Disciplinary sanctions for failure to comply with
25 this section or the rules adopted under this section.

26 Section 4. All powers, duties and functions, rules,
27 records, personnel, property, and unexpended balances of
28 appropriations, allocations, or other funds of the Department
29 of Health relating to the regulation of health care services
30 pools are transferred by a type two transfer, as defined in
31

1 section 20.06(2), Florida Statutes, from the Department of
2 Health to the Agency for Health Care Administration.

3 Section 5. Section 415.102, Florida Statutes, is
4 amended to read:

5 415.102 Definitions of terms used in ss.
6 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

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

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

30 (3) "Capacity to consent" means that a vulnerable
31 ~~disabled adult or elderly person~~ has sufficient understanding

1 to make and communicate responsible decisions regarding the
2 vulnerable disabled adult's or ~~elderly person's~~ person or
3 property, including whether or not to accept protective
4 services offered by the department.

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

11 "Caregiver" includes, but is not limited to, relatives,
12 household members, guardians, neighbors, and employees and
13 volunteers of facilities as defined in subsection (8) ~~(13)~~.
14 For the purpose of departmental investigative jurisdiction,
15 the term "caregiver" does not include law enforcement officers
16 or employees of municipal or county detention facilities or
17 the Department of Corrections while acting in an official
18 capacity.

19 ~~(5) "Closed without classification" means the closure~~
20 ~~of a report in which an adult protective investigator~~
21 ~~determines that:~~

22 ~~(a) Some evidence exists that abuse, neglect, or~~
23 ~~exploitation has occurred, but a preponderance of evidence~~
24 ~~cannot be established; or~~

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

28 ~~(6) "Confirmed report" means a proposed confirmed~~
29 ~~report that has been determined to be valid after a hearing~~
30 ~~under s. 415.1075(2), a proposed confirmed report for which~~
31 ~~the alleged perpetrator has failed to request amendment or~~

1 ~~expunction within the time allotted for such a request under~~
2 ~~s. 415.1075(1), or a proposed confirmed report for which the~~
3 ~~alleged perpetrator has failed to request an administrative~~
4 ~~hearing within the time allotted by s. 415.1075(2).~~

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

8 ~~(5)~~(8) "Deception" means a misrepresentation or
9 concealment of a material fact relating to services rendered,
10 disposition of property, or the use of property intended to
11 benefit a vulnerable disabled adult ~~or an elderly person.~~

12 ~~(6)~~(9) "Department" means the Department of Children
13 and Family Services.

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

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

26 ~~(12) "Elderly person" means a person 60 years of age~~
27 ~~or older who is suffering from the infirmities of aging as~~
28 ~~manifested by advanced age or organic brain damage, or other~~
29 ~~physical, mental, or emotional dysfunctioning to the extent~~
30 ~~that the ability of the person to provide adequately for the~~
31 ~~person's own care or protection is impaired.~~

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

7 ~~(7)(14)~~(a) "Exploitation" means a person who:

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

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

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

27 1. Breaches of fiduciary relationships, such as the
28 misuse of a power of attorney or the abuse of guardianship
29 duties, resulting in the unauthorized appropriation, sale, or
30 transfer of property;

31 2. Unauthorized taking of personal assets;

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

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

8 (8)(~~15~~) "Facility" means any location providing day or
9 residential care or treatment for vulnerable disabled adults
10 ~~or elderly persons~~. The term "facility" may include, but is
11 not limited to, any hospital, ~~training center~~, state
12 institution, nursing home, assisted living facility, adult
13 family-care home, adult day care center, group home, or mental
14 health treatment center.

15 (9)(~~16~~) "False report" means a report of abuse,
16 neglect, or exploitation of a vulnerable disabled adult ~~or an~~
17 ~~elderly person~~ to the central abuse hotline registry and
18 ~~tracking system~~ which is not true unfounded and is maliciously
19 made for the purpose of:

20 (a) Harassing, embarrassing, or harming another
21 person;

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

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

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

28
29 The term "false report" does not include a report of abuse,
30 neglect, or exploitation of a vulnerable disabled adult ~~or an~~
31 ~~elderly person~~ which is made in good faith to the central

1 ~~abuse hotline registry and tracking system and which is~~
2 ~~classified as unfounded at the conclusion of the~~
3 ~~investigation.~~

4 (10)~~(17)~~ "Fiduciary relationship" means a relationship
5 based upon the trust and confidence of the vulnerable disabled
6 ~~adult or elderly person~~ in the caregiver, relative, household
7 member, or other person entrusted with the use or management
8 of the property or assets of the vulnerable disabled ~~adult or~~
9 ~~elderly person~~. The relationship exists where there is a
10 special confidence reposed in one who in equity and good
11 conscience is bound to act in good faith and with due regard
12 to the interests of the vulnerable disabled ~~adult or elderly~~
13 ~~person~~. For the purposes of this part, a fiduciary
14 relationship may be formed by an informal agreement between
15 the vulnerable disabled ~~adult or elderly person~~ and the other
16 person and does not require a formal declaration or court
17 order for its existence. A fiduciary relationship includes,
18 but is not limited to, court-appointed or voluntary guardians,
19 trustees, attorneys, or conservators of a vulnerable disabled
20 ~~adult's or an elderly person's~~ assets or property.

21 (11)~~(18)~~ "Guardian" means a person who has been
22 appointed by a court to act on behalf of a person; a preneed
23 guardian, as provided in chapter 744; or a health care
24 surrogate expressly designated ~~by a principal to make health~~
25 ~~care decisions on behalf of the principal upon the principal's~~
26 ~~incapacity~~, as provided in chapter 765.

27 (12)~~(19)~~ "In-home services" means the provision of
28 nursing, personal care, supervision, or other services to
29 vulnerable disabled ~~adults or elderly persons~~ in their own
30 homes.

31

1 ~~(13)(20)~~ "Intimidation" means the communication by
2 word or act to a vulnerable ~~disabled~~ adult ~~or an elderly~~
3 ~~person~~ that that person will be deprived of food, nutrition,
4 clothing, shelter, supervision, medicine, medical services,
5 money, or financial support or will suffer physical violence.

6 ~~(14)(21)~~ "Lacks capacity to consent" means a mental
7 impairment that causes a vulnerable ~~disabled~~ adult ~~or an~~
8 ~~elderly person~~ to lack sufficient understanding or capacity to
9 make or communicate responsible decisions concerning ~~the~~
10 ~~disabled adult's or elderly person's~~ person or property,
11 including whether or not to accept protective services ~~offered~~
12 ~~by the department~~.

13 ~~(15)(22)~~ "Neglect" means the failure or omission on
14 the part of the caregiver ~~or disabled adult or elderly person~~
15 to provide the care, supervision, and services necessary to
16 maintain the physical and mental health of the vulnerable
17 ~~disabled~~ adult ~~or elderly person~~, including, but not limited
18 to, food, clothing, medicine, shelter, supervision, and
19 medical services, that a prudent person would consider
20 essential for the well-being of a vulnerable ~~disabled~~ adult ~~or~~
21 ~~an elderly person~~. The term "neglect" also means the failure
22 of a caregiver to make a reasonable effort to protect a
23 vulnerable ~~disabled~~ adult ~~or an elderly person~~ from abuse,
24 neglect, or exploitation by others. "Neglect" is repeated
25 conduct or a single incident of carelessness which produces or
26 could reasonably be expected to result in serious physical or
27 psychological injury or a substantial risk of death.

28 ~~(23)~~ ~~"No jurisdiction" means the disposition of a~~
29 ~~report that the department does not investigate because the~~
30 ~~report does not meet the criteria specified in ss.~~
31 ~~415.101-415.113.~~

1 ~~(16)(24)~~ "Obtains or uses" means any manner of:
2 (a) Taking or exercising control over property; ~~or~~
3 (b) Making any use, disposition, or transfer of
4 property;~~;~~
5 (c) Obtaining property by fraud, willful
6 misrepresentation of a future act, or false promise; or
7 (d)1. Conduct otherwise known as stealing; larceny;
8 purloining; abstracting; embezzlement; misapplication;
9 misappropriation; conversion; or obtaining money or property
10 by false pretenses, fraud, or deception; or
11 2. Other conduct similar in nature.
12 ~~(25) "Perpetrator" means the person who has been named~~
13 ~~as causing abuse, neglect, or exploitation of a disabled adult~~
14 ~~or an elderly person in a report that has been classified as~~
15 ~~confirmed.~~
16 ~~(17)(26)~~ "Position of trust and confidence" with
17 respect to a vulnerable disabled adult or an elderly person
18 means the position of a person who:
19 (a) Is a parent, spouse, adult child, or other
20 relative by blood or marriage ~~of the disabled adult or elderly~~
21 ~~person;~~
22 (b) Is a joint tenant or tenant in common ~~with the~~
23 ~~disabled adult or elderly person;~~
24 (c) Has a legal or fiduciary relationship ~~with the~~
25 ~~disabled adult or elderly person~~, including, but not limited
26 to, a court-appointed or voluntary guardian, trustee,
27 attorney, or conservator; or
28 (d) Is a caregiver ~~of the disabled adult or elderly~~
29 ~~person~~ or any other person who has been entrusted with or has
30 assumed responsibility for the use or management of the
31

1 ~~vulnerable elderly person's or disabled~~ adult's funds, assets,
2 or property.

3 (18) "Protective investigation" means acceptance of a
4 report from the central abuse hotline alleging abuse, neglect,
5 or exploitation as defined in this section; investigation of
6 the report; determination as to whether action by the court is
7 warranted; and referral of the vulnerable adult to another
8 public or private agency when appropriate.

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

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

12 ~~(b) Tangible personal property, including, but not~~
13 ~~limited to, furniture, jewelry, or clothing and intangible~~
14 ~~personal property, including rights, privileges, interests,~~
15 ~~and claims.~~

16 ~~(28) "Proposed confirmed report" means a report of~~
17 ~~abuse, neglect, or exploitation which is made pursuant to s.~~
18 ~~415.1034 when an adult protective investigation alleges that~~
19 ~~there is a preponderance of evidence that abuse, neglect, or~~
20 ~~exploitation occurred and which identifies the alleged~~
21 ~~perpetrator.~~

22 (19)(29) "Protective investigator" means an authorized
23 agent of the department who receives and investigates reports
24 of abuse, neglect, or exploitation of vulnerable adults.

25 ~~"Protective investigator" means an employee of the department~~
26 ~~responsible for:~~

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

30 ~~(b) The determination of immediate risk to a disabled~~
31 ~~adult or an elderly person, which determination must include~~

1 ~~the provision of emergency services and the arrangement for~~
2 ~~immediate in-home and nonemergency services to prevent the~~
3 ~~recurrence of further abuse, neglect, or exploitation; and~~
4 ~~(c) The evaluation of the need for and referrals to~~
5 ~~ongoing protective services for a disabled adult or an elderly~~
6 ~~person.~~

7 (20)~~(30)~~ "Protective services" means ~~the provision or~~
8 ~~arrangement of~~ services to protect a vulnerable disabled adult
9 ~~or an elderly person~~ from further occurrences of abuse,
10 neglect, or exploitation. Such services may include, but are
11 not limited to, protective supervision, placement, and in-home
12 and community-based services.

13 (21)~~(31)~~ "Protective supervision" means those services
14 arranged for or implemented by the department to protect
15 vulnerable disabled adults ~~or elderly persons~~ from further
16 occurrences of abuse, neglect, or exploitation ~~during an~~
17 ~~investigation or following a report that has been classified~~
18 ~~as proposed confirmed or confirmed, or has been closed without~~
19 ~~classification.~~

20 (22)~~(32)~~ "Psychological injury" means an injury to the
21 intellectual functioning or emotional state of a vulnerable
22 ~~disabled~~ adult ~~or an elderly person~~ as evidenced by an
23 observable or measurable reduction in the vulnerable disabled
24 ~~adult's or elderly person's~~ ability to function within that
25 person's customary range of performance and that person's
26 behavior.

27 (23)~~(33)~~ "Records" means all documents, papers,
28 letters, maps, books, tapes, photographs, films, sound
29 recordings, videotapes, or other material, regardless of
30 physical form or characteristics, made or received pursuant to
31 a ~~an~~ adult protective investigation.

1 ~~(24)(34)~~ "Sexual abuse" means acts of a sexual nature
2 committed ~~for the sexual gratification of the abuser and in~~
3 the presence of a vulnerable disabled adult ~~or an elderly~~
4 ~~person~~ without that person's informed consent. "Sexual abuse"
5 includes, but is not limited to, the acts defined in s.
6 794.011(1)(h), fondling, exposure of a vulnerable disabled
7 adult's ~~or elderly person's~~ sexual organs, or the use of a
8 vulnerable disabled adult ~~or an elderly person~~ to solicit for
9 or engage in prostitution or sexual performance. "Sexual
10 abuse" does not include any act intended for a valid medical
11 purpose or any act that may reasonably be construed to be
12 normal caregiving action or appropriate display of affection.

13 ~~(35)~~ "~~Specified medical personnel~~" means ~~licensed or~~
14 ~~certified physicians, osteopathic physicians, nurses,~~
15 ~~paramedics, advanced registered nurse practitioners,~~
16 ~~psychologists, psychiatrists, mental health professionals, or~~
17 ~~any other licensed or certified medical personnel.~~

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

21 ~~(25)(37)~~ "Victim" means any vulnerable disabled adult
22 ~~or elderly person~~ named in a report of abuse, neglect, or
23 exploitation.

24 (26) "Vulnerable adult" means a person 18 years of age
25 or older whose ability to perform the normal activities of
26 daily living or to provide for his or her own care or
27 protection is impaired due to a mental, emotional, physical,
28 or developmental disability or dysfunctioning, or brain
29 damage, or the infirmities of aging.

30 (27) "Vulnerable adult in need of services" means a
31 vulnerable adult who has been determined by a protective

1 investigator to be suffering from the ill effects of neglect
2 not caused by a second party perpetrator and is in need of
3 protective services or other services to prevent further harm.

4 Section 6. Section 415.103, Florida Statutes, is
5 amended to read:

6 415.103 Central abuse hotline ~~registry and tracking~~
7 ~~system.~~--

8 (1) The department shall establish and maintain a
9 central abuse hotline ~~registry and tracking system~~ that
10 receives all reports made pursuant to s. 415.1034 in writing
11 or through a single statewide toll-free telephone number. Any
12 person may use the statewide toll-free telephone number to
13 report known or suspected abuse, neglect, or exploitation of a
14 vulnerable disabled adult ~~or an elderly person~~ at any hour of
15 the day or night, any day of the week. The central abuse
16 hotline ~~registry and tracking system~~ must be operated in such
17 a manner as to enable the department to:

18 (a) Accept reports for investigation when there is a
19 reasonable cause to suspect that a vulnerable disabled adult
20 ~~or an elderly person~~ has been or is being abused, neglected,
21 or exploited.

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

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

29 (d) Immediately identify and locate prior reports of
30 abuse, neglect, or exploitation through the central abuse
31 hotline ~~registry and tracking system.~~

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

3 (f) Maintain data to facilitate the production of
4 aggregate statistical reports for monitoring patterns of
5 abuse, neglect, or exploitation of ~~disabled adults or elderly~~
6 ~~persons~~.

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

11 (2) Upon receiving an oral or written report of known
12 or suspected abuse, neglect, or exploitation of a vulnerable
13 ~~disabled~~ adult or ~~an elderly person~~, the central abuse hotline
14 ~~registry and tracking system~~ must determine if the report
15 requires an immediate onsite protective investigation. For
16 reports requiring an immediate onsite protective
17 investigation, the central abuse hotline ~~registry and tracking~~
18 ~~system~~ must immediately notify the department's designated
19 ~~adult~~ protective investigative district staff responsible for
20 protective investigations to ensure prompt initiation of an
21 onsite investigation. For reports not requiring an immediate
22 onsite protective investigation, the central abuse hotline
23 ~~registry and tracking system~~ must notify the department's
24 designated ~~adult~~ protective investigative district staff
25 responsible for protective investigations in sufficient time
26 to allow for an investigation to be commenced within 24 hours.
27 At the time of notification of district staff with respect to
28 the report, the central abuse hotline ~~registry and tracking~~
29 ~~system~~ must also provide any known information on any previous
30 report concerning a subject of the present report or any
31

1 pertinent information relative to the present report or any
2 noted earlier reports.

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

6 Section 7. Section 415.1034, Florida Statutes, is
7 amended to read:

8 415.1034 Mandatory reporting of abuse, neglect, or
9 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~;
10 mandatory reports of death.--

11 (1) MANDATORY REPORTING.--

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

13 1. Physician, osteopathic physician, medical examiner,
14 chiropractic physician, nurse, or hospital personnel engaged
15 in the admission, examination, care, or treatment of
16 vulnerable ~~disabled~~ adults or ~~elderly persons~~;

17 2. Health professional or mental health professional
18 other than one listed in subparagraph 1.;

19 3. Practitioner who relies solely on spiritual means
20 for healing;

21 4. Nursing home staff; assisted living facility staff;
22 adult day care center staff; adult family-care home staff;
23 social worker; or other professional adult care, residential,
24 or institutional staff;

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

27 6. Human rights advocacy committee or long-term care
28 ombudsman council member; or

29 7. Bank, savings and loan, or credit union officer,
30 trustee, or employee,

31

1 who knows, or has reasonable cause to suspect, that a
2 vulnerable disabled adult ~~or an elderly person~~ has been or is
3 being abused, neglected, or exploited shall immediately report
4 such knowledge or suspicion to the central abuse hotline
5 ~~registry and tracking system on the single statewide toll-free~~
6 ~~telephone number.~~

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

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

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

15 3. Name, address, and telephone number of each alleged
16 perpetrator.

17 4. Name, address, and telephone number of the
18 caregiver of the victim ~~disabled adult or elderly person~~, if
19 different from the alleged perpetrator.

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

22 6. Description of the physical or psychological
23 injuries sustained.

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

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

29 (2) MANDATORY REPORTS OF DEATH.--Any person who is
30 required to investigate reports of abuse, neglect, or
31 exploitation and who has reasonable cause to suspect that a

1 ~~vulnerable disabled adult or an elderly person~~ died as a
2 result of abuse, neglect, or exploitation shall immediately
3 report the suspicion to the appropriate medical examiner, to
4 the appropriate criminal justice agency, and to the
5 department, notwithstanding the existence of a death
6 certificate signed by a practicing physician. The medical
7 examiner shall accept the report for investigation pursuant to
8 s. 406.11 and shall report the findings of the investigation,
9 in writing, to the appropriate local criminal justice agency,
10 the appropriate state attorney, and the department. Autopsy
11 reports maintained by the medical examiner are not subject to
12 the confidentiality requirements provided for in s. 415.107.

13 Section 8. Section 415.1035, Florida Statutes, is
14 amended to read:

15 415.1035 Facility's duty to inform residents of their
16 right to report abusive, neglectful, or exploitive
17 practices.--The department shall work cooperatively with the
18 Agency for Health Care Administration and the Department of
19 Elderly Affairs to ensure that every facility that serves
20 vulnerable adults informs residents of their right to report
21 abusive, neglectful, or exploitive practices. Each facility
22 must establish appropriate policies and procedures to
23 facilitate such reporting.

24 ~~(1) Every facility that serves disabled adults or~~
25 ~~elderly persons must inform residents of their right to report~~
26 ~~abusive, neglectful, or exploitive practices and must~~
27 ~~establish appropriate policies and procedures to facilitate~~
28 ~~such reporting.~~

29 ~~(2) The statewide toll-free telephone number for the~~
30 ~~central abuse registry and tracking system must be posted in~~
31 ~~all facilities operated by, under contract with, or licensed~~

1 ~~by the department or the Agency for Health Care Administration~~
2 ~~which provide services to disabled adults or elderly persons.~~
3 ~~Such posting must be clearly visible and in a prominent place~~
4 ~~within the facility and must be accompanied by the words, "To~~
5 ~~Report the Abuse, Neglect, or Exploitation of a Disabled Adult~~
6 ~~or an Elderly Person, Please Call:....."~~

7 Section 9. Subsection (1) of section 415.1036, Florida
8 Statutes, is amended to read:

9 415.1036 Immunity.--

10 (1) Any person who participates in making a report
11 under s. 415.1034 or participates in a judicial proceeding
12 resulting therefrom is presumed to be acting in good faith
13 and, unless lack of good faith is shown by clear and
14 convincing evidence, is immune from any liability, civil or
15 criminal, that otherwise might be incurred or imposed. This
16 section does not grant immunity, civil or criminal, to any
17 person who is suspected of having abused, neglected, or
18 exploited, or committed any illegal act upon or against, a
19 vulnerable disabled adult ~~or an elderly person~~. Further, a
20 resident or employee of a facility that serves vulnerable
21 ~~disabled adults or elderly persons~~ may not be subjected to
22 reprisal or discharge because of the resident's or employee's
23 actions in reporting abuse, neglect, or exploitation pursuant
24 to s. 415.1034.

25 Section 10. Section 415.104, Florida Statutes, is
26 amended to read:

27 415.104 Protective ~~services~~ investigations of cases of
28 abuse, neglect, or exploitation of vulnerable aged persons ~~or~~
29 ~~disabled~~ adults; transmittal of records to state attorney.--

30 (1) The department shall, upon receipt of a report
31 alleging abuse, neglect, or exploitation of a vulnerable an

1 ~~aged person or disabled adult, begin commence, or cause to be~~
2 ~~commenced~~ within 24 hours, a protective ~~services~~ investigation
3 of the facts alleged therein. If, ~~upon arrival of the~~
4 ~~protective investigator at the scene of the incident, a~~
5 caregiver refuses to allow the department to begin a
6 protective ~~services~~ investigation or interferes with the
7 ~~department's ability to conduct~~ of such an investigation, the
8 appropriate law enforcement agency shall be contacted for
9 assistance ~~to assist the department in commencing the~~
10 ~~protective services investigation~~. If, during the course of
11 the investigation, the department has reason to believe that
12 the abuse, neglect, or exploitation is perpetrated by a second
13 party, the appropriate law enforcement ~~criminal justice~~ agency
14 and state attorney shall be orally notified. The department
15 and the law enforcement agency shall cooperate to allow the
16 criminal investigation to proceed concurrently with, and not
17 be hindered by, the protective investigation. ~~in order that~~
18 ~~such agencies may begin a criminal investigation concurrent~~
19 ~~with the protective services investigation of the department.~~
20 ~~In an institutional investigation, the alleged perpetrator may~~
21 ~~be represented by an attorney, at his or her own expense, or~~
22 ~~accompanied by another person, if the person or the attorney~~
23 ~~executes an affidavit of understanding with the department and~~
24 ~~agrees to comply with the confidentiality provisions of s.~~
25 ~~415.107. The absence of an attorney or other person does not~~
26 ~~prevent the department from proceeding with other aspects of~~
27 ~~the investigation, including interviews with other persons.~~
28 The department shall make a preliminary written report to the
29 law enforcement ~~criminal justice~~ agencies within 5 working
30 days after the oral report. The department shall, within 24
31 hours after receipt of the report, notify the appropriate

1 human rights advocacy committee, or long-term care ombudsman
2 council, when appropriate, that an alleged abuse, neglect, or
3 exploitation perpetrated by a second party has occurred.

4 Notice to the human rights advocacy committee or long-term
5 care ombudsman council may be accomplished orally or in
6 writing and shall include the name and location of the
7 vulnerable ~~aged person or disabled~~ adult alleged to have been
8 abused, neglected, or exploited and the nature of the report.

9 (2) Upon commencing an investigation, the protective
10 investigator shall inform all of the vulnerable adults and
11 alleged perpetrators named in the report of the following:

12 (a) The names of the investigators and identifying
13 credentials from the department.

14 (b) The purpose of the investigation.

15 (c) That the victim, the victim's guardian, the
16 victim's caregiver, and the alleged perpetrator, and legal
17 counsel for any of those persons, have a right to a copy of
18 the report at the conclusion of the investigation.

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

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

23
24 Any person being interviewed by a protective investigator may
25 be represented by an attorney, at the person's own expense, or
26 may choose to have another person present. The other person
27 present may not be an alleged perpetrator in any report
28 currently under investigation. Before participating in such
29 interview, the other person present shall execute an agreement
30 to comply with the confidentiality requirements of ss.

31 415.101-415.113. The absence of an attorney or other person

1 does not prevent the department from proceeding with other
2 aspects of the investigation, including interviews with other
3 persons. In an investigative interview with a vulnerable
4 adult, the protective investigator may conduct the interview
5 with no other person present.

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

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

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

12 (c)~~(b)~~ Determine the composition of the family or
13 household, including the name, address, date of birth, social
14 security number, sex, and race of each aged person in the
15 household ~~or disabled adult named in the report; any others in~~
16 ~~the household or in the care of the caregiver, or any other~~
17 ~~persons responsible for the aged person's or disabled adult's~~
18 ~~welfare; and any other adults in the same household.~~

19 (d)~~(c)~~ Determine whether there is an indication that a
20 vulnerable ~~any aged person or disabled~~ adult is abused,
21 neglected, or exploited, ~~including a determination of harm or~~
22 ~~threatened harm to any aged person or disabled adult;~~

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

25 (f) Determine, if possible, ~~and a determination as to~~
26 the person or persons apparently responsible for the abuse,
27 neglect, or exploitation, including ~~the~~ name, address, date of
28 birth, social security number, sex, and race ~~of each person to~~
29 ~~be classified as an alleged perpetrator in a proposed~~
30 ~~confirmed report. An alleged perpetrator named in a proposed~~
31 ~~confirmed report of abuse, neglect, or exploitation shall~~

1 ~~cooperate in the provision of the required data for the~~
2 ~~central abuse registry and tracking system to the fullest~~
3 ~~extent possible.~~

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

7 (h)~~(e)~~ Determine the protective, treatment, and
8 ameliorative services necessary to safeguard and ensure the
9 vulnerable ~~aged person's or disabled~~ adult's well-being and
10 cause the delivery of those services ~~through the early~~
11 ~~intervention of the departmental worker responsible for~~
12 ~~service provision and management of identified services.~~

13 (4)~~(2)~~ No later than 60 ~~30~~ days after receiving the
14 initial report, the designated protective investigative ~~adult~~
15 ~~services~~ staff of the department shall complete the ~~its~~
16 investigation and ~~classify the report as proposed confirmed or~~
17 ~~unfounded or close the report without classification and~~
18 notify the guardian of the vulnerable ~~aged person or disabled~~
19 adult, the vulnerable ~~aged person or disabled~~ adult, and the
20 caregiver of any recommendations of services to be provided to
21 ameliorate the causes or effects of abuse, neglect, or
22 exploitation ~~alleged perpetrator. These findings must be~~
23 ~~reported to the department's central abuse registry and~~
24 ~~tracking system. For proposed confirmed reports, after~~
25 ~~receiving the final administrative order rendered in a hearing~~
26 ~~requested pursuant to s. 415.103(3)(d) or after the 30-day~~
27 ~~period during which an alleged perpetrator may request such a~~
28 ~~hearing has expired, the department shall classify the report~~
29 ~~of abuse, neglect, or exploitation as confirmed or unfounded~~
30 ~~and shall report its findings to the department's central~~

31

1 ~~abuse registry and tracking system, and must do so in~~
2 ~~accordance with the final order if a hearing was held.~~

3 (5)(3) Whenever the law enforcement ~~criminal justice~~
4 agency and the department have conducted independent
5 investigations, the law enforcement ~~criminal justice~~ agency
6 shall, within 5 working days after concluding its
7 investigation, report its findings ~~from its investigation~~ to
8 the state attorney and to the department.

9 (6)(4) Upon receipt of a report which alleges that an
10 employee or agent of the department acting in an official
11 capacity has committed an act of abuse, neglect, or
12 exploitation, the department shall commence, or cause to be
13 commenced ~~within 24 hours~~, a protective ~~services~~ investigation
14 and shall notify the state attorney in whose circuit the
15 alleged abuse, neglect, or exploitation occurred.

16 (7)(5) With respect to any case of reported abuse,
17 neglect, or exploitation of a vulnerable ~~an aged person or~~
18 ~~disabled~~ adult, the department, when appropriate, shall
19 transmit all relevant reports ~~received by it which pertain to~~
20 ~~the investigation~~ to the state attorney of the circuit where
21 the incident occurred.

22 (8)(6) Within 15 days after ~~of~~ completion of the state
23 attorney's investigation of a case reported to him or her
24 pursuant to this section, the state attorney shall report his
25 or her findings to the department and shall include a
26 determination of whether or not prosecution is justified and
27 appropriate in view of the circumstances of the specific case.

28 (9)(7) The department shall not use a warning,
29 reprimand, or disciplinary action against an employee, found
30 in that employee's personnel records, as the sole basis for a
31 finding of abuse, neglect, or exploitation.

1 Section 11. Section 415.1045, Florida Statutes, is
2 amended to read:

3 415.1045 ~~Protective investigations; onsite~~
4 ~~investigations; Photographs, videotapes, and medical~~
5 ~~examinations; abrogation of privileged communications;~~
6 ~~confidential records and documents; classification or closure~~
7 ~~of records.--~~

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

9 ~~(a) The department shall, upon receipt of a report~~
10 ~~alleging abuse or neglect of a disabled adult or an elderly~~
11 ~~person, commence, or cause to be commenced within 24 hours, a~~
12 ~~protective investigation of the facts alleged therein. The~~
13 ~~department shall, upon receipt of a report alleging only the~~
14 ~~exploitation of a disabled adult or an elderly person,~~
15 ~~commence, or cause to be commenced within 24 hours, excluding~~
16 ~~Saturdays, Sundays, and legal holidays, a protective~~
17 ~~investigation of the facts alleged therein.~~

18 ~~(b) Upon commencing an investigation, the adult~~
19 ~~protective investigator shall inform all disabled adults and~~
20 ~~elderly persons and alleged perpetrators named in the report~~
21 ~~of the following:~~

22 ~~1. The names of the investigators and identifying~~
23 ~~credentials from the department.~~

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

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

26 ~~4. That the victim, the victim's guardian, the~~
27 ~~victim's caregiver, and the alleged perpetrator, and legal~~
28 ~~counsel for any of those persons, have a right to a copy of~~
29 ~~the report at the conclusion of the investigation.~~

30
31

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

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

7 ~~(c) Except as provided in paragraph (d), in an~~
8 ~~investigative interview, any person being interviewed may be~~
9 ~~represented by an attorney, at the person's own expense, or~~
10 ~~may choose to have another person present. The other person~~
11 ~~present may not be an alleged perpetrator in any report~~
12 ~~currently under investigation. Before participating in such~~
13 ~~interview, the other person present shall execute an agreement~~
14 ~~to comply with the confidentiality requirements of ss.~~

15 ~~415.101-415.113. The absence of an attorney or other person~~
16 ~~does not prevent the department from proceeding with other~~
17 ~~aspects of the investigation, including interviews with other~~
18 ~~persons.~~

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

22 ~~(2) ONSITE INVESTIGATIONS. For each report it~~
23 ~~receives, the department shall perform an onsite investigation~~
24 ~~to:~~

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

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

30 ~~(c) Determine whether there is an indication that any~~
31 ~~disabled adult or elderly person has been or is being abused,~~

1 ~~neglected, or exploited, including a determination of the~~
2 ~~immediate and long-term risk; the nature and extent of present~~
3 ~~or prior injuries; and the nature and extent of any abuse,~~
4 ~~neglect, or exploitation, and any evidence thereof.~~

5 ~~(d) Determine whether protective and ameliorative~~
6 ~~services are necessary to safeguard and ensure the disabled~~
7 ~~adult's or elderly person's well-being and cause the delivery~~
8 ~~of those services.~~

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

11 ~~(f) Determine the composition of the family or~~
12 ~~household, including all disabled adults and elderly persons~~
13 ~~named in the report, all persons in the care of the caregiver,~~
14 ~~any other persons responsible for the disabled adult's or~~
15 ~~elderly person's welfare, and any other adults or children in~~
16 ~~the same household.~~

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

21 (1)(3) PHOTOGRAPHS AND VIDEOTAPES.--

22 (a) The ~~adult~~ protective investigator, while
23 investigating a report of abuse, neglect, or exploitation, may
24 take or cause to be taken photographs and videotapes of the
25 vulnerable disabled adult ~~or elderly person~~, and of his or her
26 ~~the disabled adult's or elderly person's~~ environment, which
27 are relevant to the investigation. All photographs and
28 videotapes taken during the course of the protective
29 investigation are confidential and exempt from public
30 disclosure as provided in s. 415.107.

31

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

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

5 (a) With the consent of the vulnerable ~~disabled~~ adult
6 ~~or elderly person~~ who has the capacity to consent or the
7 vulnerable ~~disabled~~ adult's ~~or elderly person's~~ guardian, or
8 pursuant to s. 415.1051, the department may cause the
9 vulnerable ~~disabled~~ adult ~~or elderly person~~ to be referred to
10 a licensed physician or any emergency department in a hospital
11 or health care facility for medical examination, diagnosis, or
12 treatment if any of the following circumstances exist:

13 1. The areas of trauma visible on the vulnerable
14 ~~disabled~~ adult ~~or elderly person~~ indicate a need for medical
15 examination;

16 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~
17 verbally complains or otherwise exhibits signs or symptoms
18 indicating a need for medical attention as a consequence of
19 suspected abuse, neglect, or exploitation; or

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

22 (b) Upon admission to a hospital or health care
23 facility, with the consent of the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ who has capacity to consent or that person's
25 guardian, or pursuant to s. 415.1051, the medical staff of the
26 facility may examine, diagnose, or treat the vulnerable
27 ~~disabled~~ adult ~~or elderly person~~. If a person who has legal
28 authority to give consent for the provision of medical
29 treatment to a vulnerable ~~disabled~~ adult ~~or elderly person~~ has
30 not given or has refused to give such consent, examination and
31 treatment must be limited to reasonable examination of the

1 patient to determine the medical condition of the patient and
2 treatment reasonably necessary to alleviate the medical
3 condition or to stabilize the patient pending a determination
4 by the court of the department's petition authorizing
5 protective services. Any person may seek an expedited
6 judicial intervention under rule 5.900 of the Florida Probate
7 Rules concerning medical treatment procedures.

8 (c) Medical examination, diagnosis, and treatment
9 provided under this subsection must be paid for by third-party
10 reimbursement, if available, or by the vulnerable disabled
11 adult, if he or she is ~~or elderly person or that person's~~
12 ~~guardian from the disabled adult's or elderly person's assets,~~
13 ~~if the disabled adult or elderly person is determined to be~~
14 ~~financially able to pay; or, if~~ he or she ~~the disabled adult~~
15 ~~or elderly person~~ is unable to pay, the department shall pay
16 the costs within available emergency services funds.

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

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

23 (3)~~(5)~~ ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
24 privileged quality of communication between husband and wife
25 and between any professional and the professional's patient or
26 client, and any other privileged communication except that
27 between attorney and client or clergy and person, as such
28 communication relates to both the competency of the witness
29 and to the exclusion of confidential communications, does not
30 apply to any situation involving known or suspected abuse,
31 neglect, or exploitation of a vulnerable disabled adult ~~or an~~

1 ~~elderly person~~ and does not constitute grounds for failure to
2 report as required by s. 415.1034, for failure to cooperate
3 with the department in its activities under ss.
4 415.101-415.113, or for failure to give evidence in any
5 judicial or administrative proceeding relating to abuse,
6 neglect, or exploitation of a vulnerable disabled adult ~~or an~~
7 ~~elderly person~~.

8 (4)(6) MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR
9 DOCUMENTS.--

10 (a) The ~~adult~~ protective investigator, while
11 investigating a report of abuse, neglect, or exploitation,
12 must have access to, inspect, and copy all medical, social, or
13 financial records or documents in the possession of any
14 person, caregiver, guardian, or facility which are relevant to
15 the allegations under investigation, unless specifically
16 prohibited by the vulnerable disabled adult ~~or elderly person~~
17 who has capacity to consent.

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

- 21 1. Report as required by s. 415.1034;
- 22 2. Cooperate with the department in its activities
23 under ss. 415.101-415.113;
- 24 3. Give access to such records or documents; or
- 25 4. Give evidence in any judicial or administrative
26 proceeding relating to abuse, neglect, or exploitation of a
27 vulnerable disabled adult ~~or an elderly person~~.

28 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
29 refuses to allow the protective investigator to have access
30 to, inspect, or copy any medical, social, or financial record
31 or document in the possession of any person, caregiver,

1 guardian, or facility which is relevant to the allegations
2 under investigation, the department may petition the court for
3 an order requiring the person to allow access to the record or
4 document. The petition must allege specific facts sufficient
5 to show that the record or document is relevant to the
6 allegations under investigation and that the person refuses to
7 allow access to such record or document. If the court finds
8 by a preponderance of the evidence that the record or document
9 is relevant to the allegations under investigation, the court
10 may order the person to allow access to and permit the
11 inspection or copying of the medical, social, or financial
12 record or document.

13 (6) WORKING AGREEMENTS.--The department shall enter
14 into working agreements with the jurisdictionally responsible
15 county sheriffs' office or local police department that will
16 be the lead agency when conducting any criminal investigation
17 arising from an allegation of abuse, neglect, or exploitation
18 of a vulnerable adult. The working agreement must specify how
19 the requirements of this chapter will be met. For the purposes
20 of such agreement, the jurisdictionally responsible law
21 enforcement entity is authorized to share Florida criminal
22 history and local criminal history information that is not
23 otherwise exempt from s. 119.07(1) with the district
24 personnel. A law enforcement entity entering into such
25 agreement must comply with s. 943.0525. Criminal justice
26 information provided by such law enforcement entity shall be
27 used only for the purposes specified in the agreement and
28 shall be provided at no charge. Notwithstanding any other
29 provision of law, the Department of Law Enforcement shall
30 provide to the department electronic access to Florida
31 criminal justice information which is lawfully available and

1 not exempt from s. 119.07(1), only for the purpose of
2 protective investigations and emergency placement. As a
3 condition of access to such information, the department shall
4 be required to execute an appropriate user agreement
5 addressing the access, use, dissemination, and destruction of
6 such information and to comply with all applicable laws and
7 rules of the Department of Law Enforcement.

8 ~~(7) CLASSIFICATIONS AND CLOSURES.--No later than 45~~
9 ~~days after receiving an initial report in which the department~~
10 ~~has jurisdiction, the adult protective investigator shall~~
11 ~~complete the investigation and classify the report as proposed~~
12 ~~confirmed or unfounded, or close the report without~~
13 ~~classification. The adult protective investigator must~~
14 ~~document the details of the investigation, close the report,~~
15 ~~and enter the data into the central abuse registry and~~
16 ~~tracking system no later than 60 days after receiving the~~
17 ~~initial report.~~

18 Section 12. Section 415.105, Florida Statutes, is
19 amended to read:

20 415.105 Provision of protective services with consent;
21 withdrawal of consent; interference.--

22 (1) PROTECTIVE SERVICES WITH CONSENT.--If the
23 department determines through its investigation that a
24 vulnerable disabled adult ~~or an elderly person~~ demonstrates a
25 need for protective services or protective supervision, the
26 department shall immediately provide, or arrange for the
27 provision of, protective services or protective supervision,
28 including in-home services, provided that the vulnerable
29 disabled adult ~~or elderly person~~ consents. A vulnerable adult
30 ~~disabled person~~ in need of services as defined in s. 415.102
31 shall be referred to the community care for disabled adults

1 program, or. ~~An elderly person in need of services as defined~~
2 ~~in s. 415.102 shall be referred~~ to the community care for the
3 elderly program administered by the Department of Elderly
4 Affairs.

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

9 (3) INTERFERENCE WITH THE PROVISION OF PROTECTIVE
10 SERVICES.--When any person refuses to allow the provision of
11 protective services to a vulnerable adult who has the capacity
12 to consent to services, the department shall petition the
13 court for an order enjoining the person from interfering with
14 the provision of protective services. The petition must
15 allege specific facts sufficient to show that the vulnerable
16 adult is in need of protective services and that the person
17 refuses to allow the provision of such services. If the court
18 finds by clear and convincing evidence that the vulnerable
19 adult is in need of protective services and that the person
20 refuses to allow the provision of such services, the court may
21 issue an order enjoining the person from interfering with the
22 provision of protective services to the vulnerable adult.

23 Section 13. Section 415.1051, Florida Statutes, is
24 amended to read:

25 415.1051 Protective services interventions when
26 capacity to consent is lacking; nonemergencies; emergencies;
27 orders; limitations.--

28 (1) NONEMERGENCY PROTECTIVE SERVICES
29 INTERVENTIONS.--If the department has reasonable cause to
30 believe that a vulnerable disabled ~~adult or elderly person~~ is
31 being abused, neglected, or exploited and is in need of

1 protective services but lacks the capacity to consent to
2 protective services, the department shall petition the court
3 for an order authorizing the provision of protective services.

4 (a) Nonemergency protective services petition.--The
5 petition must state the name, age, and address of the
6 vulnerable ~~disabled~~ adult ~~or elderly person~~, allege specific
7 facts sufficient to show that the vulnerable ~~disabled~~ adult ~~or~~
8 ~~elderly person~~ is in need of protective services and lacks the
9 capacity to consent to them, and indicate the services needed.

10 (b) Notice.--Notice of the filing of the petition and
11 a copy of the petition must be given to the vulnerable
12 ~~disabled~~ adult ~~or elderly person~~, to that person's spouse,
13 guardian, and legal counsel, and, when known, to the adult
14 children or next of kin of the vulnerable ~~disabled~~ adult ~~or~~
15 ~~elderly person~~. Such notice must be given at least 5 days
16 before the hearing.

17 (c) Hearing.--

18 1. The court shall set the case for hearing within 14
19 days after the filing of the petition. The vulnerable
20 ~~disabled~~ adult ~~or elderly person~~ and any person given notice
21 of the filing of the petition have the right to be present at
22 the hearing. The department must make reasonable efforts to
23 ensure the presence of the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ at the hearing.

25 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~ has
26 the right to be represented by legal counsel at the hearing.
27 The court shall appoint legal counsel to represent a
28 vulnerable ~~disabled~~ adult ~~or elderly person~~ who is without
29 legal representation.

30 3. The court shall determine whether:
31

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

3 b. The vulnerable ~~disabled adult or elderly person~~
4 lacks the capacity to consent to the provision of such
5 services.

6 (d) Hearing findings.--If at the hearing the court
7 finds by clear and convincing evidence that the vulnerable
8 ~~disabled adult or elderly person~~ is in need of protective
9 services and lacks the capacity to consent ~~to protective~~
10 ~~services~~, the court may issue an order authorizing the
11 provision of protective services. If an order for protective
12 services is issued, it must include a statement of the
13 services to be provided and designate an individual or agency
14 to be responsible for performing or obtaining the essential
15 services on behalf of the vulnerable ~~disabled adult or elderly~~
16 ~~person~~ or otherwise consenting to protective services on
17 behalf of the vulnerable ~~disabled adult or elderly person~~.

18 (e) Continued protective services.--

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

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

25 b. Protective services will be continued for the
26 vulnerable ~~disabled adult or elderly person~~ who lacks
27 capacity;

28 c. Protective services will be discontinued; or

29 d. A petition for guardianship should be filed
30 pursuant to chapter 744.

31

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

6 (f) Costs.--The costs of services ordered under this
7 section must be paid by the perpetrator if the perpetrator is
8 financially able to do so; or by third-party reimbursement, if
9 available. If the vulnerable ~~disabled~~ adult ~~or elderly person~~
10 is unable to pay for guardianship, application may be made to
11 the public guardian for public guardianship services, if
12 available.

13 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If
14 the department has reasonable cause to believe that a
15 vulnerable ~~disabled~~ adult ~~or an elderly person~~ is suffering
16 from abuse or neglect that presents a risk of death or serious
17 physical injury to the vulnerable ~~disabled~~ adult ~~or elderly~~
18 ~~person~~ and that the vulnerable ~~disabled~~ adult ~~or elderly~~
19 ~~person~~ lacks the capacity to consent to emergency protective
20 services, the department may take action under this
21 subsection. If the vulnerable ~~disabled~~ adult ~~or elderly~~
22 ~~person~~ has the capacity to consent and refuses consent to
23 emergency protective services, emergency protective services
24 may not be provided.

25 (a) Emergency entry of premises.--If, upon arrival at
26 the scene of the incident, consent is not obtained for access
27 to the alleged victim for purposes of conducting a protective
28 investigation under this subsection and the department has
29 reason to believe that the situation presents a risk of death
30 or serious physical injury, a representative of the department
31 and a law enforcement officer may forcibly enter the premises.

1 If, after obtaining access to the alleged victim, it is
2 determined through a personal assessment of the situation that
3 no emergency exists and there is no basis for emergency
4 protective services intervention under this subsection, the
5 department shall terminate the emergency entry ~~and may provide~~
6 ~~protective services with the consent of the disabled adult or~~
7 ~~elderly person or may petition the court to provide~~
8 ~~nonemergency protective services or protective supervision~~
9 ~~pursuant to subsection (1).~~

10 (b) Emergency removal from premises.--If it appears
11 that the vulnerable ~~disabled~~ adult ~~or elderly person~~ lacks the
12 capacity to consent to emergency protective services and that
13 the vulnerable ~~disabled~~ adult ~~or elderly person~~, from the
14 personal observations of the representative of the department
15 and specified medical personnel or law enforcement officers,
16 is likely to incur a risk of death or serious physical injury
17 if such person is not immediately removed from the premises,
18 then the representative of the department shall transport or
19 arrange for the transportation of the vulnerable ~~disabled~~
20 adult ~~or elderly person~~ to an appropriate medical or
21 protective services facility in order to provide emergency
22 protective services. Law enforcement personnel have a duty to
23 transport when medical transportation is not available or
24 needed and the vulnerable ~~disabled~~ adult ~~or elderly person~~
25 presents a threat of injury to self or others. If the
26 vulnerable ~~disabled~~ adult's ~~or elderly person's~~ caregiver or
27 guardian is present, the ~~adult~~ protective investigator must
28 seek the caregiver's or guardian's consent pursuant to
29 subsection (4) before the vulnerable ~~disabled~~ adult ~~or elderly~~
30 ~~person~~ may be removed from the premises, unless the ~~adult~~
31 protective investigator suspects that the vulnerable ~~disabled~~

1 adult's ~~or elderly person's~~ caregiver or guardian has caused
2 the abuse, neglect, or exploitation ~~to the disabled adult or~~
3 ~~elderly person~~. The department shall, within 24 hours after
4 providing or arranging for emergency removal of the vulnerable
5 ~~disabled adult or elderly person~~, excluding Saturdays,
6 Sundays, and legal holidays, petition the court for an order
7 authorizing emergency protective services.

8 (c) Emergency medical treatment.--If, upon admission
9 to a medical facility, it is the opinion of the medical staff
10 that immediate medical treatment is necessary to prevent
11 serious physical injury or death, and that such treatment does
12 not violate a known health care advance directive prepared by
13 the vulnerable ~~disabled adult or elderly person~~, the medical
14 facility may proceed with treatment to the vulnerable ~~disabled~~
15 ~~adult or elderly person~~. If a person with legal authority to
16 give consent for the provision of medical treatment to a
17 vulnerable ~~disabled~~ adult ~~or an elderly person~~ has not given
18 or has refused to give such consent, examination and treatment
19 must be limited to reasonable examination of the patient to
20 determine the medical condition of the patient and treatment
21 reasonably necessary to alleviate the emergency medical
22 condition or to stabilize the patient pending court
23 determination of the department's petition authorizing
24 emergency protective services. Any person may seek an
25 expedited judicial intervention under rule 5.900 of the
26 Florida Probate Rules concerning medical treatment procedures.

27 (d) Emergency protective services petition.--A
28 petition filed under this subsection must state the name, age,
29 and address of the vulnerable ~~disabled adult or elderly person~~
30 and allege the facts constituting the emergency protective
31 services intervention and subsequent removal of the vulnerable

1 ~~disabled adult or elderly person~~ or provision of in-home
2 services, the facts relating to the capacity of the vulnerable
3 ~~disabled adult or elderly person~~ to consent to services, the
4 efforts of the department to obtain consent, and the services
5 needed or delivered.

6 (e) Notice.--Notice of the filing of the emergency
7 protective services petition and a copy of the petition must
8 be given to the vulnerable ~~disabled adult or elderly person~~,
9 to that person's spouse, to that person's guardian, if any, to
10 legal counsel representing the vulnerable ~~disabled adult or~~
11 ~~elderly person~~, and, when known, to adult children or next of
12 kin of the vulnerable ~~disabled adult or elderly person~~. Such
13 notice must be given at least 24 hours before any hearing on
14 the petition for emergency protective services.

15 (f) Hearing.--When emergency removal has occurred
16 under this subsection, a hearing must be held within 4 days
17 after the filing of the emergency protective services
18 petition, excluding Saturday, Sunday, and legal holidays, to
19 establish reasonable cause for grounds to continue emergency
20 protective services.

21 1. The court shall determine, by clear and convincing
22 evidence, whether an emergency existed which justified the
23 emergency protective services intervention, whether the
24 vulnerable ~~disabled adult or elderly person~~ is in need of
25 emergency protective services, whether the vulnerable ~~disabled~~
26 ~~adult or elderly person~~ lacks the capacity to consent to
27 emergency protective services, and whether:

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

31

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

4 c. Emergency protective services will be discontinued.

5 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~ has
6 the right to be represented by legal counsel at the hearing.
7 The court shall appoint legal counsel to represent a
8 vulnerable ~~disabled~~ adult ~~or an elderly person~~ who is without
9 legal representation.

10 3. The department must make reasonable efforts to
11 ensure the presence of the vulnerable ~~disabled~~ adult ~~or~~
12 ~~elderly person~~ at the hearing.

13 4. If an order to continue emergency protective
14 services is issued, it must state the services to be provided
15 and designate an individual or agency to be responsible for
16 performing or obtaining the essential services ~~on behalf of~~
17 ~~the disabled adult or elderly person~~, or otherwise consenting
18 to protective services on behalf of the vulnerable ~~disabled~~
19 adult ~~or elderly person~~.

20 (g) Continued emergency protective services.--

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

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

27 b. Emergency protective services will be continued for
28 the vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
29 capacity;

30 c. Emergency protective services will be discontinued;

31 or

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

2 2. If it is decided to file a petition under chapter
3 744, for good cause shown, the court may order continued
4 emergency protective services until a determination is made by
5 the court ~~regarding the disabled adult's or elderly person's~~
6 ~~capacity.~~

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

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

16 (a) Only such protective services as are necessary to
17 ameliorate the conditions creating the abuse, neglect, or
18 exploitation may be ordered, and the court shall specifically
19 designate the approved services in the order of the court.

20 (b) Protective services ordered may not include a
21 change of residence, unless the court specifically finds such
22 action is necessary to ameliorate the conditions creating the
23 abuse, neglect, or exploitation and the court gives specific
24 approval for such action in the order. Placement may be made
25 to such facilities as adult family-care homes, assisted living
26 facilities, or nursing homes, or to other appropriate
27 facilities. Placement may not be made to facilities for the
28 acutely mentally ill, except as provided in chapter 394.

29 (c) If an order to continue emergency protective
30 services is issued, it must include the designation of an
31 individual or agency to be responsible for performing or

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

5 (4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER
6 OR GUARDIAN PRESENT.--

7 (a) When a vulnerable ~~disabled adult or an elderly~~
8 ~~person~~ who lacks the capacity to consent has been identified
9 ~~in a report as the victim of abuse, neglect, or exploitation~~
10 ~~and evidences a need for emergency or nonemergency protective~~
11 ~~services or protective supervision, and a caregiver or~~
12 ~~guardian who is responsible for the care of the disabled adult~~
13 ~~or elderly person is present, the adult protective~~
14 investigator must first request consent from the caregiver or
15 guardian, if present, before providing protective services or
16 protective supervision, unless the ~~adult~~ protective
17 investigator suspects that the ~~disabled adult's or elderly~~
18 ~~person's~~ caregiver or guardian has caused the abuse, neglect,
19 or exploitation of the ~~disabled adult or elderly person~~.

20 (b) If the caregiver or guardian agrees to engage or
21 provide services designed to prevent further abuse, neglect,
22 or exploitation, the department may provide protective
23 supervision ~~for the disabled adult or elderly person~~.

24 (c) If the caregiver or guardian refuses to give
25 consent or later withdraws consent to agreed-upon services, or
26 otherwise fails to provide needed care and supervision, the
27 department may provide emergency protective services as
28 provided in subsection (2). If emergency protective services
29 are so provided, the department must then petition the court
30 for an order to provide emergency protective services under
31 subsection (3).

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

7 ~~(6)(5)~~ LIMITATIONS.--This section does not limit in
8 any way the authority of the court or a criminal justice
9 officer, or any other duly appointed official, to intervene in
10 emergency circumstances under existing statutes. This section
11 does not limit the authority of any person to file a petition
12 for guardianship under chapter 744.

13 Section 14. Section 415.1052, Florida Statutes, is
14 amended to read:

15 415.1052 Interference with investigation or with the
16 provision of protective services.--

17 (1) If, upon arrival of the ~~adult~~ protective
18 investigator, any person refuses to allow the department to
19 begin a protective investigation, interferes with the
20 department's ability to conduct such an investigation, or
21 refuses to give access to the vulnerable ~~disabled~~ adult ~~or~~
22 ~~elderly person~~, the appropriate law enforcement agency must be
23 contacted to assist the department in commencing the
24 protective investigation.

25 ~~(2) If any person refuses to allow the adult~~
26 ~~protective investigator to have access to, inspect, or copy~~
27 ~~any medical, social, or financial record or document in the~~
28 ~~possession of any person, caregiver, guardian, or facility~~
29 ~~which is relevant to the allegations under investigation, the~~
30 ~~department may petition the court for an order requiring the~~
31 ~~person to give access to the record or document. The petition~~

1 ~~must allege specific facts sufficient to show that the record~~
2 ~~or document is relevant to the allegations under investigation~~
3 ~~and that the person refuses to give access to such record or~~
4 ~~document. If the court finds by a preponderance of the~~
5 ~~evidence that the record or document is relevant to the~~
6 ~~allegations under investigation, the court may order the~~
7 ~~person to give access to and permit the inspection or copying~~
8 ~~of the medical, social, or financial record or document.~~

9 (2)(3) When any person refuses to allow the provision
10 of protective services to the vulnerable ~~disabled~~ adult or
11 ~~elderly person~~ who has the capacity to consent to services,
12 the department shall petition the court for an order enjoining
13 the person from interfering with the provision of protective
14 services. The petition must allege specific facts sufficient
15 to show that the vulnerable ~~disabled~~ adult or ~~elderly person~~
16 is in need of protective services and that the person refuses
17 to allow the provision of such services. If the court finds
18 by clear and convincing evidence that the vulnerable ~~disabled~~
19 ~~adult or elderly person~~ is in need of protective services and
20 that the person refuses to allow the provision of such
21 services, the court may issue an order enjoining the person
22 from interfering with the provision of protective services to
23 the vulnerable ~~disabled~~ adult or ~~elderly person~~.

24 (4) ~~When a court order exists authorizing protective~~
25 ~~services for a disabled adult or an elderly person who lacks~~
26 ~~capacity to consent and any person interferes with the~~
27 ~~provision of such court-ordered protective services to the~~
28 ~~disabled adult or elderly person, the appropriate law~~
29 ~~enforcement agency shall enforce the order of the court.~~

30 Section 15. Section 415.1055, Florida Statutes, is
31 amended to read:

1 415.1055 Notification to administrative entities,
2 ~~subjects, and reporters; notification to law enforcement and~~
3 ~~state attorneys.--~~

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

5 ~~(a) The department shall, within 24 hours after~~
6 ~~receipt of a report of abuse, neglect, or exploitation of a~~
7 ~~disabled adult or an elderly person within a facility,~~
8 ~~excluding Saturdays, Sundays, and legal holidays, notify the~~
9 ~~appropriate human rights advocacy committee and the long-term~~
10 ~~care ombudsman council, in writing, that the department has~~
11 ~~reasonable cause to believe that a disabled adult or an~~
12 ~~elderly person has been abused, neglected, or exploited at the~~
13 ~~facility.~~

14 (1)(b) Upon receipt of a report that alleges that an
15 employee or agent of the department or the Department of
16 Elderly Affairs, acting in an official capacity, has committed
17 an act of abuse, neglect, or exploitation, the department
18 shall notify the state attorney in whose circuit the abuse,
19 neglect, or exploitation occurred. This notification may be
20 oral or written.

21 (2)(c) If at any time during a protective
22 investigation the department has reasonable cause to believe
23 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
24 abused, neglected, or exploited by another person, the state
25 attorney having jurisdiction in the county in which the abuse,
26 neglect, or exploitation occurred shall be notified
27 immediately, either orally or in writing.

28 (3)(d) If at any time during a protective
29 investigation the department has reasonable cause to believe
30 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
31 abused, neglected, or exploited by another person, the

1 appropriate law enforcement agency shall be immediately
2 notified. Such agency may begin a criminal investigation
3 concurrent with or independent of the protective investigation
4 of the department. This notification may be oral or written.

5 (4)~~(e)~~ If at any time during a protective
6 investigation the department has reasonable cause to believe
7 that abuse, neglect, or exploitation of a vulnerable ~~disabled~~
8 ~~adult or an elderly person~~ has occurred within a facility that
9 receives Medicaid funds, the department shall notify the
10 Medicaid Fraud Control Unit within the Department of Legal
11 Affairs, Office of the Attorney General, in order that it may
12 begin an investigation concurrent with the protective
13 investigation of the department. This notification may be oral
14 or written.

15 (5)~~(f)~~ If at any time during a protective
16 investigation the department has reasonable cause to believe
17 that an employee of a facility, as defined in s. 415.102~~(13)~~,
18 is the alleged perpetrator of abuse, neglect, or exploitation
19 of a vulnerable ~~disabled~~ ~~adult or an elderly person~~, the
20 department shall notify the Agency for Health Care
21 Administration, Division of Health Quality Assurance, in
22 writing.

23 (6)~~(g)~~ If at any time during a protective
24 investigation the department has reasonable cause to believe
25 that professional licensure violations have occurred, the
26 department shall notify the Division of Medical Quality
27 Assurance within the Department of Health. This notification
28 must be in writing.

29 (7)~~(h)~~ ~~When a report has been classified as proposed~~
30 ~~confirmed~~, The department shall notify the state attorney
31 having jurisdiction in the county in which the abuse, neglect,

1 or exploitation occurred. ~~The department may submit a report~~
2 ~~that has been closed without classification~~ if evidence
3 indicates that further criminal investigation is warranted.
4 This notification must be in writing.

5 (8)(i) At the conclusion of a protective investigation
6 at a facility, the department shall notify either the human
7 rights advocacy committee or long-term care ombudsman council
8 of the results of the investigation. This notification must
9 be in writing.

10 ~~(j) At the conclusion of a protective investigation,~~
11 ~~the department shall notify the Agency for Health Care~~
12 ~~Administration when a licensee or a certified nursing~~
13 ~~assistant has been named as perpetrator in a report that has~~
14 ~~been classified as proposed confirmed or confirmed. This~~
15 ~~notification must be in writing.~~

16 (9)(k) When a report has been classified as proposed
17 ~~confirmed in cases~~ involving a guardian of the person or
18 property, or both, is received, the department shall notify
19 the probate court having jurisdiction over the guardianship,
20 ~~of the proposed confirmed report. This notification must be in~~
21 writing.

22 (10) When a report has been received and the
23 department has reason to believe that a vulnerable adult
24 resident of a facility licensed by the Agency for Health Care
25 Administration has been the victim of abuse, neglect, or
26 exploitation, the department shall provide a copy of its
27 investigation to the agency. If the investigation determines
28 that a health professional licensed or certified under the
29 Department of Health may have abused, neglected, or exploited
30 a vulnerable adult, the department shall also provide a copy
31 to the Department of Health.

1 ~~(2) NOTIFICATION TO OTHER PERSONS.~~

2 ~~(a) In the case of a report that has been classified~~
3 ~~as unfounded, notice of the classification must be given to~~
4 ~~the disabled adult or elderly person, the guardian of that~~
5 ~~person, the caregiver of that person, and the person who had~~
6 ~~been named as the alleged perpetrator. The notice must be~~
7 ~~sent by regular mail and must advise the recipient that the~~
8 ~~report will be expunged in 1 year.~~

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

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

17 ~~2. The notice must advise the recipient of the~~
18 ~~recipient's right to request a copy of the report within 60~~
19 ~~days after receipt of the notice.~~

20 ~~3. The notice must clearly advise the alleged~~
21 ~~perpetrator that the alleged perpetrator has the right to~~
22 ~~request amendment or expunction of the report within 60 days~~
23 ~~after receipt of the notice, and that failure to request~~
24 ~~amendment or expunction within 60 days means that the report~~
25 ~~will be reclassified as confirmed at the expiration of the 60~~
26 ~~days and that the alleged perpetrator agrees not to contest~~
27 ~~the classification of the report. No further administrative or~~
28 ~~judicial proceedings in the matter are allowed.~~

29 ~~4. The notice must state that, if the report becomes~~
30 ~~confirmed, the alleged perpetrator may be disqualified from~~
31

1 ~~working with children, the developmentally disabled, disabled~~
2 ~~adults, and elderly persons.~~

3 ~~5. Notice of a proposed confirmed report must be~~
4 ~~personally served upon the alleged perpetrator in this state~~
5 ~~by an adult protective investigator, a sheriff, or a private~~
6 ~~process server in the district in which the alleged~~
7 ~~perpetrator resides, works, or can be found. Proof of service~~
8 ~~of the notice must be by affidavit prepared by the individual~~
9 ~~serving the notice upon the alleged perpetrator. The~~
10 ~~affidavit must state the name of the person serving the~~
11 ~~notice, the name of the alleged perpetrator served, the~~
12 ~~location at which the alleged perpetrator was served, and the~~
13 ~~time the notice was served. If the notice of a proposed~~
14 ~~confirmed report cannot be personally served upon the alleged~~
15 ~~perpetrator in this state or if the alleged perpetrator does~~
16 ~~not reside in this state, the notice of the proposed confirmed~~
17 ~~report must be sent by certified mail, return receipt~~
18 ~~requested, forwarding and address correction requested, to the~~
19 ~~last known address of the alleged perpetrator. If an alleged~~
20 ~~perpetrator cannot be served either by personal service or by~~
21 ~~certified mail, the record of the proposed confirmed report~~
22 ~~must be maintained pursuant to s. 415.1065.~~

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

27 ~~7. If a proposed confirmed report becomes confirmed~~
28 ~~because the alleged perpetrator fails to make a timely request~~
29 ~~to amend or expunge the proposed confirmed report, the~~
30 ~~department must give notice of the confirmed classification to~~
31 ~~the perpetrator and the perpetrator's legal counsel.~~

1 ~~a. Notice of the confirmed classification must inform~~
2 ~~the perpetrator that the perpetrator may be disqualified from~~
3 ~~working with children, the developmentally disabled, disabled~~
4 ~~adults, and elderly persons.~~

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

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

9 ~~(c) If a report is closed without classification,~~
10 ~~notice must be given to the guardian of the disabled adult or~~
11 ~~elderly person, the disabled adult or elderly person, the~~
12 ~~caregiver of that person, any person or facility named in the~~
13 ~~report, and the person who had been named as the alleged~~
14 ~~perpetrator. The notice must be sent by regular mail and must~~
15 ~~advise the recipient that:~~

16 ~~1. The report will be retained for 7 years.~~

17 ~~2. The recipient has a right to request a copy of this~~
18 ~~report.~~

19 ~~3. Any person or facility named in a report classified~~
20 ~~as closed without classification has the right to request~~
21 ~~amendment or expunction of the report within 60 days after the~~
22 ~~receipt of the notice, and that failure to request amendment~~
23 ~~or expunction within 60 days means that the report will remain~~
24 ~~classified as closed without classification and that the~~
25 ~~person agrees not to contest the classification of the report.~~
26 ~~No further proceeding will be allowed in this matter.~~

27 ~~(d) In the case of a report that has been determined~~
28 ~~by an adult protective services investigator to be either a~~
29 ~~disabled adult in need of services or an elderly person in~~
30 ~~need of services, as defined in s. 415.102, no classification~~
31

1 ~~of the report shall be made and no notification shall be~~
2 ~~required.~~

3 ~~(e) The department shall adopt rules prescribing the~~
4 ~~content of the notices to be provided and requiring uniformity~~
5 ~~of content and appearance of each notice of classification or~~
6 ~~closure without classification.~~

7 ~~(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE~~
8 ~~ATTORNEYS.--~~

9 ~~(a) Whenever the law enforcement agency and the~~
10 ~~department have conducted independent investigations, the law~~
11 ~~enforcement agency shall, within 5 working days after~~
12 ~~concluding its investigation, report its findings to the~~
13 ~~department and to the state attorney.~~

14 ~~(b) Within 15 days after completion of an~~
15 ~~investigation of a case reported to the state attorney under~~
16 ~~this section, the state attorney shall report the findings to~~
17 ~~the department and shall include a determination of whether or~~
18 ~~not prosecution is justified and appropriate in view of the~~
19 ~~circumstances of the specific case.~~

20 Section 16. Subsections (2) and (3) of section
21 415.106, Florida Statutes, are amended to read:

22 415.106 Cooperation by the department and criminal
23 justice and other agencies.--

24 (2) To ensure coordination, communication, and
25 cooperation with the investigation of abuse, neglect, or
26 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~,
27 the department shall develop and maintain interprogram
28 agreements or operational procedures among appropriate
29 departmental programs and the State Long-Term Care Ombudsman
30 Council, the Statewide Human Rights Advocacy Committee, and
31 other agencies that provide services to vulnerable ~~disabled~~

1 adults ~~or elderly persons~~. These agreements or procedures must
2 cover such subjects as the appropriate roles and
3 responsibilities of the department in identifying and
4 responding to reports of abuse, neglect, or exploitation of
5 vulnerable disabled adults ~~or elderly persons~~; the provision
6 of services; and related coordinated activities.

7 (3) To the fullest extent possible, the department
8 shall cooperate with and seek cooperation from all appropriate
9 public and private agencies, including health agencies,
10 educational agencies, social service agencies, courts,
11 organizations, or programs providing or concerned with human
12 services related to the prevention, identification, or
13 treatment of abuse, neglect, or exploitation of vulnerable
14 ~~disabled~~ adults ~~and elderly persons~~.

15 Section 17. Section 415.107, Florida Statutes, is
16 amended to read:

17 415.107 Confidentiality of reports and records.--

18 (1) In order to protect the rights of the individual
19 or other persons responsible for the welfare of a vulnerable
20 ~~disabled~~ adult ~~or an elderly person~~, all records concerning
21 reports of abuse, neglect, or exploitation of the vulnerable
22 ~~disabled~~ adult ~~or elderly person~~, including reports made to
23 the central abuse hotline registry and tracking system, and
24 all records generated as a result of such reports shall be
25 confidential and exempt from s. 119.07(1) and may not be
26 disclosed except as specifically authorized by ss.
27 415.101-415.113.

28 (2) Upon the request of the committee chairperson,
29 access to all records shall be granted to staff of the
30 legislative committees with jurisdiction over issues and
31 services related to vulnerable adults, or over the department.

1 All confidentiality provisions that apply to the Department of
2 Children and Family Services continue to apply to the records
3 made available to legislative staff under this subsection.

4 (3)~~(2)~~ Access to all records, excluding the name of
5 the reporter which shall be released only as provided in
6 subsection (6), shall be granted only to the following
7 persons, officials, and agencies:

8 (a) Employees or agents of the department, of the
9 Agency for Health Care Administration, or of the Department of
10 Elderly Affairs who are responsible for carrying out ~~adult~~
11 protective investigations, ongoing ~~adult~~ protective services,
12 or licensure or approval of nursing homes, assisted living
13 facilities, adult day care centers, adult family-care homes,
14 home care for the elderly, hospices, or other facilities used
15 for the placement of vulnerable ~~disabled~~ adults ~~or elderly~~
16 ~~persons~~.

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

20 (c) The state attorney of the judicial circuit in
21 which the vulnerable ~~disabled~~ adult ~~or elderly person~~ resides
22 or in which the alleged abuse, neglect, or exploitation
23 occurred.

24 (d) Any victim, the victim's ~~person who is the subject~~
25 ~~of a report or the subject's~~ guardian, caregiver, or legal
26 counsel, and any person who the department has determined
27 might be abusing, neglecting, or exploiting the victim.

28 (e) A court, by subpoena, upon its finding that access
29 to such records may be necessary for the determination of an
30 issue before the court; however, such access must be limited
31 to inspection in camera, unless the court determines that

1 public disclosure of the information contained in such records
2 is necessary for the resolution of an issue then pending
3 before it.

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

7 (g) Any appropriate official of the human rights
8 advocacy committee or long-term care ombudsman council
9 investigating a report of known or suspected abuse, neglect,
10 or exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
11 ~~person~~.

12 (h) Any appropriate official of the department, of the
13 Agency for Health Care Administration, or of the Department of
14 Elderly Affairs who is responsible for:

15 1. Administration or supervision of the programs for
16 the prevention, investigation, or treatment of ~~adult~~ abuse,
17 neglect, or exploitation of vulnerable adults when carrying
18 out an official function; or

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

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

26 (j) Employees or agents of an agency of another state
27 that has jurisdiction comparable to the jurisdiction described
28 in paragraph (a).

29 (k) The Public Employees Relations Commission for the
30 sole purpose of obtaining evidence for appeals filed pursuant
31 to s. 447.207. Records may be released only after deletion of

1 all information that specifically identifies persons other
2 than the employee.

3 (1) Any person in the event of the death of a
4 vulnerable disabled adult ~~or elderly person~~ determined to be a
5 result of abuse, neglect, or exploitation. Information
6 identifying the person reporting abuse, neglect, or
7 exploitation shall not be released. Any information otherwise
8 made confidential or exempt by law shall not be released
9 pursuant to this paragraph.

10 ~~(3) The Division of Administrative Hearings may have~~
11 ~~access to a proposed confirmed or a confirmed report,~~
12 ~~excluding the name of the reporter, for purposes of any~~
13 ~~administrative challenge relating to a proposed confirmed or~~
14 ~~confirmed report.~~

15 (4) The Department of Health, the Department of
16 Business and Professional Regulation, and the Agency for
17 Health Care Administration may have access to a ~~confirmed~~
18 report, excluding the name of the reporter, when considering
19 ~~taking~~ disciplinary action against a licensee or certified
20 nursing assistant pursuant to allegations ~~for actions that~~
21 ~~resulted in a confirmed report~~ of abuse, neglect, or
22 exploitation ~~which has been upheld following a chapter 120~~
23 ~~hearing or a waiver of such proceedings.~~

24 (5) The department may release to any professional
25 person such information as is necessary for the diagnosis and
26 treatment of, and service delivery to, a vulnerable disabled
27 ~~adult or an elderly person~~ or the person perpetrating the
28 abuse, neglect, or exploitation.

29 (6) The identity of any person reporting ~~adult~~ abuse,
30 neglect, or exploitation of a vulnerable adult may not be
31 released, without that person's written consent, to any person

1 other than employees of the department responsible for ~~adult~~
2 protective services, the central abuse hotline registry and
3 ~~tracking system~~, or the appropriate state attorney or law
4 enforcement agency. This subsection grants protection only
5 for the person who reported the ~~adult~~ abuse, neglect, or
6 exploitation and protects only the fact that the person is the
7 reporter. This subsection does not prohibit the subpoena of a
8 person reporting the ~~adult~~ abuse, neglect, or exploitation
9 when deemed necessary by the state attorney or the department
10 to protect a vulnerable disabled ~~adult or an elderly person~~
11 who is the subject of a report, if the fact that the person
12 made the report is not disclosed.

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

16 (8) Information in the central abuse hotline may not
17 be used for employment screening.

18 ~~(8) The department, upon receipt of the applicable~~
19 ~~fee, shall search its central abuse registry and tracking~~
20 ~~system records pursuant to the requirements of ss. 110.1127,~~
21 ~~393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,~~
22 ~~402.305(1), 402.3055, 402.313, 409.175, 409.176, and 985.407~~
23 ~~for the existence of a confirmed report made on the personnel~~
24 ~~as defined in the foregoing provisions. The department shall~~
25 ~~report the existence of any confirmed report and advise the~~
26 ~~authorized licensing agency, applicant for licensure, or other~~
27 ~~authorized agency or person of the results of the search and~~
28 ~~the date of the report. Prior to a search being conducted, the~~
29 ~~department or its designee shall notify such person that an~~
30 ~~inquiry will be made. The department shall notify each person~~

31

1 ~~for whom a search is conducted of the results of the search~~
2 ~~upon request.~~

3 ~~(9) Upon receipt of the applicable fee and with the~~
4 ~~written consent of a person applying to work with disabled~~
5 ~~adults or elderly persons, the department shall search its~~
6 ~~central abuse registry and tracking system for the existence~~
7 ~~of a confirmed report. The department shall advise the~~
8 ~~employer and the person of any such report found and the~~
9 ~~results of the investigation.~~

10 ~~(10) The department may charge a user fee to an~~
11 ~~employer or the agency in charge of a volunteer, whichever is~~
12 ~~applicable, for a search of the central abuse registry and~~
13 ~~tracking system of up to one-third of the actual cost of the~~
14 ~~screening process. All fees received by the department under~~
15 ~~this section shall be deposited in an administrative trust~~
16 ~~fund of the department and may be expended only for the~~
17 ~~caregiver screening program.~~

18 Section 18. Section 415.1102, Florida Statutes, is
19 amended to read:

20 415.1102 Adult protection teams; services; eligible
21 cases.--Subject to an appropriation, the department may
22 develop, maintain, and coordinate the services of one or more
23 multidisciplinary adult protection teams in each of the
24 districts of the department. Such teams may be composed of,
25 but need not be limited to, representatives of appropriate
26 health, mental health, social service, legal service, and law
27 enforcement agencies.

28 ~~(1)~~ The department shall utilize and convene the teams
29 to supplement the protective services activities of the ~~adult~~
30 protective services program of the department. This section
31 does not prevent a person from reporting under s. 415.1034 all

1 suspected or known cases of abuse, neglect, or exploitation of
2 a vulnerable disabled adult ~~or an elderly person~~. The role of
3 the teams is to support activities of the adult protective
4 services program and to provide services deemed by the teams
5 to be necessary and appropriate to abused, neglected, and
6 exploited vulnerable disabled adults ~~or elderly persons~~ upon
7 referral. Services must be provided with the consent of the
8 vulnerable disabled adult, ~~or elderly person~~ or that person's
9 guardian, or through court order. ~~The specialized diagnostic~~
10 ~~assessment, evaluation, coordination, and other supportive~~
11 ~~services that an adult protection team must be capable of~~
12 ~~providing include, but are not limited to:~~

13 ~~(a) Medical diagnosis and evaluation services,~~
14 ~~including provision or interpretation of X rays and laboratory~~
15 ~~tests, and related services, as needed, and documentation of~~
16 ~~findings relative thereto.~~

17 ~~(b) Telephone consultation services in emergencies and~~
18 ~~in other situations.~~

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

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

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

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

29 ~~(g) Case staffings to develop, implement, and monitor~~
30 ~~treatment plans for disabled adults and elderly persons whose~~
31 ~~cases have been referred to the team. An adult protection~~

1 ~~team may provide consultation with respect to a disabled adult~~
2 ~~or elderly person who has not been referred to the team. The~~
3 ~~consultation must be provided at the request of a~~
4 ~~representative of the adult protective services program or at~~
5 ~~the request of any other professional involved with the~~
6 ~~disabled adult or elderly person or that person's guardian or~~
7 ~~other caregivers. In every such adult protection team case~~
8 ~~staffing consultation or staff activity involving a disabled~~
9 ~~adult or elderly person, an adult protective services program~~
10 ~~representative shall attend and participate.~~

11 ~~(h) Service coordination and assistance, including the~~
12 ~~location of services available from other public and private~~
13 ~~agencies in the community.~~

14 ~~(i) Such training services for program and other~~
15 ~~department employees as is deemed appropriate to enable them~~
16 ~~to develop and maintain their professional skills and~~
17 ~~abilities in handling adult abuse, neglect, or exploitation~~
18 ~~cases.~~

19 ~~(j) Education and community awareness campaigns on~~
20 ~~adult abuse, neglect, or exploitation in an effort to enable~~
21 ~~citizens to prevent, identify, and treat adult abuse, neglect,~~
22 ~~and exploitation in the community more successfully.~~

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

27 ~~(a) Unexplained or implausibly explained bruises,~~
28 ~~burns, fractures, or other injuries in a disabled adult or an~~
29 ~~elderly person.~~

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

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

3 ~~(d) Reported financial exploitation of a disabled~~
4 ~~adult or elderly person.~~

5
6 In all instances in which an adult protection team is
7 providing certain services to abused, neglected, or exploited
8 vulnerable disabled adults ~~or elderly persons~~, other offices
9 and units of the department shall avoid duplicating the
10 provisions of those services.

11 Section 19. Section 415.111, Florida Statutes, is
12 amended to read:

13 415.111 Criminal penalties.--

14 (1) A person who knowingly and willfully fails to
15 report a case of known or suspected abuse, neglect, or
16 exploitation of a vulnerable disabled adult ~~or an elderly~~
17 ~~person~~, or who knowingly and willfully prevents another person
18 from doing so, commits a misdemeanor of the second degree,
19 punishable as provided in s. 775.082 or s. 775.083.

20 (2) A person who knowingly and willfully makes public
21 or discloses any confidential information contained in the
22 central abuse hotline registry ~~and tracking system~~, or in
23 other computer systems, or in the records of any case of
24 abuse, neglect, or exploitation of a vulnerable disabled adult
25 ~~or elderly person~~, except as provided in ss. 415.101-415.113,
26 commits a misdemeanor of the second degree, punishable as
27 provided in s. 775.082 or s. 775.083.

28 (3) A person who has custody of records and documents
29 the confidentiality of which is abrogated under s.
30 415.1045~~(3)~~(5) and who refuses to grant access to such records
31

1 commits a misdemeanor of the second degree, punishable as
2 provided in s. 775.082 or s. 775.083.

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

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

27 (a) The department shall establish procedures for
28 determining whether a false report of abuse, neglect, or
29 exploitation of a vulnerable ~~disabled adult or an elderly~~
30 ~~person~~ has been made and for submitting all identifying
31 information relating to such a false report to the local law

1 enforcement agency as provided in this subsection and shall
2 report annually to the Legislature the number of reports
3 referred.

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

6 (6) Each state attorney shall establish and publish
7 procedures to facilitate the prosecution of persons under this
8 section and shall report to the Legislature annually the
9 number of complaints that have resulted in the filing of an
10 information or indictment under this section.

11 Section 20. Section 415.1111, Florida Statutes, is
12 amended to read:

13 415.1111 Civil penalties.--

14 ~~(1) A person who is named as a perpetrator in a~~
15 ~~confirmed report of abuse, neglect, or exploitation of a~~
16 ~~disabled adult or an elderly person is subject to civil~~
17 ~~penalties as follows:~~

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

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

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

22
23 ~~Second and subsequent offenses may be for the same type of~~
24 ~~abuse, neglect, or exploitation or for a different type, and~~
25 ~~may be perpetrated upon the same or a different disabled adult~~
26 ~~or elderly person.~~

27 ~~(2) All fines received by the department under this~~
28 ~~section must be deposited in the Operations and Maintenance~~
29 ~~Trust Fund within the department. The Legislature shall~~
30 ~~annually appropriate from the fund an amount that is no less~~

31

1 ~~than the amount deposited under this section, to be expended~~
2 ~~only for the adult protective services program.~~

3 (1)(3) A vulnerable adult who has been abused,
4 neglected, or exploited disabled adult ~~or an elderly person~~
5 ~~who has been named as a victim in a confirmed report of abuse,~~
6 ~~neglect, or exploitation as specified in this chapter part has~~
7 ~~a cause of action against any perpetrator named in the~~
8 ~~confirmed report and may recover actual and punitive damages~~
9 ~~for such abuse, neglect, or exploitation. The action may be~~
10 ~~brought by the vulnerable disabled adult or elderly person, or~~
11 ~~that person's guardian, by a person or organization acting on~~
12 ~~behalf of the vulnerable disabled adult or elderly person with~~
13 ~~the consent of that person or that person's guardian, or by~~
14 ~~the personal representative of the estate of a deceased victim~~
15 ~~disabled adult or elderly person without regard to whether the~~
16 ~~cause of death resulted from the abuse, neglect, or~~
17 ~~exploitation. The action may be brought in any court of~~
18 ~~competent jurisdiction to enforce such action and to recover~~
19 ~~actual and punitive damages for any deprivation of or~~
20 ~~infringement on the rights of a vulnerable disabled adult or~~
21 ~~an elderly person. A party who prevails in any such action~~
22 ~~may be entitled to recover reasonable attorney's fees, costs~~
23 ~~of the action, and damages. The remedies provided in this~~
24 ~~section are in addition to and cumulative with other legal and~~
25 ~~administrative remedies available to a vulnerable disabled~~
26 ~~adult or an elderly person.~~

27 Section 21. Subsections (1), (2), and (5) of section
28 415.1113, Florida Statutes, are amended to read:

29 415.1113 Administrative fines for false report of
30 abuse, neglect, or exploitation of a vulnerable disabled adult
31 ~~or an elderly person.--~~

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

8 (2) If the department alleges that a person has
9 knowingly and willfully filed a false report with the central
10 abuse hotline ~~registry and tracking system~~, the department
11 must file a notice of intent that alleges the name, age, and
12 address of the individual; the facts constituting the
13 allegation that the individual made a false report; and the
14 administrative fine that the department proposes to impose on
15 the person. Each time that a false report is made constitutes
16 a separate violation.

17 (5) At the hearing, the department must prove by clear
18 and convincing evidence that the person knowingly and
19 willfully filed a false report with the central abuse hotline
20 ~~registry and tracking system~~. The person has the right to be
21 represented by legal counsel at the hearing.

22 Section 22. Section 415.113, Florida Statutes, is
23 amended to read:

24 415.113 Statutory construction; treatment by spiritual
25 means.--Nothing in ss. 415.101-415.112 shall be construed to
26 mean a person is abused, neglected, or in need of emergency or
27 protective services for the sole reason that the person relies
28 upon and is, therefore, being furnished treatment by spiritual
29 means through prayer alone in accordance with the tenets and
30 practices of a well-recognized ~~recognized~~ church or religious
31 denomination or organization; nor shall anything in such

1 sections be construed to authorize, permit, or require any
2 medical care or treatment in contravention of the stated or
3 implied objection of such person. Such construction does not:

- 4 (1) Eliminate the requirement that such a case be
5 reported to the department;
- 6 (2) Prevent the department from investigating such a
7 case; or
- 8 (3) Preclude a court from ordering, when the health of
9 the individual requires it, the provision of medical services
10 by a licensed physician or treatment by a duly accredited
11 practitioner who relies solely on spiritual means for healing
12 in accordance with the tenets and practices of a
13 well-recognized church or religious denomination or
14 organization.

15 Section 23. Sections 435.01, 435.02, 435.03, 435.04,
16 435.045, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and
17 435.11, Florida Statutes, are designated as part I of chapter
18 435, Florida Statutes.

19 Section 24. Paragraph (a) of subsection (2) and
20 paragraph (a) of subsection (3) of section 435.03, Florida
21 Statutes, are amended to read:

22 435.03 Level 1 screening standards.--

23 (2) Any person for whom employment screening is
24 required by statute must not have been found guilty of,
25 regardless of adjudication, or entered a plea of nolo
26 contendere or guilty to, any offense prohibited under any of
27 the following provisions of the Florida Statutes or under any
28 similar statute of another jurisdiction:

29 (a) Section 415.111, relating to ~~adult~~ abuse, neglect,
30 or exploitation of a vulnerable adult ~~aged persons or disabled~~
31 ~~adults~~.

1 (3) Standards must also ensure that the person:
2 (a) For employees and employers licensed or registered
3 pursuant to chapter 400, and for employees and employers of
4 developmental services institutions as defined in s. 393.063,
5 intermediate care facilities for the developmentally disabled
6 as defined in s. 393.063, and mental health treatment
7 facilities as defined in s. 394.455, meets the requirements of
8 part II does not have a confirmed report of abuse, neglect, or
9 exploitation as defined in s. 415.102(5), which has been
10 uncontested or upheld under s. 415.103.

11 Section 25. Paragraphs (b) and (c) of subsection (1)
12 and subsection (2) of section 435.05, Florida Statutes, are
13 amended to read:

14 435.05 Requirements for covered employees.--Except as
15 otherwise provided by law, the following requirements shall
16 apply to covered employees:

17 (1)

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

31

1 (c) For level 2 screening, the employer or licensing
2 agency must submit the information necessary for screening to
3 the Florida Department of Law Enforcement within 5 working
4 days after receiving it. ~~When required, the employer or~~
5 ~~licensing agency must also submit sufficient information to~~
6 ~~the Department of Children and Family Services to complete a~~
7 ~~check of its records.~~The Florida Department of Law
8 Enforcement will conduct a search of its criminal and juvenile
9 records and will request that the Federal Bureau of
10 Investigation conduct a search of its records for each
11 employee for whom the request is made. The Florida Department
12 of Law Enforcement ~~and the Department of Children and Family~~
13 ~~Services~~ will respond to the employer or licensing agency, and
14 the employer or licensing agency will inform the employee
15 whether screening has revealed disqualifying information.

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

20 Section 26. Subsection (1) of section 435.07, Florida
21 Statutes, is amended to read:

22 435.07 Exemptions from disqualification.--Unless
23 otherwise provided by law, the provisions of this section
24 shall apply to exemptions from disqualification.

25 (1) The appropriate licensing agency may grant to any
26 employee otherwise disqualified from employment an exemption
27 from disqualification for:

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

30
31

1 (b) Misdemeanors prohibited under any of the Florida
2 Statutes cited in this chapter or under similar statutes of
3 other jurisdictions;

4 (c) Offenses that were felonies when committed but are
5 now misdemeanors;

6 (d) Findings of delinquency; or

7 (e) Commissions of acts of domestic violence as
8 defined in s. 741.30. ~~or~~

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

11
12 For the purposes of this subsection, the term "felonies" means
13 both felonies prohibited under any of the Florida Statutes
14 cited in this part ~~chapter~~ or under similar statutes of other
15 jurisdictions.

16 Section 27. Section 435.08, Florida Statutes, is
17 amended to read:

18 435.08 Payment for processing of fingerprints and,
19 state criminal records checks, ~~and abuse hotline~~
20 ~~checks.~~--Either the employer or the employee is responsible
21 for paying the costs of screening. Payment shall be submitted
22 to the Florida Department of Law Enforcement with the request
23 for screening. ~~When a search of the central abuse hotline is~~
24 ~~required, payment shall be submitted by separate check to the~~
25 ~~Department of Children and Family Services with the request~~
26 ~~for screening.~~

27 Section 28. Section 435.09, Florida Statutes, is
28 amended to read:

29 435.09 Confidentiality of personnel background check
30 information.--No criminal or, ~~juvenile, or abuse hotline~~
31 information obtained under this section may be used for any

1 purpose other than determining whether persons meet the
2 minimum standards for employment or for an owner or director
3 of a covered service provider. The criminal records and
4 juvenile records obtained by the department or by an employer
5 are exempt from s. 119.07(1).

6 Section 29. Sections 435.401, 435.402, 435.403, and
7 435.405, Florida Statutes, are designated as part II of
8 chapter 435, Florida Statutes.

9 Section 30. Effective January 1, 2001, section
10 435.401, Florida Statutes, is created to read:

11 435.401 Caregivers of vulnerable adults; special
12 employment, contractual, or referral work history checks;
13 definitions.--For purposes of this part:

14 (1) "Agency" means the Agency for Health Care
15 Administration.

16 (2) "Covered organization" means any residential
17 facility or agency licensed pursuant to chapter 400 by the
18 agency where health, nutritional, or personal care is provided
19 or arranged for vulnerable adults, including nursing homes,
20 assisted living facilities, adult day care facilities, adult
21 family-care homes, hospices, home health care agencies, nurse
22 registries, and intermediate care facilities for
23 developmentally disabled persons. Covered organization shall
24 also mean developmental services institutions and mental
25 health institutions. Covered organization includes any
26 temporary agency as defined in this section.

27 (3) "Direct access employee or contractor" means a
28 caregiver hired by or contracted with a covered organization
29 after January 1, 2001, whose primary job duties require direct
30 access or contact with persons receiving care, access to the
31 living areas of such persons, or access to the funds or

1 property of such persons. The term does not include caregivers
2 whose primary job duties do not include or require direct
3 access or contact with persons receiving care, but whose
4 duties may result in occasional contact with such persons. Not
5 included are maintenance personnel, office or clerical
6 workers, and nonlicensed personnel whose essential functions
7 do not include the care of or direct access to persons
8 receiving care.

9 (4) "Service letter" means the employment or work
10 history form provided to covered organizations by the agency.

11 (5) "Temporary agency" means an agency responsible for
12 providing temporary employees or contractors to covered
13 organizations, including health care service pools as defined
14 in s. 400.980.

15 Section 31. Effective January 1, 2001, section
16 435.402, Florida Statutes, is created to read:

17 435.402 Service letters; requirements; penalties.--

18 (1) No covered organization shall hire, contract with,
19 or register for referral any person seeking employment or
20 engagements that require direct access to patients or clients
21 without obtaining service letters regarding that person from
22 at least two covered organizations the person has been
23 employed by, contracted with, or registered with during the
24 past 3 years. If the applicant has been employed by,
25 contracted with, or registered with fewer than two covered
26 organizations during the past 3 years, then all covered
27 organizations must be contacted. If the person seeking
28 employment has not been previously employed by, contracted
29 with, or registered with a covered organization within the
30 past 3 years or was self-employed, then the prospective
31 covered organization must require the person to provide

1 letters of reference from at least two adults who are familiar
2 with the person, but who are not relatives of the person.

3 Nothing in this subsection shall prohibit or discourage
4 prospective covered organizations from performing more work
5 history checks than are required in this subsection.

6 (2) The required service letter shall be a form
7 provided by the agency. The form shall be signed by the
8 current or previous covered organizations, as requested, and
9 shall contain information about the type of work performed by
10 the person who has been employed by, contracted with, or
11 registered with the covered organization, the duration of the
12 employment, contract, or registration period, the nature of
13 the person's separation from the covered organization, and any
14 substantiated incidents toward any other person involving
15 violence, threat of violence, abuse, neglect, exploitation, or
16 misappropriation of property by the person, including any
17 disciplinary action taken as a result of such conduct and the
18 date of such action. Covered organizations that contract with
19 caregivers or register caregivers for referral, when receiving
20 a service letter from another covered organization, shall
21 report on the return service letter any substantiated
22 incidents toward any other person involving violence, threat
23 of violence, abuse, neglect, exploitation, or misappropriation
24 of property by the person which resulted in the termination of
25 the person's contract or removal of the person from the
26 referral registry.

27 (3) Any covered organization that is required to
28 obtain service letters shall obtain a statement signed by the
29 applicant authorizing a full release to the covered
30 organization of any and all information pertaining to the
31 facts of the applicant's current or previous work history.

1 (4)(a) Any covered organization, including a temporary
2 agency, that is required to obtain a service letter shall
3 obtain a statement signed by the applicant attesting that the
4 information given in the application represents a full and
5 complete disclosure of the applicant's current and previous
6 work history, and that all information contained in the
7 application is true and complete to the best of the knowledge
8 and belief of the applicant. In addition, the application
9 shall contain a written acknowledgment by the applicant that
10 he or she understands that failure to provide a full and
11 complete disclosure of all information required under this
12 section is a violation of this section and that such failure
13 may result in first or second degree misdemeanor charges, or
14 termination of employment, contract, or registration for
15 referral. Full and complete disclosure by an applicant
16 includes listing all current and previous covered
17 organizations, as defined in s. 435.401, for the previous 3
18 years. An applicant who has worked for one or more temporary
19 agencies during the previous 3 years shall list on the
20 application all such temporary agencies.

21 (b) Any covered organization that does not obtain the
22 applicant's signed attestation for a person hired, contracted
23 with, or registered for referral after January 1, 2001, may be
24 issued a notice of noncompliance. A violation that is not
25 corrected within the specified timeframe or is a repeat
26 violation becomes a finable violation. The covered
27 organization is subject to an administrative penalty of \$500
28 for the first finable violation, \$1,000 for the second finable
29 violation, and \$2,500 for the third and any subsequent finable
30 violation.

31

1 (5) Any covered organization, including a temporary
2 agency, that receives a written request for a service letter
3 from any other covered organization, as required by this
4 section, shall complete and send that service letter to the
5 requesting covered organization within 10 business days after
6 the date the request is received. Any written response,
7 including a response by regular mail, facsimile, electronic
8 transmission, or other clearly documented delivery, which
9 provides the information required by this section on the form
10 provided by the agency shall constitute compliance with this
11 subsection. Any covered organization that does not provide
12 such service letters for a person seeking employment may be
13 issued a notice of noncompliance. A violation that is not
14 corrected within the specified timeframe or is a repeat
15 violation becomes a finable violation. The covered
16 organization is subject to an administrative penalty of \$500
17 for the first finable violation, \$1,000 for the second finable
18 violation, and \$2,500 for the third and any subsequent finable
19 violation.

20 (6) Notwithstanding the provisions of subsection (1),
21 the covered organization may conditionally employ, contract
22 with, or register for referral an applicant for up to 30 days
23 on a conditional basis, pending receipt of the required
24 service letters. An applicant conditionally employed,
25 contracted with, or registered for referral pursuant to this
26 subsection shall be informed, in writing, and shall
27 acknowledge, in writing, that his or her continued employment,
28 contract, or registration is contingent upon receipt of the
29 required service letters. A covered organization may allow a
30 person to continue working after the 30 days on a conditional
31 basis without the required service letters if the covered

1 organization has demonstrated a good faith attempt to obtain
2 the service letters, as evidenced by requesting the necessary
3 service letters prior to the applicant's first day of work, by
4 regular mail, facsimile, electronic transmission, or other
5 clearly documented delivery, and at least two documented
6 attempts to contact the covered organizations from which the
7 information was requested when the service letters were not
8 returned within 10 business days. Any covered organization
9 that has not demonstrated such good faith effort may be issued
10 a notice of noncompliance. A violation that is not corrected
11 within the specified timeframe or is a repeat violation
12 becomes a finable violation. The covered organization is
13 subject to an administrative penalty of \$500 for the first
14 finable violation, \$1,000 for the second finable violation,
15 and \$2,500 for the third and any subsequent finable violation.

16 (7) A covered organization shall make a good faith
17 attempt to locate an applicant's previous covered
18 organizations as identified in the application and to obtain
19 the service letters from each current or previous covered
20 organization. The burden of proof shall rest with the covered
21 organization to demonstrate a good faith attempt to comply
22 with this section, as evidenced by requesting the necessary
23 service letters prior to the applicant's first day of work, by
24 regular mail, facsimile, electronic transmission, or other
25 clearly documented delivery, and at least two documented
26 attempts to contact the covered organizations from which the
27 information was requested when the service letters were not
28 returned within 10 business days. Any covered organization
29 that does not obtain the required service letters for a person
30 seeking employment may be issued a notice of noncompliance. A
31 violation that is not corrected within the specified timeframe

1 or is a repeat violation becomes a finable violation. The
2 covered organization is subject to an administrative penalty
3 of \$500 for the first finable violation, \$1,000 for the second
4 finable violation, and \$2,500 for the third and any subsequent
5 finable violation.

6 (8) Any covered organization that knowingly and with
7 intent to deceive provides information that is a materially
8 inaccurate or incomplete disclosure of past work history
9 information on a service letter is subject to an
10 administrative penalty of \$500 for the first violation, \$1,000
11 for the second violation, and \$2,500 for the third and any
12 subsequent violation.

13 (9) Any person who knowingly and with intent to
14 deceive provides information that is a materially inaccurate
15 or incomplete disclosure of past work history information on
16 an application in violation of the requirements of subsection
17 (4) may be terminated from employment, contract, or
18 registration for referral, and commits a misdemeanor of the
19 second degree, punishable as provided in s. 775.082 or s.
20 775.083. Any person who commits a second or subsequent
21 violation commits a misdemeanor of the first degree,
22 punishable as provided in s. 775.082 or s. 775.083.

23 (10) Any covered organization, or any person authorized
24 to act on behalf of the covered organization, that discloses
25 information to a covered organization as required by
26 subsection (5) is presumed to be acting in good faith, and,
27 unless lack of good faith is shown, is immune from civil
28 liability under this part and pursuant to s. 768.095 for such
29 disclosure and its consequences and may not be made the
30 subject of any legal action for libel, slander, or defamation
31 by an applicant's current or former covered organization. For

1 purposes of this section, the presumption of good faith may be
2 rebutted upon a showing that the information disclosed by such
3 covered organization was knowingly false, was deliberately
4 misleading, or was rendered with malicious purpose.

5 (11) Any information received from an applicant's
6 current or previous covered organization by the applicant's
7 prospective covered organization, pursuant to this section,
8 which could in any way identify the current or previous
9 covered organization that provided the information shall be
10 protected from discovery in any legal or administrative
11 proceedings. The applicant who is the subject of the
12 information provided by his or her current or previous covered
13 organization shall have a right to obtain such information
14 from the current or previous covered organization that
15 provided the information to the prospective covered
16 organization.

17 (12) The agency shall be the only party with authority
18 to impose and seek enforcement of an administrative penalty
19 under this part.

20 (13) The background screening database operated by the
21 agency pursuant to s. 400.215 shall be accessible to all
22 covered organizations. The agency shall maintain in the
23 database, for all health care professionals licensed or
24 certified by the Department of Health, the current status of
25 any disciplinary action taken by the Department of Health or
26 by any professional board against an applicant or employee, in
27 addition to any criminal history information about an
28 applicant or employee.

29 Section 32. Effective January 1, 2001, section
30 435.403, Florida Statutes, is created to read:

31 435.403 Enforcement; penalties.--

1 (1) The agency shall monitor covered organizations for
2 compliance with the provisions of s. 435.402. Such monitoring
3 shall be carried out through routine inspections and surveys
4 or other regulatory activities and through investigations of
5 complaints reported by any person to the agency alleging
6 noncompliance with the provisions of s. 435.402.

7 (2) Funds collected through payment of administrative
8 penalties to the agency shall be deposited in the Health Care
9 Trust Fund to support enforcement of the requirements of this
10 part and the improvement of quality of care for vulnerable
11 adults who are residents or clients of covered organizations.

12 Section 33. Effective January 1, 2001, section
13 435.405, Florida Statutes, is created to read:

14 435.405 Rules.--The agency shall adopt rules to
15 implement the provisions of this part. The rules shall include
16 the forms for service letters, provisions for accepting the
17 service letter forms by facsimile or electronic transmission
18 in addition to printed form, standards for documentation of a
19 good faith effort to perform the actions required under this
20 part, and standards for monitoring the compliance of covered
21 organizations.

22 Section 34. Paragraph (g) of subsection (3) of section
23 20.43, Florida Statutes, is amended to read:

24 20.43 Department of Health.--There is created a
25 Department of Health.

26 (3) The following divisions of the Department of
27 Health are established:

28 (g) Division of Medical Quality Assurance, which is
29 responsible for the following boards and professions
30 established within the division:

31 1. Nursing assistants, as provided under s. 400.211.

1 ~~2. Health care services pools, as provided under s.~~
2 ~~402.48.~~
3 2.3. The Board of Acupuncture, created under chapter
4 457.
5 ~~3.4.~~ The Board of Medicine, created under chapter 458.
6 ~~4.5.~~ The Board of Osteopathic Medicine, created under
7 chapter 459.
8 ~~5.6.~~ The Board of Chiropractic Medicine, created under
9 chapter 460.
10 ~~6.7.~~ The Board of Podiatric Medicine, created under
11 chapter 461.
12 ~~7.8.~~ Naturopathy, as provided under chapter 462.
13 ~~8.9.~~ The Board of Optometry, created under chapter
14 463.
15 ~~9.10.~~ The Board of Nursing, created under chapter 464.
16 ~~10.11.~~ The Board of Pharmacy, created under chapter
17 465.
18 ~~11.12.~~ The Board of Dentistry, created under chapter
19 466.
20 ~~12.13.~~ Midwifery, as provided under chapter 467.
21 ~~13.14.~~ The Board of Speech-Language Pathology and
22 Audiology, created under part I of chapter 468.
23 ~~14.15.~~ The Board of Nursing Home Administrators,
24 created under part II of chapter 468.
25 ~~15.16.~~ The Board of Occupational Therapy, created
26 under part III of chapter 468.
27 ~~16.17.~~ Respiratory therapy, as provided under part V
28 of chapter 468.
29 ~~17.18.~~ Dietetics and nutrition practice, as provided
30 under part X of chapter 468.
31

1 ~~18.19.~~ The Board of Athletic Training, created under
2 part XIII of chapter 468.
3 ~~19.20.~~ The Board of Orthotists and Prosthetists,
4 created under part XIV of chapter 468.
5 ~~20.21.~~ Electrolysis, as provided under chapter 478.
6 ~~21.22.~~ The Board of Massage Therapy, created under
7 chapter 480.
8 ~~22.23.~~ The Board of Clinical Laboratory Personnel,
9 created under part III of chapter 483.
10 ~~23.24.~~ Medical physicists, as provided under part IV
11 of chapter 483.
12 ~~24.25.~~ The Board of Opticianry, created under part I
13 of chapter 484.
14 ~~25.26.~~ The Board of Hearing Aid Specialists, created
15 under part II of chapter 484.
16 ~~26.27.~~ The Board of Physical Therapy Practice, created
17 under chapter 486.
18 ~~27.28.~~ The Board of Psychology, created under chapter
19 490.
20 ~~28.29.~~ School psychologists, as provided under chapter
21 490.
22 ~~29.30.~~ The Board of Clinical Social Work, Marriage and
23 Family Therapy, and Mental Health Counseling, created under
24 chapter 491.
25
26 The department may contract with the Agency for Health Care
27 Administration who shall provide consumer complaint,
28 investigative, and prosecutorial services required by the
29 Division of Medical Quality Assurance, councils, or boards, as
30 appropriate.
31

1 Section 35. Paragraph (h) of subsection (2) of section
2 39.202, Florida Statutes, is amended to read:

3 39.202 Confidentiality of reports and records in cases
4 of child abuse or neglect.--

5 (2) Access to such records, excluding the name of the
6 reporter which shall be released only as provided in
7 subsection (4), shall be granted only to the following
8 persons, officials, and agencies:

9 (h) Any appropriate official of the department
10 responsible for:

11 1. Administration or supervision of the department's
12 program for the prevention, investigation, or treatment of
13 child abuse, abandonment, or neglect, or abuse, neglect, or
14 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~,
15 when carrying out his or her official function;

16 2. Taking appropriate administrative action concerning
17 an employee of the department alleged to have perpetrated
18 child abuse, abandonment, or neglect, or abuse, neglect, or
19 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~;
20 or

21 3. Employing and continuing employment of personnel of
22 the department.

23 Section 36. Paragraphs (a) and (b) of subsection (3)
24 of section 110.1127, Florida Statutes, are amended to read:

25 110.1127 Employee security checks.--

26 (3)(a) All positions in programs providing care to
27 children, the developmentally disabled, or vulnerable adults
28 ~~disabled adults, or elderly persons~~ for 15 hours or more per
29 week; all permanent and temporary employee positions of the
30 central abuse hotline; and all persons working under contract
31 who have access to abuse records are deemed to be persons and

1 positions of special trust or responsibility, and require
2 employment screening pursuant to chapter 435, using the level
3 2 standards set forth in that chapter.

4 (b) The employing agency may grant exemptions from
5 disqualification from working with children, the
6 developmentally disabled, or vulnerable adults ~~disabled~~
7 ~~adults, or elderly persons~~ as provided in s. 435.07.

8 Section 37. Paragraph (a) of subsection (12) of
9 section 112.0455, Florida Statutes, is amended to read:

10 112.0455 Drug-Free Workplace Act.--

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

12 (a) A laboratory may analyze initial or confirmation
13 drug specimens only if:

14 1. The laboratory is licensed and approved by the
15 Agency for Health Care Administration using criteria
16 established by the United States Department of Health and
17 Human Services as general guidelines for modeling the state
18 drug testing program. Each applicant for licensure must comply
19 with the following requirements:

20 a. Upon receipt of a completed, signed, and dated
21 application, the agency shall require background screening, in
22 accordance with the level 2 standards for screening set forth
23 in chapter 435, of the managing employee, or other similarly
24 titled individual responsible for the daily operation of the
25 laboratory, and of the financial officer, or other similarly
26 titled individual who is responsible for the financial
27 operation of the laboratory, including billings for services.
28 The applicant must comply with the procedures for level 2
29 background screening as set forth in chapter 435, as well as
30 the requirements of s. 435.03(3).

31

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

6 c. Proof of compliance with the level 2 background
7 screening requirements of chapter 435 which has been submitted
8 within the previous 5 years in compliance with any other
9 health care licensure requirements of this state is acceptable
10 in fulfillment of screening requirements.

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 screening standards and a disqualification exemption has not

1 | been requested of and granted by the agency as set forth in
2 | chapter 435.

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

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

28 | g. A license may not be granted to any applicant if
29 | the applicant or managing employee has been found guilty of,
30 | regardless of adjudication, or has entered a plea of nolo
31 | contendere or guilty to, any offense prohibited under the

1 level 2 standards for screening set forth in chapter 435,
2 unless an exemption from disqualification has been granted by
3 the agency as set forth in chapter 435.

4 h. The agency may deny or revoke licensure if the
5 applicant:

6 (I) Has falsely represented a material fact in the
7 application required by sub-subparagraph e. or
8 sub-subparagraph f., or has omitted any material fact from the
9 application required by sub-subparagraph e. or
10 sub-subparagraph f.; or

11 (II) Has had prior action taken against the applicant
12 under the Medicaid or Medicare program as set forth in
13 sub-subparagraph e.

14 i. An application for license renewal must contain the
15 information required under sub-subparagraphs e. and f.

16 2. The laboratory has written procedures to ensure
17 chain of custody.

18 3. The laboratory follows proper quality control
19 procedures, including, but not limited to:

20 a. The use of internal quality controls including the
21 use of samples of known concentrations which are used to check
22 the performance and calibration of testing equipment, and
23 periodic use of blind samples for overall accuracy.

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

27 c. Security measures implemented by the testing
28 laboratory to preclude adulteration of specimens and drug test
29 results.

30 d. Other necessary and proper actions taken to ensure
31 reliable and accurate drug test results.

1 Section 38. Paragraphs (a), (b), and (c) of subsection
2 (7) of section 119.07, Florida Statutes, are amended to read:

3 119.07 Inspection, examination, and duplication of
4 records; exemptions.--

5 (7)(a) Any person or organization, including the
6 Department of Children and Family Services, may petition the
7 court for an order making public the records of the Department
8 of Children and Family Services that pertain to investigations
9 of alleged abuse, neglect, abandonment, or exploitation of a
10 child or a vulnerable, ~~a disabled adult, or an elderly person.~~

11 The court shall determine if good cause exists for public
12 access to the records sought or a portion thereof. In making
13 this determination, the court shall balance the best interest
14 of the vulnerable ~~disabled~~ adult, ~~elderly person,~~ or child who
15 is the focus of the investigation, and in the case of the
16 child, the interest of that child's siblings, together with
17 the privacy right of other persons identified in the reports
18 against the public interest. The public interest in access to
19 such records is reflected in s. 119.01(1), and includes the
20 need for citizens to know of and adequately evaluate the
21 actions of the Department of Children and Family Services and
22 the court system in providing vulnerable ~~disabled~~ adults,
23 ~~elderly persons,~~ and children of this state with the
24 protections enumerated in ss. 39.001 and 415.101. However,
25 this subsection does not contravene ss. 39.202 and 415.107,
26 which protect the name of any person reporting the abuse,
27 neglect, or exploitation of a child or a vulnerable, ~~a~~
28 ~~disabled adult, or an elderly person.~~

29 (b) In cases involving serious bodily injury to a
30 child or a vulnerable, ~~a disabled adult or an elderly person,~~
31 the Department of Children and Family Services may petition

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

- 17 1. A confirmation that an investigation has been
18 conducted concerning the alleged victim.
- 19 2. The dates and brief description of procedural
20 activities undertaken during the department's investigation.
- 21 3. The date of each judicial proceeding, a summary of
22 each participant's recommendations made at the judicial
23 proceedings, and the rulings of the court.

24
25 The summary information may not include the name of, or other
26 identifying information with respect to, any person identified
27 in any investigation. In making a determination to release
28 confidential information, the court shall balance the best
29 interests of the vulnerable ~~disabled~~ adult ~~or elderly person~~
30 or child who is the focus of the investigation and, in the
31 case of the child, the interests of that child's siblings,

1 together with the privacy rights of other persons identified
2 in the reports against the public interest for access to
3 public records. However, this paragraph does not contravene
4 ss. 39.202 and 415.107, which protect the name of any person
5 reporting abuse, neglect, or exploitation of a child or a
6 vulnerable, ~~a disabled adult, or an elderly person.~~

7 (c) When the court determines that good cause for
8 public access exists, the court shall direct that the
9 department redact the name of and other identifying
10 information with respect to any person identified in any
11 protective investigation report ~~unfounded report or proposed~~
12 ~~confirmed report or report closed without classification, or~~
13 ~~in any report that has not yet been classified pursuant to s.~~
14 ~~415.1045(7)~~, until such time as the court finds that there is
15 probable cause to believe that the person identified committed
16 an act of alleged abuse, neglect, or abandonment.

17 Section 39. Subsection (1) of section 232.50, Florida
18 Statutes, is amended to read:

19 232.50 Child abuse, abandonment, and neglect
20 policy.--Every school board shall by March 1, 1985:

21 (1) Post in a prominent place in each school a notice
22 that, pursuant to chapter 39, all employees or agents of the
23 district school board have an affirmative duty to report all
24 actual or suspected cases of child abuse, abandonment, or
25 neglect, have immunity from liability if they report such
26 cases in good faith, and have a duty to comply with child
27 protective investigations and all other provisions of law
28 relating to child abuse, abandonment, and neglect. The notice
29 shall also include the statewide toll-free telephone number of
30 the central state abuse hotline registry.

31

1 Section 40. Subsection (4) and paragraph (b) of
2 subsection (5) of section 242.335, Florida Statutes, are
3 amended to read:

4 242.335 Personnel screening; Florida School for the
5 Deaf and the Blind.--

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

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

21 (b) Use the criminal records, ~~abuse registry~~
22 ~~information,~~ private investigator findings, or information
23 from reference checks obtained under this section or
24 information obtained from such records or findings for
25 purposes other than screening for employment or release such
26 information or records to persons for purposes other than
27 screening for employment.

28 Section 41. Paragraph (a) of subsection (8) of section
29 320.0848, Florida Statutes, is amended to read:

30 320.0848 Persons who have disabilities; issuance of
31 disabled parking permits; temporary permits; permits for

1 certain providers of transportation services to persons who
2 have disabilities.--

3 (8) A law enforcement officer may confiscate the
4 disabled parking permit from any person who fraudulently
5 obtains or unlawfully uses such a permit. A law enforcement
6 officer may confiscate any disabled parking permit that is
7 expired, reported as lost or stolen, or defaced, or that does
8 not display a personal identification number.

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

19 Section 42. Paragraph (c) of subsection (1) of section
20 381.0059, Florida Statutes, is amended to read:

21 381.0059 Background screening requirements for school
22 health services personnel.--

23 (1)

24 (c) The person subject to the required background
25 screening or his or her employer must pay the fees required to
26 obtain the background screening. Payment for the screening ~~and~~
27 ~~the abuse registry check~~ must be submitted to the Department
28 of Health. The Florida Department of Law Enforcement shall
29 charge the Department of Health for a level 2 screening at a
30 rate sufficient to cover the costs of such screening pursuant
31 to s. 943.053(3). The Department of Health shall establish a

1 schedule of fees to cover the costs of the level 2 screening
2 ~~and the abuse registry check~~. The applicant or his or her
3 employer who pays for the required screening may be reimbursed
4 by the Department of Health from funds designated for this
5 purpose.

6 Section 43. Paragraph (d) of subsection (1) of section
7 381.60225, Florida Statutes, is amended to read:

8 381.60225 Background screening.--

9 (1) Each applicant for certification must comply with
10 the following requirements:

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

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

4 Section 44. Paragraph (d) of subsection (7) of section
5 383.305, Florida Statutes, is amended to read:

6 383.305 Licensure; issuance, renewal, denial,
7 suspension, revocation; fees; background screening.--

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

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

31

1 exemption has not been requested of and granted by the agency
2 as set forth in chapter 435.

3 Section 45. Paragraph (d) of subsection (3) of section
4 390.015, Florida Statutes, is amended to read:

5 390.015 Application for license.--

6 (3) Each applicant for licensure must comply with the
7 following requirements:

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

31

1 Section 46. Paragraph (c) of subsection (5) and
2 paragraph (d) of subsection (6) of section 393.067, Florida
3 Statutes, are amended to read:

4 393.067 Licensure of residential facilities and
5 comprehensive transitional education programs.--

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

14 (c) The department or a residential facility or
15 comprehensive transitional education program may not use the
16 criminal records or, juvenile records, ~~or abuse registry~~
17 ~~information~~ of a person obtained under this subsection for any
18 purpose other than determining if that person meets the
19 minimum standards for good moral character for a manager or
20 supervisor of, or direct service provider in, such a facility
21 or program. The criminal records or, juvenile records, ~~or~~
22 ~~abuse registry information~~ obtained by the department or a
23 residential facility or comprehensive transitional education
24 program for determining the moral character of a manager,
25 supervisor, or direct service provider are exempt from s.
26 119.07(1).

27 (6) Each applicant for licensure as an intermediate
28 care facility for the developmentally disabled must comply
29 with the following requirements:

30 (d) A provisional license may be granted to an
31 applicant when each individual required by this section to

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

22 Section 47. Paragraph (c) of subsection (1) of section
23 393.0674, Florida Statutes, is amended to read:

24 393.0674 Penalties.--

25 (1) 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 (c) Use information from the criminal records or
29 central abuse hotline registry obtained under s. 393.0655, s.
30 393.066, or s. 393.067 for any purpose other than screening
31 that person for employment as specified in those sections or

1 release such information to any other person for any purpose
2 other than screening for employment as specified in those
3 sections.

4 Section 48. Paragraph (e) of subsection (5) of section
5 394.459, Florida Statutes, is amended to read:

6 394.459 Rights of patients.--

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

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

17 Section 49. Paragraph (d) of subsection (12) of
18 section 394.875, Florida Statutes, is amended to read:

19 394.875 Crisis stabilization units and residential
20 treatment facilities; authorized services; license required;
21 penalties.--

22 (12) Each applicant for licensure must comply with the
23 following requirements:

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

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

16 Section 50. Subsection (4) of section 395.0055,
17 Florida Statutes, is amended to read:

18 395.0055 Background screening.--Each applicant for
19 licensure must comply with the following requirements:

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

1 individual required by this section to undergo background
2 screening which confirms that all standards have been met, or
3 upon the granting of a disqualification exemption by the
4 agency as set forth in chapter 435. Any other person who is
5 required to undergo level 2 background screening may serve in
6 his or her capacity pending the agency's receipt of the report
7 from the Federal Bureau of Investigation; however, the person
8 may not continue to serve if the report indicates any
9 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 51. Paragraph (d) of subsection (4) of section
13 395.0199, Florida Statutes, is amended to read:

14 395.0199 Private utilization review.--

15 (4) Each applicant for registration must comply with
16 the following requirements:

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

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

9 | Section 52. Paragraph (g) of subsection (4) of section
10 | 395.3025, Florida Statutes, is amended to read:

11 | 395.3025 Patient and personnel records; copies;
12 | examination.--

13 | (4) Patient records are confidential and must not be
14 | disclosed without the consent of the person to whom they
15 | pertain, but appropriate disclosure may be made without such
16 | consent to:

17 | (g) The Department of Children and Family Services or
18 | its agent, for the purpose of investigations of cases of
19 | abuse, neglect, or exploitation of children or vulnerable
20 | ~~disabled adults or elderly persons~~.

21 | Section 53. Subsection (3) of section 397.461, Florida
22 | Statutes, is amended to read:

23 | 397.461 Unlawful activities relating to personnel;
24 | penalties.--It is a misdemeanor of the first degree,
25 | punishable as provided in s. 775.082 or s. 775.083, for any
26 | person willfully, knowingly, or intentionally to:

27 | (3) Use or release any criminal or juvenile ~~or central~~
28 | ~~abuse registry~~ information obtained under this chapter for any
29 | purpose other than background checks of personnel for
30 | employment.

31 |

1 Section 54. Subsection (2) of section 400.022, Florida
2 Statutes, is amended to read:

3 400.022 Residents' rights.--

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

19 Section 55. Paragraph (d) of subsection (4) of section
20 400.071, Florida Statutes, is amended to read:

21 400.071 Application for license.--

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

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

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

16 Section 56. Paragraphs (a), (c), and (e) of subsection
17 (2) and subsections (3) and (8) of section 400.215, Florida
18 Statutes, are amended to read:

19 400.215 Personnel screening requirement.--

20 (2) Employers and employees shall comply with the
21 requirements of s. 435.05.

22 (a) Notwithstanding the provisions of s. 435.05(1),
23 facilities must have in their possession evidence that level 1
24 screening has been completed before allowing an employee to
25 begin working with patients as provided in subsection (1). All
26 information necessary for conducting background screening
27 using level 1 standards as specified in s. 435.03(1) ~~and for~~
28 ~~conducting a search of the central abuse registry and tracking~~
29 ~~system as specified in s. 435.03(3)(a)~~ shall be submitted by
30 the nursing facility to the agency. Results of the background
31 screening ~~and the abuse registry check~~ shall be provided by

1 the agency to the requesting nursing facility. ~~An applicant~~
2 ~~who has been qualified under a level 1 criminal screening and~~
3 ~~who, under penalty of perjury, attests to not having been~~
4 ~~classified in the central abuse registry and tracking system~~
5 ~~as a perpetrator in a confirmed report of abuse, neglect, or~~
6 ~~exploitation may be allowed to work on a probationary status~~
7 ~~in the nursing facility, under supervision, for a period not~~
8 ~~to exceed 30 days, pending the results of an abuse registry~~
9 ~~screening.~~

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

27 ~~(e) Notwithstanding the confidentiality provisions of~~
28 ~~s. 415.107, the agency shall provide no later than 45 days~~
29 ~~after the effective date of this paragraph, a direct-access~~
30 ~~electronic screening capability to all enrolled facilities or~~
31 ~~agencies required by law to restrict employment to only an~~

1 ~~applicant who does not have a disqualifying report in the~~
2 ~~central abuse registry and tracking system. The agency shall,~~
3 ~~upon request, provide to such facility or agency a user code~~
4 ~~by which the facility or agency may query the listing of all~~
5 ~~persons disqualified because of a confirmed classification.~~
6 ~~The direct-access screening system shall allow for the~~
7 ~~electronic matching of an applicant's identifying information,~~
8 ~~including name, date of birth, race, sex, and social security~~
9 ~~number, against the listing of disqualified persons. The~~
10 ~~agency may charge a fee for issuing the user code sufficient~~
11 ~~to cover the cost of establishing and maintaining the~~
12 ~~direct-access screening system. The direct-access screening~~
13 ~~system shall provide immediately to the user only the~~
14 ~~electronic notification of applicant clearance or~~
15 ~~disqualification. The system shall also maintain for~~
16 ~~appropriate entry into the agency screening database an~~
17 ~~electronic record of the inquiry on behalf of the applicant.~~

18 (3) The applicant is responsible for paying the fees
19 associated with obtaining the required screening. Payment for
20 the screening ~~and the abuse registry check~~ shall be submitted
21 to the agency. The agency shall establish a schedule of fees
22 to cover the costs of level 1 and level 2 screening ~~and the~~
23 ~~abuse registry check~~. Facilities may reimburse employees for
24 these costs. The Department of Law Enforcement shall charge
25 the agency for a level 1 or level 2 screening a rate
26 sufficient to cover the costs of such screening pursuant to s.
27 943.053(3). The agency shall, as allowable, reimburse nursing
28 facilities for the cost of conducting background screening as
29 required by this section. This reimbursement will not be
30 subject to any rate ceilings or payment targets in the
31 Medicaid Reimbursement plan.

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

10 Section 57. Paragraph (g) of subsection (1) of section
11 400.414, Florida Statutes, is amended to read:

12 400.414 Denial, revocation, or suspension of license;
13 imposition of administrative fine; grounds.--

14 (1) The agency may deny, revoke, or suspend any
15 license issued under this part, or impose an administrative
16 fine in the manner provided in chapter 120, for any of the
17 following actions by an assisted living facility, any person
18 subject to level 2 background screening under s. 400.4174, or
19 any facility employee:

20 (g) A determination that ~~confirmed report of adult~~
21 ~~abuse, neglect, or exploitation, as defined in s. 415.102,~~
22 ~~which has been upheld following a chapter 120 hearing or a~~
23 ~~waiver of such proceedings where the perpetrator is an~~
24 ~~employee, volunteer, administrator, or owner, or person who~~
25 ~~otherwise has access to the residents of a facility does not~~
26 ~~meet the criteria specified in s. 435.03(2), and the owner or~~
27 ~~administrator has not taken action to remove the person~~
28 ~~perpetrator. Exemptions from disqualification may be granted~~
29 ~~as set forth in s. 435.07. No administrative action may be~~
30 ~~taken against the facility if the person ~~perpetrator~~ is~~
31 ~~granted an exemption.~~

1 Section 58. Paragraph (c) of subsection (1) and
2 subsection (3) of section 400.4174, Florida Statutes, are
3 amended to read:

4 400.4174 Background screening; exemptions; ~~reports of~~
5 ~~abuse in facilities.~~--

6 (1)

7 (c) The agency may grant a provisional license to a
8 facility applying for an initial license when each individual
9 required by this subsection to undergo screening has completed
10 the ~~abuse registry and~~ Department of Law Enforcement
11 background checks, but has not yet received results from the
12 Federal Bureau of Investigation, or when a request for an
13 exemption from disqualification has been submitted to the
14 agency pursuant to s. 435.07, but a response has not been
15 issued.

16 ~~(3) When an employee, volunteer, administrator, or~~
17 ~~owner of a facility is the subject of a confirmed report of~~
18 ~~adult abuse, neglect, or exploitation, as defined in s.~~
19 ~~415.102, and the protective investigator knows that the~~
20 ~~individual is an employee, volunteer, administrator, or owner~~
21 ~~of a facility, the agency shall be notified of the confirmed~~
22 ~~report.~~

23 Section 59. Subsection (4) of section 400.426, Florida
24 Statutes, is amended to read:

25 400.426 Appropriateness of placements; examinations of
26 residents.--

27 (4) If possible, each resident shall have been
28 examined by a licensed physician or a licensed nurse
29 practitioner within 60 days before admission to the facility.
30 The signed and completed medical examination report shall be
31 submitted to the owner or administrator of the facility who

1 shall use the information contained therein to assist in the
2 determination of the appropriateness of the resident's
3 admission and continued stay in the facility. The medical
4 examination report shall become a permanent part of the record
5 of the resident at the facility and shall be made available to
6 the agency during inspection or upon request. An assessment
7 that has been completed through the Comprehensive Assessment
8 and Review for Long-Term Care Services (CARES) Program
9 fulfills the requirements for a medical examination under this
10 subsection and s. 400.407(4)~~(3)~~(b)6.

11 Section 60. Subsection (2) of section 400.428, Florida
12 Statutes, is amended to read:

13 400.428 Resident bill of rights.--

14 (2) The administrator of a facility shall ensure that
15 a written notice of the rights, obligations, and prohibitions
16 set forth in this part is posted in a prominent place in each
17 facility and read or explained to residents who cannot read.
18 This notice shall include the name, address, and telephone
19 numbers of the district ombudsman council and central adult
20 abuse hotline registry and, when applicable, the Advocacy
21 Center for Persons with Disabilities, Inc., and the district
22 human rights advocacy committee, where complaints may be
23 lodged. The facility must ensure a resident's access to a
24 telephone to call the district ombudsman council, central
25 adult abuse hotline registry, Advocacy Center for Persons with
26 Disabilities, Inc., and district human rights advocacy
27 committee.

28 Section 61. Subsection (20) of section 400.462,
29 Florida Statutes, is amended to read:

30 400.462 Definitions.--As used in this part, the term:
31

1 (20) "Screening" means the assessment of the
2 background of home health agency personnel, nurse registry
3 personnel, and persons registered under s. 400.509 and
4 includes employment or contractual history checks, ~~records~~
5 ~~checks of the department's central abuse hotline under chapter~~
6 ~~415 relating to vulnerable adults, and statewide criminal~~
7 records correspondence checks through the Department of Law
8 Enforcement.

9 Section 62. Paragraph (d) of subsection (4) of section
10 400.471, Florida Statutes, is amended to read:

11 400.471 Application for license; fee; provisional
12 license; temporary permit.--

13 (4) 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. A standard license may be granted to the
22 licensee upon the agency's receipt of a report of the results
23 of the Federal Bureau of Investigation background screening
24 for each individual required by this section to undergo
25 background screening which confirms that all standards have
26 been met, or upon the granting of a disqualification exemption
27 by the agency as set forth in chapter 435. Any other person
28 who is required to undergo level 2 background screening may
29 serve in his or her capacity pending the agency's receipt of
30 the report from the Federal Bureau of Investigation. However,
31 the person may not continue to serve if the report indicates

1 any violation of background screening standards and a
2 disqualification exemption has not been requested of and
3 granted by the agency as set forth in chapter 435.

4 Section 63. Section 400.495, Florida Statutes, is
5 amended to read:

6 400.495 Notice of toll-free telephone number for
7 central abuse hotline registry.--On or before the first day
8 home health services are provided to a patient, any home
9 health agency or nurse registry licensed under this part must
10 inform the patient and his or her immediate family, if
11 appropriate, of the right to report abusive, neglectful, or
12 exploitative practices. The statewide toll-free telephone
13 number for the central abuse hotline registry must be provided
14 to patients in a manner that is clearly legible and must
15 include the words: "To report abuse, neglect, or exploitation,
16 please call toll-free ...(phone number)...." The Agency for
17 Health Care Administration shall adopt rules that provide for
18 90 days' advance notice of a change in the toll-free telephone
19 number and that outline due process procedures, as provided
20 under chapter 120, for home health agency personnel and nurse
21 registry personnel who are reported to the central abuse
22 hotline registry. Home health agencies and nurse registries
23 shall establish appropriate policies and procedures for
24 providing such notice to patients.

25 Section 64. Paragraph (d) of subsection (2) of section
26 400.506, Florida Statutes, is amended to read:

27 400.506 Licensure of nurse registries; requirements;
28 penalties.--

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

21 Section 65. Subsection (6) of section 400.509, Florida
22 Statutes, is amended to read:

23 400.509 Registration of particular service providers
24 exempt from licensure; certificate of registration; regulation
25 of registrants.--

26 (6) On or before the first day on which services are
27 provided to a patient or client, any registrant under this
28 part must inform the patient or client and his or her
29 immediate family, if appropriate, of the right to report
30 abusive, neglectful, or exploitative practices. The statewide
31 toll-free telephone number for the central abuse hotline

1 ~~registry~~ must be provided to patients or clients in a manner
2 that is clearly legible and must include the words: "To report
3 abuse, neglect, or exploitation, please call toll-free
4 ...(phone number)..." Registrants must establish appropriate
5 policies and procedures for providing such notice to patients
6 or clients.

7 Section 66. Subsections (3), (4), (5), and (6) and
8 paragraph (a) of subsection (7) of section 400.512, Florida
9 Statutes, are amended to read:

10 400.512 Screening of home health agency personnel;
11 nurse registry personnel; and companions and homemakers.--The
12 agency shall require employment or contractor screening as
13 provided in chapter 435, using the level 1 standards for
14 screening set forth in that chapter, for home health agency
15 personnel; persons referred for employment by nurse
16 registries; and persons employed by companion or homemaker
17 services registered under s. 400.509.

18 (3) As a prerequisite to operating as a home health
19 agency, nurse registry, or companion or homemaker service
20 under s. 400.509, the administrator or managing employee,
21 respectively, must submit to the agency his or her name and
22 any other information necessary to conduct a complete
23 screening according to this section. The agency shall submit
24 the information to the Department of Law Enforcement ~~and the~~
25 ~~department's abuse hotline~~ for state processing. The agency
26 shall review the record of the administrator or manager with
27 respect to the offenses specified in this section and shall
28 notify the owner of its findings. If disposition information
29 is missing on a criminal record, the administrator or manager,
30 upon request of the agency, must obtain and supply within 30
31 days the missing disposition information to the agency.

1 Failure to supply missing information within 30 days or to
2 show reasonable efforts to obtain such information will result
3 in automatic disqualification.

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

24 (5) There is no monetary liability on the part of, and
25 no cause of action for damages arises against, a licensed home
26 health agency, licensed nurse registry, or companion or
27 homemaker service registered under s. 400.509, that, upon
28 notice that the employee or contractor 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 of

1 ~~a confirmed report of adult abuse, neglect, or exploitation,~~
2 terminates the employee or contractor ~~against whom the report~~
3 ~~was issued~~, whether or not the employee or contractor has
4 filed for an exemption with the agency in accordance with
5 chapter 435 and whether or not the time for filing has
6 expired.

7 (6) The costs of processing the statewide
8 correspondence criminal records checks ~~and the search of the~~
9 ~~department's central abuse hotline~~ must be borne by the home
10 health agency; the nurse registry; or the companion or
11 homemaker service registered under s. 400.509, or by the
12 person being screened, at the discretion of the home health
13 agency, nurse registry, or s. 400.509 registrant.

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

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

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

26 3. Use information from the criminal records ~~or~~
27 ~~central abuse hotline~~ obtained under this section for any
28 purpose other than screening that person for employment as
29 specified in this section or release such information to any
30 other person for any purpose other than screening for
31 employment under this section.

1 Section 67. Paragraph (c) of subsection (1) and
2 subsection (3) of section 400.5572, Florida Statutes, are
3 amended to read:

4 400.5572 Background screening.--

5 (1)

6 (c) The agency may grant a provisional license to an
7 adult day care center applying for an initial license when
8 each individual required by this subsection to undergo
9 screening has completed the ~~abuse registry~~ and Department of
10 Law Enforcement background check ~~checks~~, but has not yet
11 received results from the Federal Bureau of Investigation, or
12 when a request for an exemption from disqualification has been
13 submitted to the agency pursuant to s. 435.07, but a response
14 has not been issued.

15 ~~(3) When an employee, volunteer, operator, or owner of~~
16 ~~an adult day care center is the subject of a confirmed report~~
17 ~~of adult abuse, neglect, or exploitation, as defined in s.~~
18 ~~415.102, and the protective investigator knows that the~~
19 ~~individual is an employee, volunteer, operator, or owner of a~~
20 ~~center, the agency shall be notified of the confirmed report.~~

21 Section 68. Subsection (2) of section 400.628, Florida
22 Statutes, is amended to read:

23 400.628 Residents' bill of rights.--

24 (2) The provider shall ensure that residents and their
25 legal representatives are made aware of the rights,
26 obligations, and prohibitions set forth in this part.
27 Residents must also be given the names, addresses, and
28 telephone numbers of the district ombudsman council and the
29 central adult abuse hotline registry where they may lodge
30 complaints.

31

1 Section 69. Paragraph (d) of subsection (4) of section
2 400.801, Florida Statutes, is amended to read:

3 400.801 Homes for special services.--

4 (4) Each applicant for licensure must comply with the
5 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 70. Paragraph (d) of subsection (3) of section
30 400.805, Florida Statutes, is amended to read:

31 400.805 Transitional living facilities.--

1 (3) Each applicant for licensure must comply with the
2 following requirements:

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

26 Section 71. Paragraph (d) of subsection (5) of section
27 400.906, Florida Statutes, is amended to read:

28 400.906 Initial application for license.--

29 (5) 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 72. Subsection (10) of section 400.931,
25 Florida Statutes, is amended to read:

26 400.931 Application for license; fee; provisional
27 license; temporary permit.--

28 (10) When a change of the general manager of a home
29 medical equipment provider occurs, the licensee must notify
30 the agency of the change within 45 days thereof and must
31 provide evidence of compliance with the background screening

1 requirements in subsection (5); except that a general manager
2 who has met the standards for ~~the abuse registry background~~
3 ~~check~~ and the Department of Law Enforcement background check,
4 but for whom background screening results from the Federal
5 Bureau of Investigation have not yet been received, may be
6 employed pending receipt of the Federal Bureau of
7 Investigation background screening report. An individual may
8 not continue to serve as general manager if the Federal Bureau
9 of Investigation background screening report indicates any
10 violation of background screening standards.

11 Section 73. Section 400.95, Florida Statutes, is
12 amended to read:

13 400.95 Notice of toll-free telephone number for
14 central abuse hotline ~~registry~~.--On or before the first day
15 home medical equipment is delivered to the patient's home, any
16 home medical equipment provider licensed under this part must
17 inform the consumer and his or her immediate family, if
18 appropriate, of the right to report abusive, neglectful, or
19 exploitative practices. The statewide toll-free telephone
20 number for the central abuse hotline ~~registry~~ must be provided
21 to consumers in a manner that is clearly legible and must
22 include the words: "To report abuse, neglect, or
23 exploitation, please call toll-free 1-800-962-2873." Home
24 medical equipment providers shall establish appropriate
25 policies and procedures for providing such notice to
26 consumers.

27 Section 74. Subsections (3), (4), (5), and (6) and
28 paragraph (a) of subsection (7) of section 400.953, Florida
29 Statutes, are amended to read:

30 400.953 Background screening of home medical equipment
31 provider personnel.--The agency shall require employment

1 screening as provided in chapter 435, using the level 1
2 standards for screening set forth in that chapter, for home
3 medical equipment provider personnel.

4 (3) Proof of compliance with the screening
5 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
6 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
7 985.407 or this part must be accepted in lieu of the
8 requirements of this section if the person has been
9 continuously employed in the same type of occupation for which
10 he or she is seeking employment without a breach in service
11 that exceeds 180 days, the proof of compliance is not more
12 than 2 years old, and the person has been screened ~~through the~~
13 ~~central abuse registry and tracking system of the department~~
14 ~~and~~ by the Department of Law Enforcement. An employer or
15 contractor shall directly provide proof of compliance to
16 another employer or contractor, and a potential employer or
17 contractor may not accept any proof of compliance directly
18 from the person requiring screening. Proof of compliance with
19 the screening requirements of this section shall be provided,
20 upon request, to the person screened by the home medical
21 equipment provider.

22 (4) There is no monetary liability on the part of, and
23 no cause of action for damages arising against, a licensed
24 home medical equipment provider that, upon notice that an
25 employee has been found guilty of, regardless of adjudication,
26 or entered a plea of nolo contendere or guilty to, any offense
27 prohibited under s. 435.03 or under any similar statute of
28 another jurisdiction of a confirmed report of adult abuse,
29 ~~neglect, or exploitation under chapter 415,~~ terminates the
30 employee ~~against whom the report was issued,~~ whether or not
31

1 the employee has filed for an exemption with the agency and
2 whether or not the time for filing has expired.

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

8 (6) Neither the agency nor the home medical equipment
9 provider may use the criminal records or ~~juvenile records, or~~
10 ~~central abuse registry information~~ of a person for any purpose
11 other than determining whether that person meets minimum
12 standards of good moral character for home medical equipment
13 provider personnel.

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

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

22 2. Operate or attempt to operate an entity licensed
23 under this part with persons who do not meet the minimum
24 standards for good moral character as contained in this
25 section; or

26 3. Use information from the criminal records ~~or~~
27 ~~central abuse registry~~ obtained under this section for any
28 purpose other than screening that person for employment as
29 specified in this section, or release such information to any
30 other person for any purpose other than screening for
31 employment under this section.

1 Section 75. Subsection (1) of section 400.955, Florida
2 Statutes, is amended to read:

3 400.955 Procedures for screening of home medical
4 equipment provider personnel.--

5 (1) A person employed by a home medical equipment
6 provider shall, within 5 working days after starting to work,
7 submit to the home medical equipment provider a complete set
8 of information necessary to conduct a screening under this
9 section. The person must sign an affidavit stating whether he
10 or she meets the minimum standards for good moral character
11 under this section. The home medical equipment provider shall
12 submit the information to the Department of Law Enforcement
13 ~~and to the department's central abuse registry and tracking~~
14 ~~system~~ for processing. If disposition information is missing
15 on a criminal record, it is the responsibility of the person
16 being screened to obtain and supply the missing information
17 within 30 days. Failure to supply the missing information or
18 to show reasonable efforts to obtain such information will
19 result in automatic disqualification for employment.

20 Section 76. Paragraph (d) of subsection (10) of
21 section 400.962, Florida Statutes, is amended to read:

22 400.962 License required; license application.--

23 (10)

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

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

15 Section 77. Subsections (4) and (8) of section
16 400.964, Florida Statutes, are amended to read:

17 400.964 Personnel screening requirement.--

18 (4) The applicant is responsible for paying the fees
19 associated with obtaining the required screening. Payment for
20 the screening ~~and the abuse registry check~~ must be submitted
21 to the agency as prescribed by the agency.

22 (8) There is no monetary or unemployment liability on
23 the part of, and no cause of action for damages arises against
24 an employer that, upon notice of a disqualifying offense
25 listed under chapter 435 ~~or a confirmed report of abuse,~~
26 ~~neglect, or exploitation~~ or an act of domestic violence,
27 terminates the employee ~~against whom the report was issued,~~
28 whether or not the employee has filed for an exemption with
29 the Department of Health or the Agency for Health Care
30 Administration.

31

1 Section 78. Paragraph (d) of subsection (2) of section
2 402.3025, Florida Statutes, is amended to read:

3 402.3025 Public and nonpublic schools.--For the
4 purposes of ss. 402.301-402.319, the following shall apply:

5 (2) NONPUBLIC SCHOOLS.--

6 (d)1. Programs for children who are at least 3 years
7 of age, but under 5 years of age, which are not licensed under
8 ss. 402.301-402.319 shall substantially comply with the
9 minimum child care standards promulgated pursuant to ss.
10 402.305-402.3057.

11 2. The department or local licensing agency shall
12 enforce compliance with such standards, where possible, to
13 eliminate or minimize duplicative inspections or visits by
14 staff enforcing the minimum child care standards and staff
15 enforcing other standards under the jurisdiction of the
16 department.

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

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

22 b. To enforce its rules and regulations.

23 c. To use corrective action plans, whenever possible,
24 to attain compliance prior to the use of more restrictive
25 enforcement measures.

26 d. To make application for injunction to the proper
27 circuit court, and the judge of that court shall have
28 jurisdiction upon hearing and for cause shown to grant a
29 temporary or permanent injunction, or both, restraining any
30 person from violating or continuing to violate any of the
31 provisions of ss. 402.301-402.319. Any violation of this

1 section or of the standards applied under ss. 402.305-402.3057
2 which threatens harm to any child in the school's programs for
3 children who are at least 3 years of age, but are under 5
4 years of age, or repeated violations of this section or the
5 standards under ss. 402.305-402.3057, shall be grounds to seek
6 an injunction to close a program in a school.

7 e. To impose an administrative fine, not to exceed
8 \$100, for each violation of the minimum child care standards
9 promulgated pursuant to ss. 402.305-402.3057.

10 4. It is a misdemeanor of the first degree, punishable
11 as provided in s. 775.082 or s. 775.083, for any person
12 willfully, knowingly, or intentionally to:

13 a. Fail, by false statement, misrepresentation,
14 impersonation, or other fraudulent means, to disclose in any
15 required written documentation for exclusion from licensure
16 pursuant to this section a material fact used in making a
17 determination as to such exclusion; or

18 b. Use information from the criminal records ~~or~~
19 ~~central abuse registry~~ obtained under s. 402.305 or s.
20 402.3055 for any purpose other than screening that person for
21 employment as specified in those sections or release such
22 information to any other person for any purpose other than
23 screening for employment as specified in those sections.

24 5. It is a felony of the third degree, punishable as
25 provided in s. 775.082, s. 775.083, or s. 775.084, for any
26 person willfully, knowingly, or intentionally to use
27 information from the juvenile records of any person obtained
28 under s. 402.305 or s. 402.3055 for any purpose other than
29 screening for employment as specified in those sections or to
30 release information from such records to any other person for
31

1 any purpose other than screening for employment as specified
2 in those sections.

3 Section 79. Paragraph (c) of subsection (5) of section
4 402.3125, Florida Statutes, is amended to read:

5 402.3125 Display and appearance of license; posting of
6 violations; information to be provided to parents.--

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

10 (c) The brochure shall, at a minimum, contain the
11 following information:

12 1. A statement that the facility is licensed and has
13 met state standards for licensure as established by s. 402.305
14 or that the facility is licensed by a local licensing agency
15 and has met or exceeded the state standards, pursuant to ss.
16 402.306 and 402.307. Such statement shall include a listing of
17 specific standards that licensed facilities must meet pursuant
18 to s. 402.305.

19 2. A statement indicating that information about the
20 licensure status of the child care facility can be obtained by
21 telephoning the department office or the office of the local
22 licensing agency issuing the license at a telephone number or
23 numbers which shall be printed upon or otherwise affixed to
24 the brochure.

25 3. The statewide toll-free telephone number of the
26 central Florida abuse hotline Registry, together with a notice
27 that reports of suspected and actual cases of child physical
28 abuse, sexual abuse, and neglect are received and referred for
29 investigation by the hotline registry.

30
31

1 4. The date that the current license for the facility
2 was issued and the date of its scheduled expiration if it is
3 not renewed.

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

7 Section 80. Paragraph (d) of subsection (6) of section
8 402.313, Florida Statutes, is amended to read:

9 402.313 Family day care homes.--

10 (6) The department shall prepare a brochure on family
11 day care for distribution by the department and by local
12 licensing agencies, if appropriate, to family day care homes
13 for distribution to parents utilizing such child care, and to
14 all interested persons, including physicians and other health
15 professionals; mental health professionals; school teachers or
16 other school personnel; social workers or other professional
17 child care, foster care, residential, or institutional
18 workers; and law enforcement officers. The brochure shall, at
19 a minimum, contain the following information:

20 (d) The statewide toll-free telephone number of the
21 central Florida abuse hotline Registry, together with a notice
22 that reports of suspected and actual child physical abuse,
23 sexual abuse, and neglect are received and referred for
24 investigation by the hotline registry.

25 Section 81. Paragraph (b) of subsection (11) of
26 section 409.175, Florida Statutes, is amended to read:

27 409.175 Licensure of family foster homes, residential
28 child-caring agencies, and child-placing agencies.--

29 (11)

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

1 1. Willfully or intentionally fail to comply with the
2 requirements for the screening of personnel or the dismissal
3 of personnel found not to be in compliance with the
4 requirements for good moral character as specified in
5 paragraph (4)(a).

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

12 Section 82. Subsection (29) of section 409.912,
13 Florida Statutes, is amended to read:

14 409.912 Cost-effective purchasing of health care.--The
15 agency shall purchase goods and services for Medicaid
16 recipients in the most cost-effective manner consistent with
17 the delivery of quality medical care. The agency shall
18 maximize the use of prepaid per capita and prepaid aggregate
19 fixed-sum basis services when appropriate and other
20 alternative service delivery and reimbursement methodologies,
21 including competitive bidding pursuant to s. 287.057, designed
22 to facilitate the cost-effective purchase of a case-managed
23 continuum of care. The agency shall also require providers to
24 minimize the exposure of recipients to the need for acute
25 inpatient, custodial, and other institutional care and the
26 inappropriate or unnecessary use of high-cost services.

27 (29) Each managed care plan that is under contract
28 with the agency to provide health care services to Medicaid
29 recipients shall annually conduct a background check with the
30 Florida Department of Law Enforcement of all persons with
31 ownership interest of 5 percent or more or executive

1 management responsibility for the managed care plan and shall
2 submit to the agency information concerning any such person
3 who has been found guilty of, regardless of adjudication, or
4 has entered a plea of nolo contendere or guilty to, any of the
5 offenses listed in s. 435.03 ~~or has a confirmed report of~~
6 ~~abuse, neglect, or exploitation pursuant to chapter 415.~~

7 Section 83. Subsection (5) of section 430.205, Florida
8 Statutes, is amended to read:

9 430.205 Community care service system.--

10 (5) Any person who has been classified as a
11 functionally impaired elderly person is eligible to receive
12 community-care-for-the-elderly core services. Those elderly
13 persons who are determined by ~~adult~~ protective investigations
14 ~~services~~ to be vulnerable adults ~~elderly persons~~ in need of
15 services, pursuant to s. 415.104(3)(b)~~415.1045(2)(b)~~, or to
16 be victims of abuse, neglect, or exploitation who are in need
17 of immediate services to prevent further harm and are referred
18 by the adult protective services program, shall be given
19 primary consideration for receiving
20 community-care-for-the-elderly services. As used in this
21 subsection, "primary consideration" means that an assessment
22 and services must commence within 72 hours after referral to
23 the department or as established in accordance with department
24 contracts by local protocols developed between department
25 service providers and the adult protective services program.

26 Section 84. Subsection (1) of section 447.208, Florida
27 Statutes, is amended to read:

28 447.208 Procedure with respect to certain appeals
29 under s. 447.207.--

30 (1) Any person filing an appeal pursuant to subsection
31 (8) or subsection (9) of s. 447.207 shall be entitled to a

1 hearing pursuant to subsections (4) and (5) of s. 447.503 and
2 in accordance with chapter 120; however, the hearing shall be
3 conducted within 30 days of the filing of an appeal with the
4 commission, unless an extension of time is granted by the
5 commission for good cause ~~or unless the basis for the appeal~~
6 ~~is an allegation of abuse or neglect under s. 415.1075, in~~
7 ~~which case the hearing by the Public Employees Relations~~
8 ~~Commission may not be held until the confirmed report of abuse~~
9 ~~or neglect has been upheld pursuant to the procedures for~~
10 ~~appeal in s. 415.1075.~~ Discovery may be granted only upon a
11 showing of extraordinary circumstances. A party requesting
12 discovery shall demonstrate a substantial need for the
13 information requested and an inability to obtain relevant
14 information by other means. To the extent that chapter 120 is
15 inconsistent with these provisions, the procedures contained
16 in this section shall govern.

17 Section 85. Section 447.401, Florida Statutes, is
18 amended to read:

19 447.401 Grievance procedures.--Each public employer
20 and bargaining agent shall negotiate a grievance procedure to
21 be used for the settlement of disputes between employer and
22 employee, or group of employees, involving the interpretation
23 or application of a collective bargaining agreement. Such
24 grievance procedure shall have as its terminal step a final
25 and binding disposition by an impartial neutral, mutually
26 selected by the parties; however, when the issue under appeal
27 is an allegation of abuse, abandonment, or neglect by an
28 employee under s. 39.201 or s. 415.1034 ~~s. 415.1075~~, the
29 grievance may not be decided until the abuse, abandonment, or
30 neglect of a child has been judicially determined ~~or until a~~
31 ~~confirmed report of abuse or neglect of a disabled adult or~~

1 ~~elderly person has been upheld pursuant to the procedures for~~
2 ~~appeal in s. 415.1075.~~ However, an arbiter or other neutral
3 shall not have the power to add to, subtract from, modify, or
4 alter the terms of a collective bargaining agreement. If an
5 employee organization is certified as the bargaining agent of
6 a unit, the grievance procedure then in existence may be the
7 subject of collective bargaining, and any agreement which is
8 reached shall supersede the previously existing procedure.
9 All public employees shall have the right to a fair and
10 equitable grievance procedure administered without regard to
11 membership or nonmembership in any organization, except that
12 certified employee organizations shall not be required to
13 process grievances for employees who are not members of the
14 organization. A career service employee shall have the option
15 of utilizing the civil service appeal procedure, an unfair
16 labor practice procedure, or a grievance procedure established
17 under this section, but such employee is precluded from
18 availing himself or herself to more than one of these
19 procedures.

20 Section 86. Subsection (5) of section 455.712, Florida
21 Statutes, is amended to read:

22 455.712 Business establishments; requirements for
23 active status licenses.--

24 (5) This section applies to any business establishment
25 registered, permitted, or licensed by the department to do
26 business. Business establishments include, but are not limited
27 to, dental laboratories, electrology facilities, massage
28 establishments, and pharmacies, ~~and health care services~~
29 ~~pools.~~

30 Section 87. Paragraph (e) of subsection (1) of section
31 464.018, Florida Statutes, is amended to read:

1 464.018 Disciplinary actions.--

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

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

12 Section 88. Paragraph (f) of subsection (4) of section
13 468.520, Florida Statutes, is amended to read:

14 468.520 Definitions.--As used in this part:

15 (4) "Employee leasing" means an arrangement whereby a
16 leasing company assigns its employees to a client and
17 allocates the direction of and control over the leased
18 employees between the leasing company and the client. The term
19 does not include the following:

20 (f) A health care services pool licensed under s.
21 400.980 ~~402.48~~, unless otherwise engaged in business as an
22 employee leasing company.

23 Section 89. Section 468.826, Florida Statutes, is
24 amended to read:

25 468.826 Exemption from liability.--If an employer
26 terminates or denies employment to a certified nursing
27 assistant whose certification is inactive as shown on the
28 certified nursing assistant registry or whose name appears ~~on~~
29 ~~the central abuse registry and tracking system of the~~
30 ~~Department of Children and Family Services or on a criminal~~
31 screening report of the Department of Law Enforcement, the

1 employer is not civilly liable for such termination and a
2 cause of action may not be brought against the employer for
3 damages, regardless of whether the employee has filed for an
4 exemption from the department under s. 468.824(1). There may
5 not be any monetary liability on the part of, and a cause of
6 action for damages may not arise against, any licensed
7 facility, its governing board or members thereof, medical
8 staff, disciplinary board, agents, investigators, witnesses,
9 employees, or any other person for any action taken in good
10 faith without intentional fraud in carrying out this section.

11 Section 90. Subsections (1) and (2) of section
12 468.828, Florida Statutes, are amended to read:

13 468.828 Background screening information; rulemaking
14 authority.--

15 (1) The Agency for Health Care Administration shall
16 allow the department to electronically access its background
17 screening database and records, ~~and the Department of Children~~
18 ~~and Family Services shall allow the department to~~
19 ~~electronically access its central abuse registry and tracking~~
20 ~~system under chapter 415.~~

21 (2) An employer, or an agent thereof, may not use
22 criminal records or, juvenile records, ~~or information obtained~~
23 ~~from the central abuse hotline under chapter 415~~ for any
24 purpose other than determining if the person meets the
25 requirements of this part. Such records and information
26 obtained by the department shall remain confidential and
27 exempt from s. 119.07(1).

28 Section 91. Paragraph (d) of subsection (2) of section
29 483.101, Florida Statutes, is amended to read:

30 483.101 Application for clinical laboratory license.--

31

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

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

26 Section 92. Paragraph (d) of subsection (2) of section
27 483.30, Florida Statutes, is amended to read:

28 483.30 Licensing of centers.--

29 (2) 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 license
10 may be granted to the applicant upon the agency's receipt of a
11 report of the results of the Federal Bureau of Investigation
12 background screening for each individual required by this
13 section to undergo background screening which confirms that
14 all standards have been met, or upon the granting of a
15 disqualification exemption by the agency as set forth in
16 chapter 435. Any other person who is required to undergo level
17 2 background screening may serve in his or her capacity
18 pending the agency's receipt of the report from the Federal
19 Bureau of Investigation. However, the person may not continue
20 to serve if the report indicates any violation of background
21 screening standards and a disqualification exemption has not
22 been requested of and granted by the agency as set forth in
23 chapter 435.

24 Section 93. Paragraph (a) of subsection (2) of section
25 509.032, Florida Statutes, is amended to read:

26 509.032 Duties.--

27 (2) INSPECTION OF PREMISES.--

28 (a) The division has responsibility and jurisdiction
29 for all inspections required by this chapter. The division
30 has responsibility for quality assurance. Each licensed
31 establishment shall be inspected at least biannually and at

1 such other times as the division determines is necessary to
2 ensure the public's health, safety, and welfare. The division
3 shall establish a system to determine inspection frequency.
4 Public lodging units classified as resort condominiums or
5 resort dwellings are not subject to this requirement, but
6 shall be made available to the division upon request. If,
7 during the inspection of a public lodging establishment
8 classified for renting to transient or nontransient tenants,
9 an inspector identifies vulnerable ~~disabled~~ adults ~~or elderly~~
10 ~~persons~~ who appear to be victims of neglect, as defined in s.
11 415.102, or, in the case of a building that is not equipped
12 with automatic sprinkler systems, tenants or clients who may
13 be unable to self-preserve in an emergency, the division shall
14 convene meetings with the following agencies as appropriate to
15 the individual situation: the Department of Health, the
16 Department of Elderly Affairs, the area agency on aging, the
17 local fire marshal, the landlord and affected tenants and
18 clients, and other relevant organizations, to develop a plan
19 which improves the prospects for safety of affected residents
20 and, if necessary, identifies alternative living arrangements
21 such as facilities licensed under part II or part III of
22 chapter 400.

23 Section 94. Subsection (3) of section 744.309, Florida
24 Statutes, is amended to read:

25 744.309 Who may be appointed guardian of a resident
26 ward.--

27 (3) DISQUALIFIED PERSONS.--No person who has been
28 convicted of a felony or who, from any incapacity or illness,
29 is incapable of discharging the duties of a guardian, or who
30 is otherwise unsuitable to perform the duties of a guardian,
31 shall be appointed to act as guardian. Further, no person who

1 has been judicially determined to have committed abuse,
2 abandonment, or neglect against a child as defined in s. 39.01
3 or s. 984.03(1),(2),and (39), or who has been found guilty
4 of, regardless of adjudication, or entered a plea of nolo
5 contendere or guilty to, any offense prohibited under s.
6 435.03 or under any similar statute of another jurisdiction,~~a~~
7 ~~confirmed report of abuse, neglect, or exploitation which has~~
8 ~~been uncontested or upheld pursuant to the provisions of ss.~~
9 ~~415.104 and 415.1075~~ shall be appointed to act as a guardian.
10 Except as provided in subsection (5) or subsection (6), a
11 person who provides substantial services to the proposed ward
12 in a professional or business capacity, or a creditor of the
13 proposed ward, may not be appointed guardian and retain that
14 previous professional or business relationship. A person may
15 not be appointed a guardian if he or she is in the employ of
16 any person, agency, government, or corporation that provides
17 service to the proposed ward in a professional or business
18 capacity, except that a person so employed may be appointed if
19 he or she is the spouse, adult child, parent, or sibling of
20 the proposed ward or the court determines that the potential
21 conflict of interest is insubstantial and that the appointment
22 would clearly be in the proposed ward's best interest. The
23 court may not appoint a guardian in any other circumstance in
24 which a conflict of interest may occur.

25 Section 95. Subsection (12) of section 744.474,
26 Florida Statutes, is amended to read:

27 744.474 Reasons for removal of guardian.--A guardian
28 may be removed for any of the following reasons, and the
29 removal shall be in addition to any other penalties prescribed
30 by law:
31

1 (12) Having been found guilty of, regardless of
2 adjudication, or entered a plea of nolo contendere or guilty
3 to, any offense prohibited under s. 435.03 or under any
4 similar statute of another jurisdiction ~~A confirmed report~~
5 ~~pursuant to a protective investigation made by the Department~~
6 ~~of Children and Family Services, which has been uncontested or~~
7 ~~has been upheld, in accordance with s. 415.1075, that the~~
8 ~~guardian has abused, neglected, or exploited the ward.~~

9 Section 96. Section 744.7081, Florida Statutes, is
10 amended to read:

11 744.7081 Access to records by Statewide Public
12 Guardianship Office; confidentiality.--Notwithstanding any
13 other provision of law to the contrary, any medical,
14 financial, or mental health records held by an agency, or the
15 court and its agencies, which are necessary to evaluate the
16 public guardianship system, to assess the need for additional
17 public guardianship, or to develop required reports, shall be
18 provided to the Statewide Public Guardianship Office upon that
19 office's request. Any confidential or exempt information
20 provided to the Statewide Public Guardianship Office shall
21 continue to be held confidential or exempt as otherwise
22 provided by law. All records held by the Statewide Public
23 Guardianship Office relating to the medical, financial, or
24 mental health of vulnerable ~~citizens who are elderly persons~~
25 ~~or disabled~~ adults as defined in chapter 415, persons with a
26 developmental disability as defined in chapter 393, or persons
27 with a mental illness as defined in chapter 394, shall be
28 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
29 of the State Constitution. This section is subject to the Open
30 Government Sunset Review Act of 1995 in accordance with s.
31 119.15, and shall stand repealed on October 2, 2004, unless

1 reviewed and saved from repeal through reenactment by the
2 Legislature.

3 Section 97. Paragraph (a) of subsection (6) of section
4 775.21, Florida Statutes, is amended to read:

5 775.21 The Florida Sexual Predators Act; definitions;
6 legislative findings, purpose, and intent; criteria;
7 designation; registration; community and public notification;
8 immunity; penalties.--

9 (6) REGISTRATION.--

10 (a) A sexual predator must register with the
11 department by providing the following information to the
12 department:

13 1. Name, social security number, age, race, sex, date
14 of birth, height, weight, hair and eye color, photograph,
15 address of legal residence and address of any current
16 temporary residence, including a rural route address and a
17 post office box, date and place of any employment, date and
18 place of each conviction, fingerprints, and a brief
19 description of the crime or crimes committed by the offender.
20 A post office box shall not be provided in lieu of a physical
21 residential address. If the sexual predator's place of
22 residence is a motor vehicle, trailer, mobile home, or
23 manufactured home, as defined in chapter 320, the sexual
24 predator shall also provide to the department written notice
25 of the vehicle identification number; the license tag number;
26 the registration number; and a description, including color
27 scheme, of the motor vehicle, trailer, mobile home, or
28 manufactured home. If a sexual predator's place of residence
29 is a vessel, live-aboard vessel, or houseboat, as defined in
30 chapter 327, the sexual predator shall also provide to the
31 department written notice of the hull identification number;

1 the manufacturer's serial number; the name of the vessel,
2 live-aboard vessel, or houseboat; the registration number; and
3 a description, including color scheme, of the vessel,
4 live-aboard vessel, or houseboat.

5 2. Any other information determined necessary by the
6 department, including criminal and corrections records;
7 nonprivileged personnel ~~and~~ treatment, ~~and~~ abuse registry
8 records; and evidentiary genetic markers when available.

9 Section 98. Paragraph (e) of subsection (5) of section
10 916.107, Florida Statutes, is amended to read:

11 916.107 Rights of forensic clients.--

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

13 (e) Each client committed pursuant to this chapter
14 shall have ready access to a telephone in order to report an
15 alleged abuse. The facility or program staff shall orally and
16 in writing inform each client of the procedure for reporting
17 abuse and shall present the information in a language the
18 client understands. A written copy of that procedure,
19 including the telephone number of the central abuse hotline
20 ~~registry~~ and reporting forms, shall be posted in plain view.

21 Section 99. Paragraph (a) of subsection (4) of section
22 943.0585, Florida Statutes, is amended to read:

23 943.0585 Court-ordered expunction of criminal history
24 records.--The courts of this state have jurisdiction over
25 their own procedures, including the maintenance, expunction,
26 and correction of judicial records containing criminal history
27 information to the extent such procedures are not inconsistent
28 with the conditions, responsibilities, and duties established
29 by this section. Any court of competent jurisdiction may
30 order a criminal justice agency to expunge the criminal
31 history record of a minor or an adult who complies with the

1 requirements of this section. The court shall not order a
2 criminal justice agency to expunge a criminal history record
3 until the person seeking to expunge a criminal history record
4 has applied for and received a certificate of eligibility for
5 expunction pursuant to subsection (2). A criminal history
6 record that relates to a violation of chapter 794, s. 800.04,
7 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
8 violation enumerated in s. 907.041 may not be expunged,
9 without regard to whether adjudication was withheld, if the
10 defendant was found guilty of or pled guilty or nolo
11 contendere to the offense, or if the defendant, as a minor,
12 was found to have committed, or pled guilty or nolo contendere
13 to committing, the offense as a delinquent act. The court may
14 only order expunction of a criminal history record pertaining
15 to one arrest or one incident of alleged criminal activity,
16 except as provided in this section. The court may, at its sole
17 discretion, order the expunction of a criminal history record
18 pertaining to more than one arrest if the additional arrests
19 directly relate to the original arrest. If the court intends
20 to order the expunction of records pertaining to such
21 additional arrests, such intent must be specified in the
22 order. A criminal justice agency may not expunge any record
23 pertaining to such additional arrests if the order to expunge
24 does not articulate the intention of the court to expunge a
25 record pertaining to more than one arrest. This section does
26 not prevent the court from ordering the expunction of only a
27 portion of a criminal history record pertaining to one arrest
28 or one incident of alleged criminal activity. Notwithstanding
29 any law to the contrary, a criminal justice agency may comply
30 with laws, court orders, and official requests of other
31 jurisdictions relating to expunction, correction, or

1 confidential handling of criminal history records or
2 information derived therefrom. This section does not confer
3 any right to the expunction of any criminal history record,
4 and any request for expunction of a criminal history record
5 may be denied at the sole discretion of the court.

6 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
7 criminal history record of a minor or an adult which is
8 ordered expunged by a court of competent jurisdiction pursuant
9 to this section must be physically destroyed or obliterated by
10 any criminal justice agency having custody of such record;
11 except that any criminal history record in the custody of the
12 department must be retained in all cases. A criminal history
13 record ordered expunged that is retained by the department is
14 confidential and exempt from the provisions of s. 119.07(1)
15 and s. 24(a), Art. I of the State Constitution and not
16 available to any person or entity except upon order of a court
17 of competent jurisdiction. A criminal justice agency may
18 retain a notation indicating compliance with an order to
19 expunge.

20 (a) The person who is the subject of a criminal
21 history record that is expunged under this section or under
22 other provisions of law, including former s. 893.14, former s.
23 901.33, and former s. 943.058, may lawfully deny or fail to
24 acknowledge the arrests covered by the expunged record, except
25 when the subject of the record:

- 26 1. Is a candidate for employment with a criminal
27 justice agency;
28 2. Is a defendant in a criminal prosecution;
29 3. Concurrently or subsequently petitions for relief
30 under this section or s. 943.059;
31 4. Is a candidate for admission to The Florida Bar;

1 5. Is seeking to be employed or licensed by or to
2 contract with the Department of Children and Family Services
3 or the Department of Juvenile Justice or to be employed or
4 used by such contractor or licensee in a sensitive position
5 having direct contact with children, the developmentally
6 disabled, the aged, or the elderly as provided in s.
7 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
8 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), ~~s.~~
9 ~~415.1075(4)~~, s. 985.407, or chapter 400; or

10 6. Is seeking to be employed or licensed by the Office
11 of Teacher Education, Certification, Staff Development, and
12 Professional Practices of the Department of Education, any
13 district school board, or any local governmental entity that
14 licenses child care facilities.

15 Section 100. Paragraph (e) of subsection (4) of
16 section 985.05, Florida Statutes, is amended to read:

17 985.05 Court records.--

18 (4) A court record of proceedings under this part is
19 not admissible in evidence in any other civil or criminal
20 proceeding, except that:

21 (e) Records of proceedings under this part may be used
22 to prove disqualification pursuant to ss. 110.1127, 393.0655,
23 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
24 985.407, ~~and for proof in a chapter 120 proceeding pursuant to~~
25 ~~s. 415.1075.~~

26 Section 101. Sections 415.1065, 415.1075, 415.1085,
27 and 415.109, Florida Statutes, are repealed.

28 Section 102. There is hereby appropriated from the
29 Health Care Trust Fund to the Agency for Health Care
30 Administration one full-time equivalent position and \$60,000
31 to implement the provisions of s. 400.980, Florida Statutes,

1 relating to the regulation of health care services pools, as
2 provided for in this act.

3 Section 103. Except as otherwise provided in this act,
4 this act shall take effect September 1, 2000.

5

6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1856

9 The committee substitute deletes a requirement for posting of
10 notice regarding abuse by entities regulated under ch. 400,
11 F.S.; requires hospices to comply with the service letter
12 requirements; adds health care services pools to ch. 400,
13 F.S., and transfers regulation of health services pools from
14 the Department of Health to the Agency for Health Care
15 Administration; deletes specifications for the service letter
16 form from the bill; requires service letters from two covered
17 employers in the past three years, as opposed to all previous
18 health care employers in the past five years; deletes
19 amendments to subsection (24) of s. 90.803, F.S., regarding a
20 hearsay exception for statements made by elderly or disabled
21 adults who are victims of abuse, neglect, exploitation or
22 violent crimes; requires the Department of Children and Family
23 Services to begin an investigation within 24 hours of
24 receiving a report; and increases the amount of time the
25 Department of Children and Family Services is allowed to
26 complete an investigation.
27
28
29
30
31