

By the Committee on Elder Affairs & Long-Term Care and
Representatives Argenziano, Fiorentino, Waters, Littlefield,
Rubio, Bitner, Reddick, Russell, Levine, Kosmas and Jacobs

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 "health care services pool";
8 providing background screening requirements for
9 applicants for registration, managing
10 employees, and financial officers of such
11 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; correcting a cross reference; amending
13 ss. 39.202, 90.803, 110.1127, 112.0455, 119.07,
14 232.50, 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.

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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 said 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.

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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 renumbered as section 400.980, Florida Statutes, and amended
15 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

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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

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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
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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.
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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 s.
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1 20.06(2), Florida Statutes, from the Department of Health to
2 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) Access to all records shall be granted to staff of
29 the legislative committees with jurisdiction over issues and
30 services related to vulnerable adults, or over the department.
31

1 ~~(3)(2)~~ Access to all records, excluding the name of
2 the reporter which shall be released only as provided in
3 subsection (6), shall be granted only to the following
4 persons, officials, and agencies:

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

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

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

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

25 (e) A court, by subpoena, upon its finding that access
26 to such records may be necessary for the determination of an
27 issue before the court; however, such access must be limited
28 to inspection in camera, unless the court determines that
29 public disclosure of the information contained in such records
30 is necessary for the resolution of an issue then pending
31 before it.

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

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

9 (h) Any appropriate official of the department, of the
10 Agency for Health Care Administration, or of the Department of
11 Elderly Affairs who is responsible for:

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

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

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

23 (j) Employees or agents of an agency of another state
24 that has jurisdiction comparable to the jurisdiction described
25 in paragraph (a).

26 (k) The Public Employees Relations Commission for the
27 sole purpose of obtaining evidence for appeals filed pursuant
28 to s. 447.207. Records may be released only after deletion of
29 all information that specifically identifies persons other
30 than the employee.

31

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

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

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

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

27 (6) The identity of any person reporting ~~adult~~ abuse,
28 neglect, or exploitation of a vulnerable adult may not be
29 released, without that person's written consent, to any person
30 other than employees of the department responsible for ~~adult~~
31 protective services, the central abuse hotline registry ~~and~~

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

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

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

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

31

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

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

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

18 415.1102 Adult protection teams; services; eligible
19 cases.--Subject to an appropriation, the department may
20 develop, maintain, and coordinate the services of one or more
21 multidisciplinary adult protection teams in each of the
22 districts of the department. Such teams may be composed of,
23 but need not be limited to, representatives of appropriate
24 health, mental health, social service, legal service, and law
25 enforcement agencies.

26 ~~(1)~~ The department shall utilize and convene the teams
27 to supplement the protective services activities of the ~~adult~~
28 protective services program of the department. This section
29 does not prevent a person from reporting under s. 415.1034 all
30 suspected or known cases of abuse, neglect, or exploitation of
31 a vulnerable disabled adult ~~or an elderly person~~. The role of

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

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

15 ~~(b) Telephone consultation services in emergencies and~~
16 ~~in other situations.~~

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

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

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

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

27 ~~(g) Case staffings to develop, implement, and monitor~~
28 ~~treatment plans for disabled adults and elderly persons whose~~
29 ~~cases have been referred to the team. An adult protection~~
30 ~~team may provide consultation with respect to a disabled adult~~
31 ~~or elderly person who has not been referred to the team. The~~

1 ~~consultation must be provided at the request of a~~
2 ~~representative of the adult protective services program or at~~
3 ~~the request of any other professional involved with the~~
4 ~~disabled adult or elderly person or that person's guardian or~~
5 ~~other caregivers. In every such adult protection team case~~
6 ~~staffing consultation or staff activity involving a disabled~~
7 ~~adult or elderly person, an adult protective services program~~
8 ~~representative shall attend and participate.~~

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

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

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

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

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

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

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

1 ~~(d) Reported financial exploitation of a disabled~~
2 ~~adult or elderly person.~~

3
4 In all instances in which an adult protection team is
5 providing certain services to abused, neglected, or exploited
6 vulnerable disabled adults ~~or elderly persons~~, other offices
7 and units of the department shall avoid duplicating the
8 provisions of those services.

9 Section 19. Section 415.111, Florida Statutes, is
10 amended to read:

11 415.111 Criminal penalties.--

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

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

26 (3) A person who has custody of records and documents
27 the confidentiality of which is abrogated under s.
28 415.1045~~(3)~~~~(5)~~ and who refuses to grant access to such records
29 commits a misdemeanor of the second degree, punishable as
30 provided in s. 775.082 or s. 775.083.

31

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

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

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

1 report annually to the Legislature the number of reports
2 referred.

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

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

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

12 415.1111 Civil penalties.--

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

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

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

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

21
22 ~~Second and subsequent offenses may be for the same type of~~
23 ~~abuse, neglect, or exploitation or for a different type, and~~
24 ~~may be perpetrated upon the same or a different disabled adult~~
25 ~~or elderly person.~~

26 ~~(2) All fines received by the department under this~~
27 ~~section must be deposited in the Operations and Maintenance~~
28 ~~Trust Fund within the department. The Legislature shall~~
29 ~~annually appropriate from the fund an amount that is no less~~
30 ~~than the amount deposited under this section, to be expended~~
31 ~~only for the adult protective services program.~~

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

25 Section 21. Subsections (1), (2), and (5) of section
26 415.1113, Florida Statutes, are amended to read:

27 415.1113 Administrative fines for false report of
28 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
29 ~~or an elderly person~~.--

30 (1) In addition to any other penalty authorized by
31 this section, chapter 120, or other law, the department may

1 impose a fine, not to exceed \$10,000 for each violation, upon
2 a person who knowingly and willfully makes a false report of
3 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
4 ~~or an elderly person~~, or a person who counsels another to make
5 a false report.

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

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

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

22 415.113 Statutory construction; treatment by spiritual
23 means.--Nothing in ss. 415.101-415.112 shall be construed to
24 mean a person is abused, neglected, or in need of emergency or
25 protective services for the sole reason that the person relies
26 upon and is, therefore, being furnished treatment by spiritual
27 means through prayer alone in accordance with the tenets and
28 practices of a well-recognized ~~recognized~~ church or religious
29 denomination or organization; nor shall anything in such
30 sections be construed to authorize, permit, or require any
31

1 medical care or treatment in contravention of the stated or
2 implied objection of such person. Such construction does not:

3 (1) Eliminate the requirement that such a case be
4 reported to the department;

5 (2) Prevent the department from investigating such a
6 case; or

7 (3) Preclude a court from ordering, when the health of
8 the individual requires it, the provision of medical services
9 by a licensed physician or treatment by a duly accredited
10 practitioner who relies solely on spiritual means for healing
11 in accordance with the tenets and practices of a
12 well-recognized church or religious denomination or
13 organization.

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

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

21 435.03 Level 1 screening standards.--

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

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

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

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

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

13 435.05 Requirements for covered employees.--Except as
14 otherwise provided by law, the following requirements shall
15 apply to covered employees:

16 (1)

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

30 (c) For level 2 screening, the employer or licensing
31 agency must submit the information necessary for screening to

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

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

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

20 435.07 Exemptions from disqualification.--Unless
21 otherwise provided by law, the provisions of this section
22 shall apply to exemptions from disqualification.

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

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

28 (b) Misdemeanors prohibited under any of the Florida
29 Statutes cited in this chapter or under similar statutes of
30 other jurisdictions;

31

1 (c) Offenses that were felonies when committed but are
2 now misdemeanors;

3 (d) Findings of delinquency; or

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

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

8
9 For the purposes of this subsection, the term "felonies" means
10 both felonies prohibited under any of the Florida Statutes
11 cited in this part ~~chapter~~ or under similar statutes of other
12 jurisdictions.

13 Section 27. Section 435.08, Florida Statutes, is
14 amended to read:

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

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

26 435.09 Confidentiality of personnel background check
27 information.--No criminal or juvenile, ~~or abuse hotline~~
28 information obtained under this section may be used for any
29 purpose other than determining whether persons meet the
30 minimum standards for employment or for an owner or director
31 of a covered service provider. The criminal records and

1 juvenile records obtained by the department or by an employer
2 are exempt from s. 119.07(1).

3 Section 29. Sections 435.401, 435.402, 435.403, and
4 435.405, Florida Statutes, are designated as part II of
5 chapter 435, Florida Statutes.

6 Section 30. Effective January 1, 2001, section
7 435.401, Florida Statutes, is created to read:

8 435.401 Caregivers of vulnerable adults; special
9 employment, contractual, or referral work history checks;
10 definitions.--For purposes of this part:

11 (1) "Agency" means the Agency for Health Care
12 Administration.

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

24 (3) "Direct access employee or contractor" means a
25 caregiver hired by or contracted with a covered organization
26 after January 1, 2001, whose primary job duties require direct
27 access or contact with persons receiving care, access to the
28 living areas of such persons, or access to the funds or
29 property of such persons. The term does not include caregivers
30 whose primary job duties do not include or require direct
31 access or contact with persons receiving care, but whose

1 duties may result in occasional contact with such persons. Not
2 included are maintenance personnel, office or clerical
3 workers, and nonlicensed personnel whose essential functions
4 do not include the care of or direct access to persons
5 receiving care.

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

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

12 Section 31. Effective January 1, 2001, section
13 435.402, Florida Statutes, is created to read:

14 435.402 Service letters; requirements; penalties.--

15 (1) No covered organization shall hire, contract with,
16 or register for referral any person seeking employment or
17 engagements that require direct access to patients or clients
18 without obtaining service letters regarding that person from
19 at least two covered organizations the person has been
20 employed by, contracted with, or registered with during the
21 past 3 years. If the applicant has been employed by,
22 contracted with, or registered with fewer than two covered
23 organizations during the past 3 years, then all covered
24 organizations must be contacted. If the person seeking
25 employment has not been previously employed by, contracted
26 with, or registered with a covered organization within the
27 past 3 years or was self-employed, then the prospective
28 covered organization must require the person to provide
29 letters of reference from at least two adults who are familiar
30 with the person, but who are not relatives of the person.
31 Nothing in this subsection shall prohibit or discourage

1 prospective covered organizations from performing more work
2 history checks than are required in this subsection.

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

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

29 (4)(a) Any covered organization, including a temporary
30 agency, that is required to obtain a service letter shall
31 obtain a statement signed by the applicant attesting that the

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

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

28 (5) Any covered organization, including a temporary
29 agency, that receives a written request for a service letter
30 from any other covered organization, as required by this
31 section, shall complete and send that service letter to the

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

16 (6) Notwithstanding the provisions of subsection (1),
17 the covered organization may conditionally employ, contract
18 with, or register for referral an applicant for up to 30 days
19 on a conditional basis, pending receipt of the required
20 service letters. An applicant conditionally employed,
21 contracted with, or registered for referral pursuant to this
22 subsection shall be informed, in writing, and shall
23 acknowledge, in writing, that his or her continued employment,
24 contract, or registration is contingent upon receipt of the
25 required service letters. A covered organization may allow a
26 person to continue working after the 30 days on a conditional
27 basis without the required service letters if the covered
28 organization has demonstrated a good faith attempt to obtain
29 the service letters, as evidenced by requesting the necessary
30 service letters prior to the applicant's first day of work, by
31 regular mail, facsimile, electronic transmission, or other

1 clearly documented delivery, and at least two documented
2 attempts to contact the covered organizations from which the
3 information was requested when the service letters were not
4 returned within 10 business days. Any covered organization
5 that has not demonstrated such good faith effort may be issued
6 a notice of noncompliance. A violation that is not corrected
7 within the specified timeframe or is a repeat violation
8 becomes a finable violation. The covered organization is
9 subject to an administrative penalty of \$500 for the first
10 finable violation, \$1,000 for the second finable violation,
11 and \$2,500 for the third and any subsequent finable violation.

12 (7) A covered organization shall make a good faith
13 attempt to locate an applicant's previous covered
14 organizations as identified in the application and to obtain
15 the service letters from each current or previous covered
16 organization. The burden of proof shall rest with the covered
17 organization to demonstrate a good faith attempt to comply
18 with this section, as evidenced by requesting the necessary
19 service letters prior to the applicant's first day of work, by
20 regular mail, facsimile, electronic transmission, or other
21 clearly documented delivery, and at least two documented
22 attempts to contact the covered organizations from which the
23 information was requested when the service letters were not
24 returned within 10 business days. Any covered organization
25 that does not obtain the required service letters for a person
26 seeking employment may be issued a notice of noncompliance. A
27 violation that is not corrected within the specified timeframe
28 or is a repeat violation becomes a finable violation. The
29 covered organization is subject to an administrative penalty
30 of \$500 for the first finable violation, \$1,000 for the second
31

1 finable violation, and \$2,500 for the third and any subsequent
2 finable violation.

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

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

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

31

1 covered organization was knowingly false, was deliberately
2 misleading, or was rendered with malicious purpose.

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

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

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

27 Section 32. Effective January 1, 2001, section
28 435.403, Florida Statutes, is created to read:

29 435.403 Enforcement; penalties.--

30 (1) The agency shall monitor covered organizations for
31 compliance with the provisions of s. 435.402. Such monitoring

1 shall be carried out through routine inspections and surveys
2 or other regulatory activities and through investigations of
3 complaints reported by any person to the agency alleging
4 noncompliance with the provisions of s. 435.402.

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

10 Section 33. Effective January 1, 2001, section
11 435.405, Florida Statutes, is created to read:

12 435.405 Rules.--The agency shall adopt rules to
13 implement the provisions of this part. The rules shall include
14 the forms for service letters, provisions for accepting the
15 service letter forms by facsimile or electronic transmission
16 in addition to printed form, standards for documentation of a
17 good faith effort to perform the actions required under this
18 part, and standards for monitoring the compliance of covered
19 organizations.

20 Section 34. Paragraph (g) of subsection (3) of section
21 20.43, Florida Statutes, is amended to read:

22 20.43 Department of Health.--There is created a
23 Department of Health.

24 (3) The following divisions of the Department of
25 Health are established:

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

- 29 1. Nursing assistants, as provided under s. 400.211.
30 2. ~~Health care services pools, as provided under s.~~
31 ~~402.48.~~

1 ~~2.3.~~ The Board of Acupuncture, created under chapter
2 457.
3 ~~3.4.~~ The Board of Medicine, created under chapter 458.
4 ~~4.5.~~ The Board of Osteopathic Medicine, created under
5 chapter 459.
6 ~~5.6.~~ The Board of Chiropractic Medicine, created under
7 chapter 460.
8 ~~6.7.~~ The Board of Podiatric Medicine, created under
9 chapter 461.
10 ~~7.8.~~ Naturopathy, as provided under chapter 462.
11 ~~8.9.~~ The Board of Optometry, created under chapter
12 463.
13 ~~9.10.~~ The Board of Nursing, created under chapter 464.
14 ~~10.11.~~ The Board of Pharmacy, created under chapter
15 465.
16 ~~11.12.~~ The Board of Dentistry, created under chapter
17 466.
18 ~~12.13.~~ Midwifery, as provided under chapter 467.
19 ~~13.14.~~ The Board of Speech-Language Pathology and
20 Audiology, created under part I of chapter 468.
21 ~~14.15.~~ The Board of Nursing Home Administrators,
22 created under part II of chapter 468.
23 ~~15.16.~~ The Board of Occupational Therapy, created
24 under part III of chapter 468.
25 ~~16.17.~~ Respiratory therapy, as provided under part V
26 of chapter 468.
27 ~~17.18.~~ Dietetics and nutrition practice, as provided
28 under part X of chapter 468.
29 ~~18.19.~~ The Board of Athletic Training, created under
30 part XIII of chapter 468.
31

1 ~~19.20.~~ The Board of Orthotists and Prosthetists,
2 created under part XIV of chapter 468.
3 ~~20.21.~~ Electrolysis, as provided under chapter 478.
4 ~~21.22.~~ The Board of Massage Therapy, created under
5 chapter 480.
6 ~~22.23.~~ The Board of Clinical Laboratory Personnel,
7 created under part III of chapter 483.
8 ~~23.24.~~ Medical physicists, as provided under part IV
9 of chapter 483.
10 ~~24.25.~~ The Board of Opticianry, created under part I
11 of chapter 484.
12 ~~25.26.~~ The Board of Hearing Aid Specialists, created
13 under part II of chapter 484.
14 ~~26.27.~~ The Board of Physical Therapy Practice, created
15 under chapter 486.
16 ~~27.28.~~ The Board of Psychology, created under chapter
17 490.
18 ~~28.29.~~ School psychologists, as provided under chapter
19 490.
20 ~~29.30.~~ The Board of Clinical Social Work, Marriage and
21 Family Therapy, and Mental Health Counseling, created under
22 chapter 491.
23
24 The department may contract with the Agency for Health Care
25 Administration who shall provide consumer complaint,
26 investigative, and prosecutorial services required by the
27 Division of Medical Quality Assurance, councils, or boards, as
28 appropriate.
29 Section 35. Paragraph (h) of subsection (2) of section
30 39.202, Florida Statutes, is amended to read:
31

1 39.202 Confidentiality of reports and records in cases
2 of child abuse or neglect.--

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

7 (h) Any appropriate official of the department
8 responsible for:

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

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

19 3. Employing and continuing employment of personnel of
20 the department.

21 Section 36. Subsection (24) of section 90.803, Florida
22 Statutes, is amended to read:

23 90.803 Hearsay exceptions; availability of declarant
24 immaterial.--The provision of s. 90.802 to the contrary
25 notwithstanding, the following are not inadmissible as
26 evidence, even though the declarant is available as a witness:

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

29 (a) Unless the source of information or the method or
30 circumstances by which the statement is reported indicates a
31 lack of trustworthiness, an out-of-court statement made by a

1 ~~vulnerable~~ an elderly person or disabled adult, as defined in
2 s. 825.101, describing any act of abuse or neglect, any act of
3 exploitation, the offense of battery or aggravated battery or
4 assault or aggravated assault or sexual battery, or any other
5 violent act on the declarant vulnerable ~~elderly person or~~
6 ~~disabled~~ adult, not otherwise admissible, is admissible in
7 evidence in any civil or criminal proceeding if:

8 1. The court finds in a hearing conducted outside the
9 presence of the jury that the time, content, and circumstances
10 of the statement provide sufficient safeguards of reliability.
11 In making its determination, the court may consider the mental
12 and physical age and maturity of the vulnerable ~~elderly person~~
13 ~~or disabled~~ adult, the nature and duration of the abuse or
14 offense, the relationship of the victim to the offender, the
15 reliability of the assertion, the reliability of the
16 vulnerable ~~elderly person or disabled~~ adult, and any other
17 factor deemed appropriate; and

18 2. The vulnerable ~~elderly person or disabled~~ adult
19 either:

20 a. Testifies; or

21 b. Is unavailable as a witness, provided that there is
22 corroborative evidence of the abuse or offense. Unavailability
23 shall include a finding by the court that the vulnerable
24 ~~elderly person's or disabled~~ adult's participation in the
25 trial or proceeding would result in a substantial likelihood
26 of severe emotional, mental, or physical harm, in addition to
27 findings pursuant to s. 90.804(1).

28 (b) In a criminal action, the defendant shall be
29 notified no later than 10 days before the trial that a
30 statement which qualifies as a hearsay exception pursuant to
31 this subsection will be offered as evidence at trial. The

1 notice shall include a written statement of the content of the
2 vulnerable ~~elderly person's or disabled~~ adult's statement, the
3 time at which the statement was made, the circumstances
4 surrounding the statement which indicate its reliability, and
5 such other particulars as necessary to provide full disclosure
6 of the statement.

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

10 Section 37. Paragraphs (a) and (b) of subsection (3)
11 of section 110.1127, Florida Statutes, are amended to read:

12 110.1127 Employee security checks.--

13 (3)(a) All positions in programs providing care to
14 children, the developmentally disabled, or vulnerable adults
15 ~~disabled adults, or elderly persons~~ for 15 hours or more per
16 week; all permanent and temporary employee positions of the
17 central abuse hotline; and all persons working under contract
18 who have access to abuse records are deemed to be persons and
19 positions of special trust or responsibility, and require
20 employment screening pursuant to chapter 435, using the level
21 2 standards set forth in that chapter.

22 (b) The employing agency may grant exemptions from
23 disqualification from working with children, the
24 developmentally disabled, or vulnerable adults ~~disabled~~
25 ~~adults, or elderly persons~~ as provided in s. 435.07.

26 Section 38. Paragraph (a) of subsection (12) of
27 section 112.0455, Florida Statutes, is amended to read:

28 112.0455 Drug-Free Workplace Act.--

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

30 (a) A laboratory may analyze initial or confirmation
31 drug specimens only if:

1 1. The laboratory is licensed and approved by the
2 Agency for Health Care Administration using criteria
3 established by the United States Department of Health and
4 Human Services as general guidelines for modeling the state
5 drug testing program. Each applicant for licensure must comply
6 with the following requirements:

7 a. Upon receipt of a completed, signed, and dated
8 application, the agency shall require background screening, in
9 accordance with the level 2 standards for screening set forth
10 in chapter 435, of the managing employee, or other similarly
11 titled individual responsible for the daily operation of the
12 laboratory, and of the financial officer, or other similarly
13 titled individual who is responsible for the financial
14 operation of the laboratory, including billings for services.
15 The applicant must comply with the procedures for level 2
16 background screening as set forth in chapter 435, as well as
17 the requirements of s. 435.03(3).

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

23 c. Proof of compliance with the level 2 background
24 screening requirements of chapter 435 which has been submitted
25 within the previous 5 years in compliance with any other
26 health care licensure requirements of this state is acceptable
27 in fulfillment of screening requirements.

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

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

20 e. Each applicant must submit to the agency, with its
21 application, a description and explanation of any exclusions,
22 permanent suspensions, or terminations of the applicant from
23 the Medicare or Medicaid programs. Proof of compliance with
24 the requirements for disclosure of ownership and control
25 interests under the Medicaid or Medicare programs shall be
26 accepted in lieu of this submission.

27 f. Each applicant must submit to the agency a
28 description and explanation of any conviction of an offense
29 prohibited under the level 2 standards of chapter 435 by a
30 member of the board of directors of the applicant, its
31 officers, or any individual owning 5 percent or more of the

1 applicant. This requirement does not apply to a director of a
2 not-for-profit corporation or organization if the director
3 serves solely in a voluntary capacity for the corporation or
4 organization, does not regularly take part in the day-to-day
5 operational decisions of the corporation or organization,
6 receives no remuneration for his or her services on the
7 corporation or organization's board of directors, and has no
8 financial interest and has no family members with a financial
9 interest in the corporation or organization, provided that the
10 director and the not-for-profit corporation or organization
11 include in the application a statement affirming that the
12 director's relationship to the corporation satisfies the
13 requirements of this sub-subparagraph.

14 g. A license may not be granted to any applicant if
15 the applicant or managing employee has been found guilty of,
16 regardless of adjudication, or has entered a plea of nolo
17 contendere or guilty to, any offense prohibited under the
18 level 2 standards for screening set forth in chapter 435,
19 unless an exemption from disqualification has been granted by
20 the agency as set forth in chapter 435.

21 h. The agency may deny or revoke licensure if the
22 applicant:

23 (I) Has falsely represented a material fact in the
24 application required by sub-subparagraph e. or
25 sub-subparagraph f., or has omitted any material fact from the
26 application required by sub-subparagraph e. or
27 sub-subparagraph f.; or

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

31

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

3 2. The laboratory has written procedures to ensure
4 chain of custody.

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

7 a. The use of internal quality controls including the
8 use of samples of known concentrations which are used to check
9 the performance and calibration of testing equipment, and
10 periodic use of blind samples for overall accuracy.

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

14 c. Security measures implemented by the testing
15 laboratory to preclude adulteration of specimens and drug test
16 results.

17 d. Other necessary and proper actions taken to ensure
18 reliable and accurate drug test results.

19 Section 39. Paragraphs (a), (b), and (c) of subsection
20 (7) of section 119.07, Florida Statutes, are amended to read:

21 119.07 Inspection, examination, and duplication of
22 records; exemptions.--

23 (7)(a) Any person or organization, including the
24 Department of Children and Family Services, may petition the
25 court for an order making public the records of the Department
26 of Children and Family Services that pertain to investigations
27 of alleged abuse, neglect, abandonment, or exploitation of a
28 child or a vulnerable, ~~a disabled adult, or an elderly person~~.
29 The court shall determine if good cause exists for public
30 access to the records sought or a portion thereof. In making
31 this determination, the court shall balance the best interest

1 of the vulnerable ~~disabled~~ adult, ~~elderly person~~, or child who
2 is the focus of the investigation, and in the case of the
3 child, the interest of that child's siblings, together with
4 the privacy right of other persons identified in the reports
5 against the public interest. The public interest in access to
6 such records is reflected in s. 119.01(1), and includes the
7 need for citizens to know of and adequately evaluate the
8 actions of the Department of Children and Family Services and
9 the court system in providing vulnerable ~~disabled~~ adults,
10 ~~elderly persons~~, and children of this state with the
11 protections enumerated in ss. 39.001 and 415.101. However,
12 this subsection does not contravene ss. 39.202 and 415.107,
13 which protect the name of any person reporting the abuse,
14 neglect, or exploitation of a child or a vulnerable, ~~a~~
15 ~~disabled~~ adult, ~~or an elderly person~~.

16 (b) In cases involving serious bodily injury to a
17 child or a vulnerable, ~~a disabled~~ adult ~~or an elderly person~~,
18 the Department of Children and Family Services may petition
19 the court for an order for the immediate public release of
20 records of the department which pertain to the protective
21 ~~investigation of abuse, neglect, abandonment, or exploitation~~
22 ~~of the child, disabled adult, or elderly person who suffered~~
23 ~~serious bodily injury~~. The petition must be personally served
24 upon the child or vulnerable, ~~disabled~~ adult, ~~or elderly~~
25 ~~person~~, the child's parents or guardian, the legal guardian of
26 that person, if any, and any person named as an alleged
27 perpetrator in the report of abuse, neglect, abandonment, or
28 exploitation. The court must determine if good cause exists
29 for the public release of the records sought no later than 24
30 hours, excluding Saturdays, Sundays, and legal holidays, after
31 the date the department filed the petition with the court. If

1 the court has neither granted nor denied the petition within
2 the 24-hour time period, the department may release to the
3 public summary information including:

4 1. A confirmation that an investigation has been
5 conducted concerning the alleged victim.

6 2. The dates and brief description of procedural
7 activities undertaken during the department's investigation.

8 3. The date of each judicial proceeding, a summary of
9 each participant's recommendations made at the judicial
10 proceedings, and the rulings of the court.

11
12 The summary information may not include the name of, or other
13 identifying information with respect to, any person identified
14 in any investigation. In making a determination to release
15 confidential information, the court shall balance the best
16 interests of the vulnerable ~~disabled~~ adult ~~or elderly person~~
17 or child who is the focus of the investigation and, in the
18 case of the child, the interests of that child's siblings,
19 together with the privacy rights of other persons identified
20 in the reports against the public interest for access to
21 public records. However, this paragraph does not contravene
22 ss. 39.202 and 415.107, which protect the name of any person
23 reporting abuse, neglect, or exploitation of a child or a
24 vulnerable, ~~a disabled~~ adult, ~~or an elderly person~~.

25 (c) When the court determines that good cause for
26 public access exists, the court shall direct that the
27 department redact the name of and other identifying
28 information with respect to any person identified in any
29 protective investigation report ~~unfounded report or proposed~~
30 ~~confirmed report or report closed without classification, or~~
31 ~~in any report that has not yet been classified pursuant to s.~~

1 ~~415.1045(7)~~, until such time as the court finds that there is
2 probable cause to believe that the person identified committed
3 an act of alleged abuse, neglect, or abandonment.

4 Section 40. Subsection (1) of section 232.50, Florida
5 Statutes, is amended to read:

6 232.50 Child abuse, abandonment, and neglect
7 policy.--Every school board shall by March 1, 1985:

8 (1) Post in a prominent place in each school a notice
9 that, pursuant to chapter 39, all employees or agents of the
10 district school board have an affirmative duty to report all
11 actual or suspected cases of child abuse, abandonment, or
12 neglect, have immunity from liability if they report such
13 cases in good faith, and have a duty to comply with child
14 protective investigations and all other provisions of law
15 relating to child abuse, abandonment, and neglect. The notice
16 shall also include the statewide toll-free telephone number of
17 the central state abuse hotline registry.

18 Section 41. Subsection (4) and paragraph (b) of
19 subsection (5) of section 242.335, Florida Statutes, are
20 amended to read:

21 242.335 Personnel screening; Florida School for the
22 Deaf and the Blind.--

23 (4) The Florida School for the Deaf and the Blind may
24 not use the criminal records, ~~abuse registry information,~~
25 private investigator findings, or information reference checks
26 obtained by the school pursuant to this section for any
27 purpose other than determining if a person meets the minimum
28 standards for good moral character for personnel employed by
29 the school. The criminal records, ~~abuse registry information,~~
30 private investigator findings, and information from reference
31 checks obtained by the Florida School for the Deaf and the

1 Blind for determining the moral character of employees of the
2 school are confidential and exempt from the provisions of s.
3 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

7 (b) Use the criminal records, ~~abuse registry~~
8 ~~information~~, private investigator findings, or information
9 from reference checks obtained under this section or
10 information obtained from such records or findings for
11 purposes other than screening for employment or release such
12 information or records to persons for purposes other than
13 screening for employment.

14 Section 42. Paragraph (a) of subsection (8) of section
15 320.0848, Florida Statutes, is amended to read:

16 320.0848 Persons who have disabilities; issuance of
17 disabled parking permits; temporary permits; permits for
18 certain providers of transportation services to persons who
19 have disabilities.--

20 (8) A law enforcement officer may confiscate the
21 disabled parking permit from any person who fraudulently
22 obtains or unlawfully uses such a permit. A law enforcement
23 officer may confiscate any disabled parking permit that is
24 expired, reported as lost or stolen, or defaced, or that does
25 not display a personal identification number.

26 (a) Beginning April 1, 1999, the permit number of each
27 confiscated permit must be submitted to the Department of
28 Highway Safety and Motor Vehicles, and the fact that the
29 permit has been confiscated must be noted on the
30 permitholder's record. If two permits issued to the same
31 person have been confiscated, the Department of Highway Safety

1 and Motor Vehicles shall refer the information to the central
2 ~~Florida~~ abuse hotline of the Department of Children and Family
3 Services for an investigation of potential abuse, neglect, or
4 exploitation of the permit owner.

5 Section 43. Paragraph (c) of subsection (1) of section
6 381.0059, Florida Statutes, is amended to read:

7 381.0059 Background screening requirements for school
8 health services personnel.--

9 (1)

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

23 Section 44. Paragraph (d) of subsection (1) of section
24 381.60225, Florida Statutes, is amended to read:

25 381.60225 Background screening.--

26 (1) Each applicant for certification must comply with
27 the following requirements:

28 (d) A provisional certification may be granted to the
29 organization, agency, or entity when each individual required
30 by this section to undergo background screening has met the
31 standards for ~~the abuse registry background check and the~~

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

21 Section 45. Paragraph (d) of subsection (7) of section
22 383.305, Florida Statutes, is amended to read:

23 383.305 Licensure; issuance, renewal, denial,
24 suspension, revocation; fees; background screening.--

25 (7) Each applicant for licensure must comply with the
26 following requirements:

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

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

19 Section 46. Paragraph (d) of subsection (3) of section
20 390.015, Florida Statutes, is amended to read:

21 390.015 Application for license.--

22 (3) 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 standard
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 47. Paragraph (c) of subsection (5) and
17 paragraph (d) of subsection (6) of section 393.067, Florida
18 Statutes, are amended to read:

19 393.067 Licensure of residential facilities and
20 comprehensive transitional education programs.--

21 (5) The applicant shall submit evidence which
22 establishes the good moral character of the manager or
23 supervisor of the facility or program and the direct service
24 providers in the facility or program and its component centers
25 or units. A license may be issued if all the screening
26 materials have been timely submitted; however, a license may
27 not be issued or renewed if any of the direct service
28 providers have failed the screening required by s. 393.0655.

29 (c) The department or a residential facility or
30 comprehensive transitional education program may not use the
31 criminal records or, juvenile records, ~~or abuse registry~~

1 ~~information~~ of a person obtained under this subsection for any
2 purpose other than determining if that person meets the
3 minimum standards for good moral character for a manager or
4 supervisor of, or direct service provider in, such a facility
5 or program. The criminal records or juvenile records, ~~or~~
6 ~~abuse registry information~~ obtained by the department or a
7 residential facility or comprehensive transitional education
8 program for determining the moral character of a manager,
9 supervisor, or direct service provider are exempt from s.
10 119.07(1).

11 (6) Each applicant for licensure as an intermediate
12 care facility for the developmentally disabled must comply
13 with the following requirements:

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

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

6 Section 48. Paragraph (c) of subsection (1) of section
7 393.0674, Florida Statutes, is amended to read:

8 393.0674 Penalties.--

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

12 (c) Use information from the criminal records or
13 central abuse hotline ~~registry~~ obtained under s. 393.0655, s.
14 393.066, or s. 393.067 for any purpose other than screening
15 that person for employment as specified in those sections or
16 release such information to any other person for any purpose
17 other than screening for employment as specified in those
18 sections.

19 Section 49. Paragraph (e) of subsection (5) of section
20 394.459, Florida Statutes, is amended to read:

21 394.459 Rights of patients.--

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

23 (e) Each patient receiving mental health treatment in
24 any facility shall have ready access to a telephone in order
25 to report an alleged abuse. The facility staff shall orally
26 and in writing inform each patient of the procedure for
27 reporting abuse and shall make every reasonable effort to
28 present the information in a language the patient understands.
29 A written copy of that procedure, including the telephone
30 number of the central abuse hotline ~~registry~~ and reporting
31 forms, shall be posted in plain view.

1 Section 50. Paragraph (d) of subsection (12) of
2 section 394.875, Florida Statutes, is amended to read:

3 394.875 Crisis stabilization units and residential
4 treatment facilities; authorized services; license required;
5 penalties.--

6 (12) 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
17 standard license may be granted to the applicant upon the
18 agency's receipt of a report of the results of the Federal
19 Bureau of Investigation background screening for each
20 individual required by this section to undergo background
21 screening which confirms that all standards have been met, or
22 upon the granting of a disqualification exemption by the
23 agency as set forth in chapter 435. Any other person who is
24 required to undergo level 2 background screening may serve in
25 his or her capacity pending the agency's receipt of the report
26 from the Federal Bureau of Investigation. However, the person
27 may not continue to serve if the report indicates any
28 violation of background screening standards and a
29 disqualification exemption has not been requested of and
30 granted by the agency as set forth in chapter 435.

31

1 Section 51. Subsection (4) of section 395.0055,
2 Florida Statutes, is amended to read:

3 395.0055 Background screening.--Each applicant for
4 licensure must comply with the following requirements:

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

28 Section 52. Paragraph (d) of subsection (4) of section
29 395.0199, Florida Statutes, is amended to read:

30 395.0199 Private utilization review.--

31

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

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

26 Section 53. Paragraph (g) of subsection (4) of section
27 395.3025, Florida Statutes, is amended to read:

28 395.3025 Patient and personnel records; copies;
29 examination.--

30 (4) Patient records are confidential and must not be
31 disclosed without the consent of the person to whom they

1 pertain, but appropriate disclosure may be made without such
2 consent to:

3 (g) The Department of Children and Family Services or
4 its agent, for the purpose of investigations of cases of
5 abuse, neglect, or exploitation of children or vulnerable
6 ~~disabled adults or elderly persons~~.

7 Section 54. Subsection (3) of section 397.461, Florida
8 Statutes, is amended to read:

9 397.461 Unlawful activities relating to personnel;
10 penalties.--It is a misdemeanor of the first degree,
11 punishable as provided in s. 775.082 or s. 775.083, for any
12 person willfully, knowingly, or intentionally to:

13 (3) Use or release any criminal or juvenile ~~or central~~
14 ~~abuse registry~~ information obtained under this chapter for any
15 purpose other than background checks of personnel for
16 employment.

17 Section 55. Subsection (2) of section 400.022, Florida
18 Statutes, is amended to read:

19 400.022 Residents' rights.--

20 (2) The licensee for each nursing home shall orally
21 inform the resident of the resident's rights and provide a
22 copy of the statement required by subsection (1) to each
23 resident or the resident's legal representative at or before
24 the resident's admission to a facility. The licensee shall
25 provide a copy of the resident's rights to each staff member
26 of the facility. Each such licensee shall prepare a written
27 plan and provide appropriate staff training to implement the
28 provisions of this section. The written statement of rights
29 must include a statement that a resident may file a complaint
30 with the agency or district ombudsman council. The statement
31 must be in boldfaced type and shall include the name, address,

1 and telephone numbers of the district ombudsman council and
2 central ~~adult~~ abuse hotline ~~registry~~ where complaints may be
3 lodged.

4 Section 56. Paragraph (d) of subsection (4) of section
5 400.071, Florida Statutes, is amended to read:

6 400.071 Application for license.--

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

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

1 Section 57. Paragraphs (a), (c), and (e) of subsection
2 (2) and subsections (3) and (8) of section 400.215, Florida
3 Statutes, are amended to read:

4 400.215 Personnel screening requirement.--

5 (2) Employers and employees shall comply with the
6 requirements of s. 435.05.

7 (a) Notwithstanding the provisions of s. 435.05(1),
8 facilities must have in their possession evidence that level 1
9 screening has been completed before allowing an employee to
10 begin working with patients as provided in subsection (1). All
11 information necessary for conducting background screening
12 using level 1 standards as specified in s. 435.03(1) ~~and for~~
13 ~~conducting a search of the central abuse registry and tracking~~
14 ~~system as specified in s. 435.03(3)(a)~~ shall be submitted by
15 the nursing facility to the agency. Results of the background
16 screening ~~and the abuse registry check~~ shall be provided by
17 the agency to the requesting nursing facility. ~~An applicant~~
18 ~~who has been qualified under a level 1 criminal screening and~~
19 ~~who, under penalty of perjury, attests to not having been~~
20 ~~classified in the central abuse registry and tracking system~~
21 ~~as a perpetrator in a confirmed report of abuse, neglect, or~~
22 ~~exploitation may be allowed to work on a probationary status~~
23 ~~in the nursing facility, under supervision, for a period not~~
24 ~~to exceed 30 days, pending the results of an abuse registry~~
25 ~~screening.~~

26 (c) The agency shall establish and maintain a database
27 of background screening information which shall include the
28 results of both level 1 and level 2 screening ~~and central~~
29 ~~abuse registry and tracking system checks~~. The Department of
30 Law Enforcement shall timely provide to the agency,
31 electronically, the results of each statewide screening for

1 incorporation into the database. ~~The Department of Children~~
2 ~~and Family Services shall provide the agency with electronic~~
3 ~~access to the central abuse registry and tracking system. The~~
4 ~~agency shall search the registry to identify any confirmed~~
5 ~~report and shall access such report for incorporation into the~~
6 ~~database.~~The agency shall, upon request from any facility,
7 agency, or program required by or authorized by law to screen
8 its employees or applicants, notify the administrator of the
9 facility, agency, or program of the qualifying or
10 disqualifying status of the employee or applicant named in the
11 request.

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

1 ~~appropriate entry into the agency screening database an~~
2 ~~electronic record of the inquiry on behalf of the applicant.~~

3 (3) The applicant is responsible for paying the fees
4 associated with obtaining the required screening. Payment for
5 the screening ~~and the abuse registry check~~ shall be submitted
6 to the agency. The agency shall establish a schedule of fees
7 to cover the costs of level 1 and level 2 screening ~~and the~~
8 ~~abuse registry check~~. Facilities may reimburse employees for
9 these costs. The Department of Law Enforcement shall charge
10 the agency for a level 1 or level 2 screening a rate
11 sufficient to cover the costs of such screening pursuant to s.
12 943.053(3). The agency shall, as allowable, reimburse nursing
13 facilities for the cost of conducting background screening as
14 required by this section. This reimbursement will not be
15 subject to any rate ceilings or payment targets in the
16 Medicaid Reimbursement plan.

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

26 Section 58. Paragraph (g) of subsection (1) of section
27 400.414, Florida Statutes, is amended to read:

28 400.414 Denial, revocation, or suspension of license;
29 imposition of administrative fine; grounds.--

30 (1) The agency may deny, revoke, or suspend any
31 license issued under this part, or impose an administrative

1 fine in the manner provided in chapter 120, for any of the
2 following actions by an assisted living facility, any person
3 subject to level 2 background screening under s. 400.4174, or
4 any facility employee:

5 (g) A determination that ~~confirmed report of adult~~
6 ~~abuse, neglect, or exploitation, as defined in s. 415.102,~~
7 ~~which has been upheld following a chapter 120 hearing or a~~
8 ~~waiver of such proceedings where the perpetrator is an~~
9 employee, volunteer, administrator, or owner, or person who
10 otherwise has access to the residents of a facility does not
11 meet the criteria specified in s. 435.03(2), and the owner or
12 administrator has not taken action to remove the person
13 ~~perpetrator~~. Exemptions from disqualification may be granted
14 as set forth in s. 435.07. No administrative action may be
15 taken against the facility if the person ~~perpetrator~~ is
16 granted an exemption.

17 Section 59. Paragraph (c) of subsection (1) and
18 subsection (3) of section 400.4174, Florida Statutes, are
19 amended to read:

20 400.4174 Background screening; exemptions; ~~reports of~~
21 ~~abuse in facilities~~.--

22 (1)

23 (c) The agency may grant a provisional license to a
24 facility applying for an initial license when each individual
25 required by this subsection to undergo screening has completed
26 the ~~abuse registry and~~ Department of Law Enforcement
27 background checks, but has not yet received results from the
28 Federal Bureau of Investigation, or when a request for an
29 exemption from disqualification has been submitted to the
30 agency pursuant to s. 435.07, but a response has not been
31 issued.

1 ~~(3) When an employee, volunteer, administrator, or~~
2 ~~owner of a facility is the subject of a confirmed report of~~
3 ~~adult abuse, neglect, or exploitation, as defined in s.~~
4 ~~415.102, and the protective investigator knows that the~~
5 ~~individual is an employee, volunteer, administrator, or owner~~
6 ~~of a facility, the agency shall be notified of the confirmed~~
7 ~~report.~~

8 Section 60. Subsection (4) of section 400.426, Florida
9 Statutes, is amended to read:

10 400.426 Appropriateness of placements; examinations of
11 residents.--

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

27 Section 61. Subsection (2) of section 400.428, Florida
28 Statutes, is amended to read:

29 400.428 Resident bill of rights.--

30 (2) The administrator of a facility shall ensure that
31 a written notice of the rights, obligations, and prohibitions

1 set forth in this part is posted in a prominent place in each
2 facility and read or explained to residents who cannot read.
3 This notice shall include the name, address, and telephone
4 numbers of the district ombudsman council and central adult
5 abuse hotline registry and, when applicable, the Advocacy
6 Center for Persons with Disabilities, Inc., and the district
7 human rights advocacy committee, where complaints may be
8 lodged. The facility must ensure a resident's access to a
9 telephone to call the district ombudsman council, central
10 adult abuse hotline registry, Advocacy Center for Persons with
11 Disabilities, Inc., and district human rights advocacy
12 committee.

13 Section 62. Subsection (20) of section 400.462,
14 Florida Statutes, is amended to read:

15 400.462 Definitions.--As used in this part, the term:

16 (20) "Screening" means the assessment of the
17 background of home health agency personnel, nurse registry
18 personnel, and persons registered under s. 400.509 and
19 includes employment or contractual history checks, ~~records~~
20 ~~checks of the department's central abuse hotline under chapter~~
21 ~~415 relating to vulnerable adults,~~ and statewide criminal
22 records correspondence checks through the Department of Law
23 Enforcement.

24 Section 63. Paragraph (d) of subsection (4) of section
25 400.471, Florida Statutes, is amended to read:

26 400.471 Application for license; fee; provisional
27 license; temporary permit.--

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

19 Section 64. Section 400.495, Florida Statutes, is
20 amended to read:

21 400.495 Notice of toll-free telephone number for
22 central abuse hotline registry.--On or before the first day
23 home health services are provided to a patient, any home
24 health agency or nurse registry licensed under this part must
25 inform the patient and his or her immediate family, if
26 appropriate, of the right to report abusive, neglectful, or
27 exploitative practices. The statewide toll-free telephone
28 number for the central abuse hotline registry must be provided
29 to patients in a manner that is clearly legible and must
30 include the words: "To report abuse, neglect, or exploitation,
31 please call toll-free ...(phone number)...." The Agency for

1 Health Care Administration shall adopt rules that provide for
2 90 days' advance notice of a change in the toll-free telephone
3 number and that outline due process procedures, as provided
4 under chapter 120, for home health agency personnel and nurse
5 registry personnel who are reported to the central abuse
6 hotline registry. Home health agencies and nurse registries
7 shall establish appropriate policies and procedures for
8 providing such notice to patients.

9 Section 65. Paragraph (d) of subsection (2) of section
10 400.506, Florida Statutes, is amended to read:

11 400.506 Licensure of nurse registries; requirements;
12 penalties.--

13 (2) 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 applicant 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 66. Subsection (6) of section 400.509, Florida
5 Statutes, is amended to read:

6 400.509 Registration of particular service providers
7 exempt from licensure; certificate of registration; regulation
8 of registrants.--

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

21 Section 67. Subsections (3), (4), (5), and (6) and
22 paragraph (a) of subsection (7) of section 400.512, Florida
23 Statutes, are amended to read:

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

1 (3) As a prerequisite to operating as a home health
2 agency, nurse registry, or companion or homemaker service
3 under s. 400.509, the administrator or managing employee,
4 respectively, must submit to the agency his or her name and
5 any other information necessary to conduct a complete
6 screening according to this section. The agency shall submit
7 the information to the Department of Law Enforcement ~~and the~~
8 ~~department's abuse hotline~~ for state processing. The agency
9 shall review the record of the administrator or manager with
10 respect to the offenses specified in this section and shall
11 notify the owner of its findings. If disposition information
12 is missing on a criminal record, the administrator or manager,
13 upon request of the agency, must obtain and supply within 30
14 days the missing disposition information to the agency.
15 Failure to supply missing information within 30 days or to
16 show reasonable efforts to obtain such information will result
17 in automatic disqualification.

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

1 may not accept any proof of compliance directly from the
2 person who requires screening. Proof of compliance with the
3 screening requirements of this section shall be provided upon
4 request to the person screened by the home health agencies;
5 nurse registries; or companion or homemaker services
6 registered under s. 400.509.

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

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

28 (7)(a) It is a misdemeanor of the first degree,
29 punishable under s. 775.082 or s. 775.083, for any person
30 willfully, knowingly, or intentionally to:
31

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

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

10 3. Use information from the criminal records ~~or~~
11 ~~central abuse hotline~~ obtained under this section for any
12 purpose other than screening that person for employment as
13 specified in this section or release such information to any
14 other person for any purpose other than screening for
15 employment under this section.

16 Section 68. Paragraph (c) of subsection (1) and
17 subsection (3) of section 400.5572, Florida Statutes, are
18 amended to read:

19 400.5572 Background screening.--

20 (1)

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

30 ~~(3) When an employee, volunteer, operator, or owner of~~
31 ~~an adult day care center is the subject of a confirmed report~~

1 ~~of adult abuse, neglect, or exploitation, as defined in s.~~
2 ~~415.102, and the protective investigator knows that the~~
3 ~~individual is an employee, volunteer, operator, or owner of a~~
4 ~~center, the agency shall be notified of the confirmed report.~~

5 Section 69. Subsection (2) of section 400.628, Florida
6 Statutes, is amended to read:

7 400.628 Residents' bill of rights.--

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

15 Section 70. Paragraph (d) of subsection (4) of section
16 400.801, Florida Statutes, is amended to read:

17 400.801 Homes for special services.--

18 (4) Each applicant for licensure must comply with the
19 following requirements:

20 (d) 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 71. Paragraph (d) of subsection (3) of section
13 400.805, Florida Statutes, is amended to read:

14 400.805 Transitional living facilities.--

15 (3) Each applicant for licensure must comply with the
16 following requirements:

17 (d) A provisional license 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
26 standard license may be granted to the applicant upon the
27 agency's receipt of a report of the results of the Federal
28 Bureau of Investigation background screening for each
29 individual required by this section to undergo background
30 screening which confirms that all standards have been met, or
31 upon the granting of a disqualification exemption by the

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

9 Section 72. Paragraph (d) of subsection (5) of section
10 400.906, Florida Statutes, is amended to read:

11 400.906 Initial application for license.--

12 (5) Each applicant for licensure must comply with the
13 following requirements:

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

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

6 Section 73. Subsection (10) of section 400.931,
7 Florida Statutes, is amended to read:

8 400.931 Application for license; fee; provisional
9 license; temporary permit.--

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

24 Section 74. Section 400.95, Florida Statutes, is
25 amended to read:

26 400.95 Notice of toll-free telephone number for
27 central abuse hotline ~~registry~~.--On or before the first day
28 home medical equipment is delivered to the patient's home, any
29 home medical equipment provider licensed under this part must
30 inform the consumer and his or her immediate family, if
31 appropriate, of the right to report abusive, neglectful, or

1 exploitative practices. The statewide toll-free telephone
2 number for the central abuse hotline registry must be provided
3 to consumers in a manner that is clearly legible and must
4 include the words: "To report abuse, neglect, or
5 exploitation, please call toll-free 1-800-962-2873." Home
6 medical equipment providers shall establish appropriate
7 policies and procedures for providing such notice to
8 consumers.

9 Section 75. Subsections (3), (4), (5), and (6) and
10 paragraph (a) of subsection (7) of section 400.953, Florida
11 Statutes, are amended to read:

12 400.953 Background screening of home medical equipment
13 provider personnel.--The agency shall require employment
14 screening as provided in chapter 435, using the level 1
15 standards for screening set forth in that chapter, for home
16 medical equipment provider personnel.

17 (3) Proof of compliance with the screening
18 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
19 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
20 985.407 or this part must be accepted in lieu of the
21 requirements of this section if the person has been
22 continuously employed in the same type of occupation for which
23 he or she is seeking employment without a breach in service
24 that exceeds 180 days, the proof of compliance is not more
25 than 2 years old, and the person has been screened ~~through the~~
26 ~~central abuse registry and tracking system of the department~~
27 ~~and~~ by the Department of Law Enforcement. An employer or
28 contractor shall directly provide proof of compliance to
29 another employer or contractor, and a potential employer or
30 contractor may not accept any proof of compliance directly
31 from the person requiring screening. Proof of compliance with

1 the screening requirements of this section shall be provided,
2 upon request, to the person screened by the home medical
3 equipment provider.

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

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

20 (6) Neither the agency nor the home medical equipment
21 provider may use the criminal records ~~or~~ juvenile records, ~~or~~
22 ~~central abuse registry information~~ of a person for any purpose
23 other than determining whether that person meets minimum
24 standards of good moral character for home medical equipment
25 provider personnel.

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

29 1. Fail, by false statement, misrepresentation,
30 impersonation, or other fraudulent means, to disclose in any
31 application for paid employment a material fact used in making

1 a determination as to the person's qualifications to be an
2 employee under this section;

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

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

13 Section 76. Subsection (1) of section 400.955, Florida
14 Statutes, is amended to read:

15 400.955 Procedures for screening of home medical
16 equipment provider personnel.--

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

1 Section 77. Paragraph (d) of subsection (10) of
2 section 400.962, Florida Statutes, is amended to read:

3 400.962 License required; license application.--
4 (10)

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

27 Section 78. Subsections (4) and (8) of section
28 400.964, Florida Statutes, are amended to read:

29 400.964 Personnel screening requirement.--

30 (4) The applicant is responsible for paying the fees
31 associated with obtaining the required screening. Payment for

1 the screening ~~and the abuse registry check~~ must be submitted
2 to the agency as prescribed by the agency.

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

12 Section 79. Paragraph (d) of subsection (2) of section
13 402.3025, Florida Statutes, is amended to read:

14 402.3025 Public and nonpublic schools.--For the
15 purposes of ss. 402.301-402.319, the following shall apply:

16 (2) NONPUBLIC SCHOOLS.--

17 (d)1. Programs for children who are at least 3 years
18 of age, but under 5 years of age, which are not licensed under
19 ss. 402.301-402.319 shall substantially comply with the
20 minimum child care standards promulgated pursuant to ss.
21 402.305-402.3057.

22 2. The department or local licensing agency shall
23 enforce compliance with such standards, where possible, to
24 eliminate or minimize duplicative inspections or visits by
25 staff enforcing the minimum child care standards and staff
26 enforcing other standards under the jurisdiction of the
27 department.

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

31

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

3 b. To enforce its rules and regulations.

4 c. To use corrective action plans, whenever possible,
5 to attain compliance prior to the use of more restrictive
6 enforcement measures.

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

19 e. To impose an administrative fine, not to exceed
20 \$100, for each violation of the minimum child care standards
21 promulgated pursuant to ss. 402.305-402.3057.

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

25 a. Fail, by false statement, misrepresentation,
26 impersonation, or other fraudulent means, to disclose in any
27 required written documentation for exclusion from licensure
28 pursuant to this section a material fact used in making a
29 determination as to such exclusion; or

30 b. Use information from the criminal records ~~or~~
31 ~~central abuse registry~~ obtained under s. 402.305 or s.

1 402.3055 for any purpose other than screening that person for
2 employment as specified in those sections or release such
3 information to any other person for any purpose other than
4 screening for employment as specified in those sections.

5 5. It is a felony of the third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084, for any
7 person willfully, knowingly, or intentionally to use
8 information from the juvenile records of any person obtained
9 under s. 402.305 or s. 402.3055 for any purpose other than
10 screening for employment as specified in those sections or to
11 release information from such records to any other person for
12 any purpose other than screening for employment as specified
13 in those sections.

14 Section 80. Paragraph (c) of subsection (5) of section
15 402.3125, Florida Statutes, is amended to read:

16 402.3125 Display and appearance of license; posting of
17 violations; information to be provided to parents.--

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

21 (c) The brochure shall, at a minimum, contain the
22 following information:

23 1. A statement that the facility is licensed and has
24 met state standards for licensure as established by s. 402.305
25 or that the facility is licensed by a local licensing agency
26 and has met or exceeded the state standards, pursuant to ss.
27 402.306 and 402.307. Such statement shall include a listing of
28 specific standards that licensed facilities must meet pursuant
29 to s. 402.305.

30 2. A statement indicating that information about the
31 licensure status of the child care facility can be obtained by

1 telephoning the department office or the office of the local
2 licensing agency issuing the license at a telephone number or
3 numbers which shall be printed upon or otherwise affixed to
4 the brochure.

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

10 4. The date that the current license for the facility
11 was issued and the date of its scheduled expiration if it is
12 not renewed.

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

16 Section 81. Paragraph (d) of subsection (6) of section
17 402.313, Florida Statutes, is amended to read:

18 402.313 Family day care homes.--

19 (6) The department shall prepare a brochure on family
20 day care for distribution by the department and by local
21 licensing agencies, if appropriate, to family day care homes
22 for distribution to parents utilizing such child care, and to
23 all interested persons, including physicians and other health
24 professionals; mental health professionals; school teachers or
25 other school personnel; social workers or other professional
26 child care, foster care, residential, or institutional
27 workers; and law enforcement officers. The brochure shall, at
28 a minimum, contain the following information:

29 (d) The statewide toll-free telephone number of the
30 central Florida abuse hotline Registry, together with a notice
31 that reports of suspected and actual child physical abuse,

1 sexual abuse, and neglect are received and referred for
2 investigation by the hotline ~~registry~~.

3 Section 82. Paragraph (b) of subsection (11) of
4 section 409.175, Florida Statutes, is amended to read:

5 409.175 Licensure of family foster homes, residential
6 child-caring agencies, and child-placing agencies.--

7 (11)

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

10 1. Willfully or intentionally fail to comply with the
11 requirements for the screening of personnel or the dismissal
12 of personnel found not to be in compliance with the
13 requirements for good moral character as specified in
14 paragraph (4)(a).

15 2. Use information from the criminal records ~~or~~
16 ~~central abuse registry~~ obtained under this section for any
17 purpose other than screening a person for employment as
18 specified in this section or to release such information to
19 any other person for any purpose other than screening for
20 employment as specified in this section.

21 Section 83. Subsection (29) of section 409.912,
22 Florida Statutes, is amended to read:

23 409.912 Cost-effective purchasing of health care.--The
24 agency shall purchase goods and services for Medicaid
25 recipients in the most cost-effective manner consistent with
26 the delivery of quality medical care. The agency shall
27 maximize the use of prepaid per capita and prepaid aggregate
28 fixed-sum basis services when appropriate and other
29 alternative service delivery and reimbursement methodologies,
30 including competitive bidding pursuant to s. 287.057, designed
31 to facilitate the cost-effective purchase of a case-managed

1 continuum of care. The agency shall also require providers to
2 minimize the exposure of recipients to the need for acute
3 inpatient, custodial, and other institutional care and the
4 inappropriate or unnecessary use of high-cost services.

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

16 Section 84. Subsection (5) of section 430.205, Florida
17 Statutes, is amended to read:

18 430.205 Community care service system.--

19 (5) Any person who has been classified as a
20 functionally impaired elderly person is eligible to receive
21 community-care-for-the-elderly core services. Those elderly
22 persons who are determined by adult protective investigations
23 ~~services~~ to be vulnerable adults ~~elderly persons~~ in need of
24 services, pursuant to s. 415.104(3)(b) ~~415.1045(2)(b)~~, or to
25 be victims of abuse, neglect, or exploitation who are in need
26 of immediate services to prevent further harm and are referred
27 by the adult protective services program, shall be given
28 primary consideration for receiving
29 community-care-for-the-elderly services. As used in this
30 subsection, "primary consideration" means that an assessment
31 and services must commence within 72 hours after referral to

1 the department or as established in accordance with department
2 contracts by local protocols developed between department
3 service providers and the adult protective services program.

4 Section 85. Subsection (1) of section 447.208, Florida
5 Statutes, is amended to read:

6 447.208 Procedure with respect to certain appeals
7 under s. 447.207.--

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

26 Section 86. Section 447.401, Florida Statutes, is
27 amended to read:

28 447.401 Grievance procedures.--Each public employer
29 and bargaining agent shall negotiate a grievance procedure to
30 be used for the settlement of disputes between employer and
31 employee, or group of employees, involving the interpretation

1 or application of a collective bargaining agreement. Such
2 grievance procedure shall have as its terminal step a final
3 and binding disposition by an impartial neutral, mutually
4 selected by the parties; however, when the issue under appeal
5 is an allegation of abuse, abandonment, or neglect by an
6 employee under s. 39.201 or s. 415.1034 ~~s. 415.1075~~, the
7 grievance may not be decided until the abuse, abandonment, or
8 neglect of a child has been judicially determined ~~or until a~~
9 ~~confirmed report of abuse or neglect of a disabled adult or~~
10 ~~elderly person has been upheld pursuant to the procedures for~~
11 ~~appeal in s. 415.1075~~. However, an arbiter or other neutral
12 shall not have the power to add to, subtract from, modify, or
13 alter the terms of a collective bargaining agreement. If an
14 employee organization is certified as the bargaining agent of
15 a unit, the grievance procedure then in existence may be the
16 subject of collective bargaining, and any agreement which is
17 reached shall supersede the previously existing procedure.
18 All public employees shall have the right to a fair and
19 equitable grievance procedure administered without regard to
20 membership or nonmembership in any organization, except that
21 certified employee organizations shall not be required to
22 process grievances for employees who are not members of the
23 organization. A career service employee shall have the option
24 of utilizing the civil service appeal procedure, an unfair
25 labor practice procedure, or a grievance procedure established
26 under this section, but such employee is precluded from
27 availing himself or herself to more than one of these
28 procedures.

29 Section 87. Subsection (5) of section 455.712, Florida
30 Statutes, is amended to read:

31

1 455.712 Business establishments; requirements for
2 active status licenses.--

3 (5) This section applies to any business establishment
4 registered, permitted, or licensed by the department to do
5 business. Business establishments include, but are not limited
6 to, dental laboratories, electrology facilities, massage
7 establishments, and pharmacies, ~~and health care services~~
8 ~~pools.~~

9 Section 88. Paragraph (e) of subsection (1) of section
10 464.018, Florida Statutes, is amended to read:

11 464.018 Disciplinary actions.--

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

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

22 Section 89. Paragraph (f) of subsection (4) of section
23 468.520, Florida Statutes, is amended to read:

24 468.520 Definitions.--As used in this part:

25 (4) "Employee leasing" means an arrangement whereby a
26 leasing company assigns its employees to a client and
27 allocates the direction of and control over the leased
28 employees between the leasing company and the client. The term
29 does not include the following:

30
31

1 (f) A health care services pool licensed under s.
2 400.980 ~~402.48~~, unless otherwise engaged in business as an
3 employee leasing company.

4 Section 90. Section 468.826, Florida Statutes, is
5 amended to read:

6 468.826 Exemption from liability.--If an employer
7 terminates or denies employment to a certified nursing
8 assistant whose certification is inactive as shown on the
9 certified nursing assistant registry or whose name appears ~~on~~
10 ~~the central abuse registry and tracking system of the~~
11 ~~Department of Children and Family Services~~ or on a criminal
12 screening report of the Department of Law Enforcement, the
13 employer is not civilly liable for such termination and a
14 cause of action may not be brought against the employer for
15 damages, regardless of whether the employee has filed for an
16 exemption from the department under s. 468.824(1). There may
17 not be any monetary liability on the part of, and a cause of
18 action for damages may not arise against, any licensed
19 facility, its governing board or members thereof, medical
20 staff, disciplinary board, agents, investigators, witnesses,
21 employees, or any other person for any action taken in good
22 faith without intentional fraud in carrying out this section.

23 Section 91. Subsections (1) and (2) of section
24 468.828, Florida Statutes, are amended to read:

25 468.828 Background screening information; rulemaking
26 authority.--

27 (1) The Agency for Health Care Administration shall
28 allow the department to electronically access its background
29 screening database and records, ~~and the Department of Children~~
30 ~~and Family Services shall allow the department to~~

31

1 ~~electronically access its central abuse registry and tracking~~
2 ~~system under chapter 415.~~

3 (2) An employer, or an agent thereof, may not use
4 criminal records or juvenile records, ~~or information obtained~~
5 ~~from the central abuse hotline under chapter 415~~ for any
6 purpose other than determining if the person meets the
7 requirements of this part. Such records and information
8 obtained by the department shall remain confidential and
9 exempt from s. 119.07(1).

10 Section 92. Paragraph (d) of subsection (2) of section
11 483.101, Florida Statutes, is amended to read:

12 483.101 Application for clinical laboratory license.--

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

15 (d) A provisional license may be granted to an
16 applicant when each individual required by this section to
17 undergo background screening has met the standards for ~~the~~
18 ~~abuse registry background check~~ and the Department of Law
19 Enforcement background check but the agency has not yet
20 received background screening results from the Federal Bureau
21 of Investigation, or a request for a disqualification
22 exemption has been submitted to the agency as set forth in
23 chapter 435 but a response has not yet been issued. A license
24 may 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 a disqualification exemption has not
5 been requested of and granted by the agency as set forth in
6 chapter 435.

7 Section 93. Paragraph (d) of subsection (2) of section
8 483.30, Florida Statutes, is amended to read:

9 483.30 Licensing of centers.--

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

12 (d) A provisional license may be granted to an
13 applicant when each individual required by this section to
14 undergo background screening has met the standards for ~~the~~
15 ~~abuse registry background check~~ and the Department of Law
16 Enforcement background check, but the agency has not yet
17 received background screening results from the Federal Bureau
18 of Investigation, or a request for a disqualification
19 exemption has been submitted to the agency as set forth in
20 chapter 435 but a response has not yet been issued. A license
21 may be granted to the applicant 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 94. Paragraph (a) of subsection (2) of section
5 509.032, Florida Statutes, is amended to read:

6 509.032 Duties.--

7 (2) INSPECTION OF PREMISES.--

8 (a) The division has responsibility and jurisdiction
9 for all inspections required by this chapter. The division
10 has responsibility for quality assurance. Each licensed
11 establishment shall be inspected at least biannually and at
12 such other times as the division determines is necessary to
13 ensure the public's health, safety, and welfare. The division
14 shall establish a system to determine inspection frequency.
15 Public lodging units classified as resort condominiums or
16 resort dwellings are not subject to this requirement, but
17 shall be made available to the division upon request. If,
18 during the inspection of a public lodging establishment
19 classified for renting to transient or nontransient tenants,
20 an inspector identifies vulnerable ~~disabled~~ adults ~~or elderly~~
21 ~~persons~~ who appear to be victims of neglect, as defined in s.
22 415.102, or, in the case of a building that is not equipped
23 with automatic sprinkler systems, tenants or clients who may
24 be unable to self-preserve in an emergency, the division shall
25 convene meetings with the following agencies as appropriate to
26 the individual situation: the Department of Health, the
27 Department of Elderly Affairs, the area agency on aging, the
28 local fire marshal, the landlord and affected tenants and
29 clients, and other relevant organizations, to develop a plan
30 which improves the prospects for safety of affected residents
31 and, if necessary, identifies alternative living arrangements

1 such as facilities licensed under part II or part III of
2 chapter 400.

3 Section 95. Subsection (3) of section 744.309, Florida
4 Statutes, is amended to read:

5 744.309 Who may be appointed guardian of a resident
6 ward.--

7 (3) DISQUALIFIED PERSONS.--No person who has been
8 convicted of a felony or who, from any incapacity or illness,
9 is incapable of discharging the duties of a guardian, or who
10 is otherwise unsuitable to perform the duties of a guardian,
11 shall be appointed to act as guardian. Further, no person who
12 has been judicially determined to have committed abuse,
13 abandonment, or neglect against a child as defined in s. 39.01
14 or s. 984.03(1), (2), and (39), or who has been found guilty
15 of, regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, any offense prohibited under s.
17 435.03 or under any similar statute of another jurisdiction,~~a~~
18 ~~confirmed report of abuse, neglect, or exploitation which has~~
19 ~~been uncontested or upheld pursuant to the provisions of ss.~~
20 ~~415.104 and 415.1075~~ shall be appointed to act as a guardian.
21 Except as provided in subsection (5) or subsection (6), a
22 person who provides substantial services to the proposed ward
23 in a professional or business capacity, or a creditor of the
24 proposed ward, may not be appointed guardian and retain that
25 previous professional or business relationship. A person may
26 not be appointed a guardian if he or she is in the employ of
27 any person, agency, government, or corporation that provides
28 service to the proposed ward in a professional or business
29 capacity, except that a person so employed may be appointed if
30 he or she is the spouse, adult child, parent, or sibling of
31 the proposed ward or the court determines that the potential

1 conflict of interest is insubstantial and that the appointment
2 would clearly be in the proposed ward's best interest. The
3 court may not appoint a guardian in any other circumstance in
4 which a conflict of interest may occur.

5 Section 96. Subsection (12) of section 744.474,
6 Florida Statutes, is amended to read:

7 744.474 Reasons for removal of guardian.--A guardian
8 may be removed for any of the following reasons, and the
9 removal shall be in addition to any other penalties prescribed
10 by law:

11 (12) Having been found guilty of, regardless of
12 adjudication, or entered a plea of nolo contendere or guilty
13 to, any offense prohibited under s. 435.03 or under any
14 similar statute of another jurisdiction ~~A confirmed report~~
15 ~~pursuant to a protective investigation made by the Department~~
16 ~~of Children and Family Services, which has been uncontested or~~
17 ~~has been upheld, in accordance with s. 415.1075, that the~~
18 ~~guardian has abused, neglected, or exploited the ward.~~

19 Section 97. Section 744.7081, Florida Statutes, is
20 amended to read:

21 744.7081 Access to records by Statewide Public
22 Guardianship Office; confidentiality.--Notwithstanding any
23 other provision of law to the contrary, any medical,
24 financial, or mental health records held by an agency, or the
25 court and its agencies, which are necessary to evaluate the
26 public guardianship system, to assess the need for additional
27 public guardianship, or to develop required reports, shall be
28 provided to the Statewide Public Guardianship Office upon that
29 office's request. Any confidential or exempt information
30 provided to the Statewide Public Guardianship Office shall
31 continue to be held confidential or exempt as otherwise

1 provided by law. All records held by the Statewide Public
2 Guardianship Office relating to the medical, financial, or
3 mental health of vulnerable ~~citizens who are elderly persons~~
4 ~~or disabled~~ adults as defined in chapter 415, persons with a
5 developmental disability as defined in chapter 393, or persons
6 with a mental illness as defined in chapter 394, shall be
7 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
8 of the State Constitution. This section is subject to the Open
9 Government Sunset Review Act of 1995 in accordance with s.
10 119.15, and shall stand repealed on October 2, 2004, unless
11 reviewed and saved from repeal through reenactment by the
12 Legislature.

13 Section 98. Paragraph (a) of subsection (6) of section
14 775.21, Florida Statutes, is amended to read:

15 775.21 The Florida Sexual Predators Act; definitions;
16 legislative findings, purpose, and intent; criteria;
17 designation; registration; community and public notification;
18 immunity; penalties.--

19 (6) REGISTRATION.--

20 (a) A sexual predator must register with the
21 department by providing the following information to the
22 department:

23 1. Name, social security number, age, race, sex, date
24 of birth, height, weight, hair and eye color, photograph,
25 address of legal residence and address of any current
26 temporary residence, including a rural route address and a
27 post office box, date and place of any employment, date and
28 place of each conviction, fingerprints, and a brief
29 description of the crime or crimes committed by the offender.
30 A post office box shall not be provided in lieu of a physical
31 residential address. If the sexual predator's place of

1 residence is a motor vehicle, trailer, mobile home, or
2 manufactured home, as defined in chapter 320, the sexual
3 predator shall also provide to the department written notice
4 of the vehicle identification number; the license tag number;
5 the registration number; and a description, including color
6 scheme, of the motor vehicle, trailer, mobile home, or
7 manufactured home. If a sexual predator's place of residence
8 is a vessel, live-aboard vessel, or houseboat, as defined in
9 chapter 327, the sexual predator shall also provide to the
10 department written notice of the hull identification number;
11 the manufacturer's serial number; the name of the vessel,
12 live-aboard vessel, or houseboat; the registration number; and
13 a description, including color scheme, of the vessel,
14 live-aboard vessel, or houseboat.

15 2. Any other information determined necessary by the
16 department, including criminal and corrections records;
17 nonprivileged personnel and, ~~treatment, and abuse registry~~
18 records; and evidentiary genetic markers when available.

19 Section 99. Paragraph (e) of subsection (5) of section
20 916.107, Florida Statutes, is amended to read:

21 916.107 Rights of forensic clients.--

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

23 (e) Each client committed pursuant to this chapter
24 shall have ready access to a telephone in order to report an
25 alleged abuse. The facility or program staff shall orally and
26 in writing inform each client of the procedure for reporting
27 abuse and shall present the information in a language the
28 client understands. A written copy of that procedure,
29 including the telephone number of the central abuse hotline
30 ~~registry~~ and reporting forms, shall be posted in plain view.

31

1 Section 100. Paragraph (a) of subsection (4) of
2 section 943.0585, Florida Statutes, is amended to read:
3 943.0585 Court-ordered expunction of criminal history
4 records.--The courts of this state have jurisdiction over
5 their own procedures, including the maintenance, expunction,
6 and correction of judicial records containing criminal history
7 information to the extent such procedures are not inconsistent
8 with the conditions, responsibilities, and duties established
9 by this section. Any court of competent jurisdiction may
10 order a criminal justice agency to expunge the criminal
11 history record of a minor or an adult who complies with the
12 requirements of this section. The court shall not order a
13 criminal justice agency to expunge a criminal history record
14 until the person seeking to expunge a criminal history record
15 has applied for and received a certificate of eligibility for
16 expunction pursuant to subsection (2). A criminal history
17 record that relates to a violation of chapter 794, s. 800.04,
18 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
19 violation enumerated in s. 907.041 may not be expunged,
20 without regard to whether adjudication was withheld, if the
21 defendant was found guilty of or pled guilty or nolo
22 contendere to the offense, or if the defendant, as a minor,
23 was found to have committed, or pled guilty or nolo contendere
24 to committing, the offense as a delinquent act. The court may
25 only order expunction of a criminal history record pertaining
26 to one arrest or one incident of alleged criminal activity,
27 except as provided in this section. The court may, at its sole
28 discretion, order the expunction of a criminal history record
29 pertaining to more than one arrest if the additional arrests
30 directly relate to the original arrest. If the court intends
31 to order the expunction of records pertaining to such

1 additional arrests, such intent must be specified in the
2 order. A criminal justice agency may not expunge any record
3 pertaining to such additional arrests if the order to expunge
4 does not articulate the intention of the court to expunge a
5 record pertaining to more than one arrest. This section does
6 not prevent the court from ordering the expunction of only a
7 portion of a criminal history record pertaining to one arrest
8 or one incident of alleged criminal activity. Notwithstanding
9 any law to the contrary, a criminal justice agency may comply
10 with laws, court orders, and official requests of other
11 jurisdictions relating to expunction, correction, or
12 confidential handling of criminal history records or
13 information derived therefrom. This section does not confer
14 any right to the expunction of any criminal history record,
15 and any request for expunction of a criminal history record
16 may be denied at the sole discretion of the court.

17 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
18 criminal history record of a minor or an adult which is
19 ordered expunged by a court of competent jurisdiction pursuant
20 to this section must be physically destroyed or obliterated by
21 any criminal justice agency having custody of such record;
22 except that any criminal history record in the custody of the
23 department must be retained in all cases. A criminal history
24 record ordered expunged that is retained by the department is
25 confidential and exempt from the provisions of s. 119.07(1)
26 and s. 24(a), Art. I of the State Constitution and not
27 available to any person or entity except upon order of a court
28 of competent jurisdiction. A criminal justice agency may
29 retain a notation indicating compliance with an order to
30 expunge.

31

1 (a) The person who is the subject of a criminal
2 history record that is expunged under this section or under
3 other provisions of law, including former s. 893.14, former s.
4 901.33, and former s. 943.058, may lawfully deny or fail to
5 acknowledge the arrests covered by the expunged record, except
6 when the subject of the record:

7 1. Is a candidate for employment with a criminal
8 justice agency;

9 2. Is a defendant in a criminal prosecution;

10 3. Concurrently or subsequently petitions for relief
11 under this section or s. 943.059;

12 4. Is a candidate for admission to The Florida Bar;

13 5. Is seeking to be employed or licensed by or to
14 contract with the Department of Children and Family Services
15 or the Department of Juvenile Justice or to be employed or
16 used by such contractor or licensee in a sensitive position
17 having direct contact with children, the developmentally
18 disabled, the aged, or the elderly as provided in s.
19 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
20 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), ~~s.~~
21 ~~415.1075(4)~~, s. 985.407, or chapter 400; or

22 6. Is seeking to be employed or licensed by the Office
23 of Teacher Education, Certification, Staff Development, and
24 Professional Practices of the Department of Education, any
25 district school board, or any local governmental entity that
26 licenses child care facilities.

27 Section 101. Paragraph (e) of subsection (4) of
28 section 985.05, Florida Statutes, is amended to read:

29 985.05 Court records.--
30
31

1 (4) A court record of proceedings under this part is
2 not admissible in evidence in any other civil or criminal
3 proceeding, except that:

4 (e) Records of proceedings under this part may be used
5 to prove disqualification pursuant to ss. 110.1127, 393.0655,
6 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
7 985.407, ~~and for proof in a chapter 120 proceeding pursuant to~~
8 ~~s. 415.1075.~~

9 Section 102. Sections 415.1065, 415.1075, 415.1085,
10 and 415.109, Florida Statutes, are repealed.

11 Section 103. There is hereby appropriated from the
12 Health Care Trust Fund to the Agency for Health Care
13 Administration one full-time equivalent position and \$60,000
14 to implement the provisions of s. 400.980, Florida Statutes,
15 relating to the regulation of health care services pools, as
16 provided for in this act.

17 Section 104. Except as otherwise provided herein, this
18 act shall take effect September 1, 2000.

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HOUSE SUMMARY

Provides employment screening requirements for hospice personnel and applicants for registration, managing employees, and financial officers of health care services pools. Provides penalties for certain misrepresentation, operation of such entities with persons who do not meet screening standards, and certain misuse of screening information. Revises operation of health care services pools, and transfers regulation from the Department of Health to the Agency for Health Care Administration. Revises and reorganizes provisions relating to the protection of vulnerable adults from abuse, neglect, and exploitation, and management, maintenance, and use of information relating to reports of such abuse, neglect, and exploitation. Requires certain organizations that hire, contract with, or register for referral caregivers of vulnerable adults, including nursing homes, assisted living facilities, adult day care facilities, adult family-care homes, hospices, home health care agencies, nurse registries, intermediate care facilities for developmentally disabled persons, developmental services institutions, mental health institutions, and agencies providing temporary employees or contractors to such organizations, to obtain work history information from the previous employers of applicants. Provides procedures therefor, and penalties for noncompliance by the organization or the applicant. Provides for enforcement by the Agency for Health Care Administration. Requires the agency to adopt rules. See bill for details.