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Bill No. CS for SB 358

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Argenziano offered the following:

Amendment (with title amendment)

remove from the bill: all said lines

and insert in lieu thereof:

Section 1. Subsection (18) of section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.--As used in this part, unless the context clearly requires otherwise, the term:

(18) "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology. For the purposes of this part, the term does not include retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 2. Subsection (7) of section 394.492, Florida

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1 Statutes, is amended to read:

2 394.492 Definitions.--As used in ss. 394.490-394.497,
3 the term:

4 (7) "Child or adolescent who is experiencing an acute
5 mental or emotional crisis" means a child or adolescent who
6 experiences a psychotic episode or a high level of mental or
7 emotional distress which may be precipitated by a traumatic
8 event or a perceived life problem for which the individual's
9 typical coping strategies are inadequate. The term ~~an acute~~
10 ~~mental or emotional problem~~ and includes a child or adolescent
11 who meets the criteria for involuntary examination specified
12 in s. 394.463(1).

13 Section 3. Subsections (2) and (3) of section 394.493,
14 Florida Statutes, are amended to read:

15 394.493 Target populations for child and adolescent
16 mental health services funded through the department.--

17 (2) Each mental health provider under contract with
18 the department to provide mental health services to the target
19 population shall collect fees from the parent or legal
20 guardian of the child or adolescent receiving services. The
21 fees shall be based on a sliding fee scale for families whose
22 net family income is at or above 150 ~~between 100 percent and~~
23 ~~200 percent~~ of the Federal Poverty Income Guidelines. The
24 department shall adopt, by rule, a sliding fee scale for
25 statewide implementation. ~~A family whose net family income is~~
26 ~~200 percent or more above the Federal Poverty Income~~
27 ~~Guidelines is responsible for paying the cost of services.~~
28 Fees collected from families shall be retained in the service
29 district and used for expanding child and adolescent mental
30 health treatment services.

31 (3) Each child or adolescent who meets the target

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1 population criteria of this section shall be served to the
2 extent possible within available resources and consistent with
3 the portion of the district substance ~~alcohol, drug~~ abuse, and
4 mental health plan specified in s. 394.75 which pertains to
5 child and adolescent mental health services.

6 Section 4. Section 394.65, Florida Statutes, is
7 amended to read:

8 394.65 Short title.--This part may be cited ~~shall be~~
9 ~~known~~ as "The Community Substance ~~Alcohol, Drug~~ Abuse, and
10 Mental Health Services Act."

11 Section 5. Section 394.66, Florida Statutes, is
12 amended to read:

13 394.66 Legislative intent with respect to substance
14 ~~alcohol, drug~~ abuse, and mental health services.--It is the
15 intent of the Legislature to:

16 (1) Recognize that mental illness and substance abuse
17 impairment are diseases that are responsive to medical and
18 psychological interventions and management that integrate
19 treatment, rehabilitative, and support services to achieve
20 quality and cost-efficient outcomes for clients and for
21 community-based treatment systems.

22 (2)(1) Promote and improve the mental health of the
23 citizens of the state by making substance abuse and mental
24 health treatment and support services available to those
25 persons who are most in need and least able to pay, through a
26 community-based system of care comprehensive, coordinated
27 ~~alcohol, drug abuse, and mental health services.~~

28 (3)(2) Involve local citizens in the planning of
29 substance ~~alcohol, drug~~ abuse, and mental health services in
30 their communities.

31 (4) Ensure that the department and the Agency for

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1 Health Care Administration work cooperatively in planning and
2 designing comprehensive community-based substance abuse and
3 mental health programs that focus on the individual needs of
4 clients.

5 (5)(3) Ensure that all activities of the Department of
6 Children and Family Services and the Agency for Health Care
7 Administration, and their respective contract providers,
8 involved in the delivery of substance ~~its contractors are~~
9 directed toward the coordination of planning efforts in
10 alcohol, drug abuse, and mental health treatment and
11 prevention services are coordinated and integrated with other
12 local systems and groups, public and private, such as juvenile
13 justice, criminal justice, child protection, and public health
14 organizations; school districts; and local groups or
15 organizations that focus on services to older adults.

16 (6)(4) Provide access to crisis services to all
17 residents of the state with priority of attention being given
18 to individuals exhibiting symptoms of acute ~~or chronic~~ mental
19 illness, ~~alcohol abuse,~~ or substance drug abuse.

20 (7) Ensure that services provided to persons with
21 co-occurring mental illness and substance abuse problems be
22 integrated across treatment systems.

23 (8)(5) Ensure continuity of care, consistent with
24 minimum standards, for persons who are released from a state
25 treatment facility into the community.

26 (9)(6) Provide accountability for service provision
27 through statewide standards for treatment and support
28 services, and statewide standards for management, monitoring,
29 and reporting of information.

30 (10)(7) Include substance alcohol, drug abuse, and
31 mental health services as a component of the integrated

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1 service delivery system of the Department of Children and
2 Family Services.

3 (11)~~(8)~~ Ensure that the districts of the department
4 are the focal point of all substance ~~alcohol, drug~~ abuse, and
5 mental health planning activities, including budget
6 submissions, grant applications, contracts, and other
7 arrangements that can be effected at the district level.

8 (12)~~(9)~~ Organize and finance community substance
9 ~~alcohol, drug~~ abuse, and mental health services in local
10 communities throughout the state through locally administered
11 service delivery programs that are based on client outcomes,
12 are programmatically effective, and are financially efficient,
13 and that maximize the involvement of local citizens.

14 Section 6. Section 394.67, Florida Statutes, is
15 amended to read:

16 394.67 Definitions.--As used in this part, the term:

17 ~~(1) "Advisory council" means a district advisory~~
18 ~~council.~~

19 (1)~~(2)~~ "Agency" means the Agency for Health Care
20 Administration.

21 (2)~~(3)~~ "Applicant" means an individual applicant, or
22 any officer, director, agent, managing employee, or affiliated
23 person, or any partner or shareholder having an ownership
24 interest equal to a 5-percent or greater interest in the
25 corporation, partnership, or other business entity.

26 (3)~~(4)~~ "Client" means any individual receiving
27 services in any substance ~~alcohol, drug~~ abuse, or mental
28 health facility, program, or service, which facility, program,
29 or service is operated, funded, or regulated by the agency and
30 the department or regulated by the agency.

31 (4) "Crisis services" means short-term evaluation,

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1 stabilization, and brief intervention services provided to a
2 person who is experiencing an acute mental or emotional
3 crisis, as defined in subsection (22), or an acute substance
4 abuse crisis, as defined in subsection (23), to prevent
5 further deterioration of the person's mental health. Crisis
6 services are provided in settings such as a crisis
7 stabilization unit, an inpatient unit, a short-term
8 residential treatment program, a detoxification facility, or
9 an addictions receiving facility; at the site of the crisis by
10 a mobile crisis response team; or at a hospital on an
11 outpatient basis.

12 (5) "Crisis stabilization unit" means a program that
13 provides an alternative to inpatient hospitalization and that
14 provides brief, intensive services 24 hours a day, 7 days a
15 week, for mentally ill individuals who are in an acutely
16 disturbed state.

17 (6) "Department" means the Department of Children and
18 Family Services.

19 (7) "Director" means any member of the official board
20 of directors reported in the organization's annual corporate
21 report to the Florida Department of State, or, if no such
22 report is made, any member of the operating board of
23 directors. The term excludes members of separate, restricted
24 boards that serve only in an advisory capacity to the
25 operating board.

26 (8) "District administrator" means the person
27 appointed by the Secretary of Children and Family Services for
28 the purpose of administering a department service district as
29 set forth in s. 20.19.

30 (9) "District plan" or "plan" means the combined
31 district substance ~~alcohol, drug~~ abuse, and mental health plan

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1 approved by the district administrator and governing bodies in
2 accordance with this part.

3 (10) "Federal funds" means funds from federal sources
4 for substance ~~alcohol, drug~~ abuse, or mental health facilities
5 and programs, exclusive of federal funds that are deemed
6 eligible by the Federal Government, and are eligible through
7 state regulation, for matching purposes.

8 (11) "Governing body" means the chief legislative body
9 of a county, a board of county commissioners, or boards of
10 county commissioners in counties acting jointly, or their
11 counterparts in a charter government.

12 (12) "Health and human services board" or "board"
13 means the board within a district or subdistrict of the
14 department which is established in accordance with s. 20.19
15 and designated in this part for the purpose of assessing the
16 substance abuse and mental health needs of the community and
17 developing a plan to address those needs.

18 ~~(13)(12)~~ "Licensed facility" means a facility licensed
19 in accordance with this chapter.

20 ~~(14)(13)~~ "Local matching funds" means funds received
21 from governing bodies of local government, including city
22 commissions, county commissions, district school boards,
23 special tax districts, private hospital funds, private gifts,
24 both individual and corporate, and bequests and funds received
25 from community drives or any other sources.

26 ~~(15)(14)~~ "Managing employee" means the administrator
27 or other similarly titled individual who is responsible for
28 the daily operation of the facility.

29 (16) "Mental health services" means those therapeutic
30 interventions and activities that help to eliminate, reduce,
31 or manage symptoms or distress for persons who have severe

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1 emotional distress or a mental illness and to effectively
2 manage the disability that often accompanies a mental illness
3 so that the person can recover from the mental illness, become
4 appropriately self-sufficient for his or her age, and live in
5 a stable family or in the community. The term also includes
6 those preventive interventions and activities that reduce the
7 risk for or delay the onset of mental disorders. The term
8 includes the following types of services:

9 (a) Treatment services, such as psychiatric
10 medications and supportive psychotherapies, which are intended
11 to reduce or ameliorate the symptoms of severe distress or
12 mental illness.

13 (b) Rehabilitative services, which are intended to
14 reduce or eliminate the disability that is associated with
15 mental illness. Rehabilitative services may include assessment
16 of personal goals and strengths, readiness preparation,
17 specific skill training, and assistance in designing
18 environments that enable individuals to maximize their
19 functioning and community participation.

20 (c) Support services, which include services that
21 assist individuals in living successfully in environments of
22 their choice. Such services may include income supports,
23 social supports, housing supports, vocational supports, or
24 accommodations related to the symptoms or disabilities
25 associated with mental illness.

26 (d) Case management services, which are intended to
27 assist individuals in obtaining the formal and informal
28 resources that they need to successfully cope with the
29 consequences of their illness. Resources may include treatment
30 or rehabilitative or supportive interventions by both formal
31 and informal providers. Case management may include an

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1 assessment of client needs; intervention planning with the
2 client, his or her family, and service providers; linking the
3 client to needed services; monitoring service delivery;
4 evaluating the effect of services and supports; and advocating
5 on behalf of the client.

6
7 Mental health services may be delivered in a variety of
8 settings, such as inpatient, residential, partial hospital,
9 day treatment, outpatient, club house, or a drop-in or
10 self-help center, as well as in other community settings, such
11 as the client's residence or workplace. The types and
12 intensity of services provided shall be based on the client's
13 clinical status and goals, community resources, and
14 preferences. Services such as assertive community treatment
15 involve all four types of services which are delivered by a
16 multidisciplinary treatment team that is responsible for
17 identified individuals who have a serious mental illness.

18 (17)(15) "Patient fees" means compensation received by
19 a community ~~substance alcohol, drug~~ abuse, or mental health
20 facility for services rendered to a specific client ~~clients~~
21 from any source of funds, including city, county, state,
22 federal, and private sources.

23 (18) "Person who is experiencing an acute mental or
24 emotional crisis" means a child, adolescent, or adult who is
25 experiencing a psychotic episode or a high level of mental or
26 emotional distress which may be precipitated by a traumatic
27 event or a perceived life problem for which the individual's
28 typical coping strategies are inadequate. The term includes an
29 individual who meets the criteria for involuntary examination
30 specified in s. 394.463(1).

31 (19) "Person who is experiencing an acute substance

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1 abuse crisis" means a child, adolescent, or adult who is
2 experiencing a medical or emotional crisis because of the use
3 of alcoholic beverages or any psychoactive or mood-altering
4 substance. The term includes an individual who meets the
5 criteria for involuntary admission specified in s. 397.675.

6 (20)(16) "Premises" means those buildings, beds, and
7 facilities located at the main address of the licensee and all
8 other buildings, beds, and facilities for the provision of
9 acute or residential care which are located in such reasonable
10 proximity to the main address of the licensee as to appear to
11 the public to be under the dominion and control of the
12 licensee.

13 (21)(17) "Program office" means the Alcohol, Drug
14 Abuse, and Mental Health Program Office of the Department of
15 Children and Family Services.

16 (22) "Sliding fee scale" means a schedule of fees for
17 identified services delivered by a service provider which are
18 based on a uniform schedule of discounts deducted from the
19 service provider's usual and customary charges. These charges
20 must be consistent with the prevailing market rates in the
21 community for comparable services.

22 (23) "Substance abuse services" means services
23 designed to prevent or remediate the consequences of substance
24 abuse, improve an individual's quality of life and
25 self-sufficiency, and support long-term recovery. The term
26 includes the following service categories:

27 (a) Prevention services, which include information
28 dissemination; education regarding the consequences of
29 substance abuse; alternative drug-free activities; problem
30 identification; referral of persons to appropriate prevention
31 programs; community-based programs that involve members of

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1 local communities in prevention activities; and environmental
2 strategies to review, change, and enforce laws that control
3 the availability of controlled and illegal substances.

4 (b) Assessment services, which includes the evaluation
5 of individuals and families in order to identify their
6 strengths and determine their required level of care,
7 motivation, and need for treatment and ancillary services.

8 (c) Intervention services, which include early
9 identification, short-term counseling and referral, and
10 outreach.

11 (d) Rehabilitation services, which include
12 residential, outpatient, day or night, case management,
13 in-home, psychiatric, and medical treatment, and methadone or
14 medication management.

15 (e) Ancillary services, which include self-help and
16 other support groups and activities; aftercare provided in a
17 structured, therapeutic environment; supported housing;
18 supported employment; vocational services; and educational
19 services.

20 ~~(24)(18)~~ "Residential treatment facility" means a
21 facility providing residential care and treatment to
22 individuals exhibiting symptoms of mental illness who are in
23 need of a 24-hour-per-day, 7-day-a-week structured living
24 environment, respite care, or long-term community placement.

25 ~~(19)~~ "Service district" means a community service
26 district as established by the department under s. 20.19 for
27 the purpose of providing community alcohol, drug abuse, and
28 mental health services.

29 ~~(20)~~ "Service provider" means any agency in which all
30 or any portion of the programs or services set forth in s.
31 394.675 are carried out.

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1 Section 7. Section 394.674, Florida Statutes, is
2 created to read:

3 394.674 Clinical eligibility for publicly funded
4 substance abuse and mental health services; fee collection
5 requirements.--

6 (1) To be eligible to receive substance abuse and
7 mental health services funded by the department, a person must
8 be a member of one of the department's target groups approved
9 by the Legislature, pursuant to s. 216.0166.

10 (2) Crisis services, as defined in s. 394.67, must,
11 within the limitations of available state and local matching
12 resources, be available to each person who is eligible for
13 services under subsection (1), regardless of the person's
14 ability to pay for such services. A person who is experiencing
15 a mental health crisis and who does not meet the criteria for
16 involuntary examination under s. 394.463(1), or a person who
17 is experiencing a substance abuse crisis and who does not meet
18 the involuntary admission criteria in s. 397.675, must
19 contribute to the cost of his or her care and treatment
20 pursuant to the sliding fee scale developed under subsection
21 (4), unless charging a fee is contraindicated because of the
22 crisis situation.

23 (3) Mental health services, substance abuse services,
24 and crisis services, as defined in s. 394.67, must, within the
25 limitations of available state and local matching resources,
26 be available to each person who is eligible for services under
27 subsection (1). Such person must contribute to the cost of his
28 or her care and treatment pursuant to the sliding fee scale
29 developed under subsection (4).

30 (4) The department shall adopt rules to implement the
31 clinical eligibility and fee collection requirements for

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1 publicly funded substance abuse and mental health services.
2 The rules must require that each provider under contract with
3 the department develop a sliding fee scale for persons who
4 have a net family income at or above 150 percent of the
5 Federal Poverty Income Guidelines, unless otherwise required
6 by state or federal law. The sliding fee scale must use the
7 uniform schedule of discounts by which a provider under
8 contract with the department discounts its established client
9 charges for services supported with state, federal, or local
10 funds, using, at a minimum, factors such as family income,
11 financial assets, and family size as declared by the person or
12 the person's guardian. The rules must include uniform criteria
13 to be used by all service providers in developing the schedule
14 of discounts for the sliding fee scale. The rules must address
15 the most expensive types of treatment, such as residential and
16 inpatient treatment, in order to make it possible for a client
17 to responsibly contribute to his or her mental health or
18 substance abuse care without jeopardizing the family's
19 financial stability. A person who is not eligible for Medicaid
20 and whose net family income is less than 150 percent of the
21 Federal Poverty Income Guidelines must pay a portion of his or
22 her treatment costs which is comparable to the copayment
23 amount required by the Medicaid program for Medicaid clients
24 pursuant to s. 409.9081. The rules must require that persons
25 who receive financial assistance from the Federal Government
26 because of a disability and are in long-term residential
27 treatment settings contribute to their board and care costs
28 and treatment costs and must be consistent with the provisions
29 in s. 409.212.

30 (5) A person who meets the eligibility criteria in
31 subsection (1) shall be served in accordance with the

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1 appropriate district substance abuse and mental health
2 services plan specified in s. 394.75 and within available
3 resources.

4 Section 8. Section 394.675, Florida Statutes, is
5 amended to read:

6 394.675 Substance Abuse, ~~drug~~ abuse, and mental
7 health service system.--

8 (1) A community-based system of comprehensive
9 substance abuse, ~~drug~~ abuse, and mental health services
10 shall be established and shall include as follows:

11 (a) Crisis services.

12 (b) Substance abuse services.

13 (c) Mental health services.

14 ~~(a) "Primary care services" are those services which,~~
15 ~~at a minimum, must be made available in each service district~~
16 ~~to persons who have acute or chronic mental illnesses, who are~~
17 ~~acute or chronic drug dependents, and who are acute or chronic~~
18 ~~alcohol abusers to provide them with immediate care and~~
19 ~~treatment in crisis situations and to prevent further~~
20 ~~deterioration or exacerbation of their conditions. These~~
21 ~~services include, but are not limited to,~~
22 ~~emergency-stabilization services, detoxification services,~~
23 ~~inpatient services, residential services, and case management~~
24 ~~services.~~

25 ~~(b) "Rehabilitative services" are those services which~~
26 ~~are made available to the general population at risk of~~
27 ~~serious mental health problems or substance abuse problems or~~
28 ~~which are provided as part of a rehabilitative program. These~~
29 ~~services are designed to prepare or train persons to function~~
30 ~~within the limits of their disabilities, to restore previous~~
31 ~~levels of functioning, or to improve current levels of~~

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1 ~~inadequate functioning. Rehabilitative services include, but~~
2 ~~are not limited to, outpatient services, day treatment~~
3 ~~services, and partial hospitalization services.~~

4 ~~(c) "Preventive services" are those services which are~~
5 ~~made available to the general population for the purpose of~~
6 ~~preventing or ameliorating the effects of alcohol abuse, drug~~
7 ~~abuse, or mental illness. These services emphasize the~~
8 ~~reduction of the occurrence of emotional disorders, mental~~
9 ~~disorders, and substance abuse through public education, early~~
10 ~~detection, and timely intervention. Preventive services~~
11 ~~include consultation, public education, and prevention~~
12 ~~services which have been determined through the district~~
13 ~~planning process to be necessary to complete a continuum of~~
14 ~~services as required by this part and which are included in~~
15 ~~the district plan.~~

16 (2) Notwithstanding the provisions of this part, funds
17 ~~that which~~ are provided through state and federal sources for
18 specific services or for specific populations shall be used
19 for those purposes.

20 Section 9. Section 394.676, Florida Statutes, is
21 created to read:

22 394.676 Indigent psychiatric medication program.--

23 (1) Within legislative appropriations, the department
24 may establish the indigent psychiatric medication program to
25 purchase psychiatric medications for persons as defined in s.
26 394.492(5) or (6) or pursuant to s. 394.674(1), who do not
27 reside in a state mental health treatment facility or an
28 inpatient unit.

29 (2) The department must adopt rules to administer the
30 indigent psychiatric medication program. The rules must
31 prescribe the clinical and financial eligibility of clients

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1 who may receive services under the indigent psychiatric
2 medication program, the requirements that community-based
3 mental health providers must meet to participate in the
4 program, and the sanctions to be applied for failure to meet
5 those requirements.

6 (3) To the extent possible within existing
7 appropriations, the department must ensure that
8 non-Medicaid-eligible indigent individuals discharged from
9 mental health treatment facilities continue to receive the
10 medications which effectively stabilized their mental illness
11 in the treatment facility, or newer medications, without
12 substitution by a service provider unless such substitution is
13 clinically indicated as determined by the licensed physician
14 responsible for such individual's psychiatric care.

15 Section 10. Section 394.74, Florida Statutes, is
16 amended to read:

17 394.74 Contracts for provision of local substance
18 ~~alcohol, drug~~ abuse, and mental health programs.--

19 (1) The department, when funds are available for such
20 purposes, is authorized to contract for the establishment and
21 operation of local substance ~~alcohol, drug~~ abuse, and mental
22 health programs with any hospital, clinic, laboratory,
23 institution, or other appropriate service provider.

24 (2)(a) Contracts for service shall be consistent with
25 the approved district plan ~~and the service priorities~~
26 ~~established in s. 394.75(4).~~

27 (b) Notwithstanding s. 394.76(3)(a) and (c), the
28 department may use unit cost methods of payment in contracts
29 for purchasing mental health and substance abuse services. The
30 unit cost contracting system must account for those patient
31 fees that are paid on behalf of a specific client and those

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1 that are earned and used by the provider for those services
2 funded in whole or in part by the department.

3 (c) The department may reimburse actual expenditures
4 for startup contracts and fixed capital outlay contracts in
5 accordance with contract specifications.

6 (3) Contracts shall include, but are not limited to:

7 (a) A provision that, within the limits of available
8 resources, substance ~~primary care alcohol, drug~~ abuse, and
9 mental health crisis services, as defined in s. 394.67(4),
10 shall be available to any individual residing or employed
11 within the service area, regardless of ability to pay for such
12 services, current or past health condition, or any other
13 factor;

14 (b) A provision that such services be available with
15 priority of attention being given to individuals who exhibit
16 symptoms of chronic or acute substance ~~alcoholism, drug~~ abuse,
17 or mental illness and who are unable to pay the cost of
18 receiving such services;

19 (c) A provision that every reasonable effort to
20 collect appropriate reimbursement for the cost of providing
21 substance ~~alcohol, drug~~ abuse, and mental health services to
22 persons able to pay for services, including first-party
23 payments and third-party payments, shall be made by facilities
24 providing services pursuant to this act;

25 (d) A program description and line-item operating
26 budget by program service component for substance ~~alcohol,~~
27 ~~drug~~ abuse, and mental health services, provided the entire
28 proposed operating budget for the service provider will be
29 displayed; and

30 (e) A requirement that the contractor must conform to
31 department rules and the priorities established thereunder.

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1 (4) The department shall develop standard contract
2 forms for use between the district administrator and community
3 substance alcohol, drug abuse, and mental health service
4 providers.

5 (5) ~~Nothing in~~ This part does not prevent ~~prevents~~ any
6 municipality city or county, or combination of municipalities
7 ~~cities~~ and counties, from owning, financing, and operating a
8 substance an alcohol, drug abuse, or mental health program by
9 entering into an arrangement with the district to provide, and
10 be reimbursed for, services provided as part of the district
11 plan.

12 Section 11. Section 394.75, Florida Statutes, is
13 amended to read:

14 394.75 State and district substance alcohol, drug
15 abuse, and mental health plans.--

16 (1)(a) Every 3 years, beginning in 2001, the
17 department, in consultation with the Medicaid program in the
18 Agency for Health Care Administration, shall prepare a state
19 master plan for the delivery and financing of a system of
20 publicly funded, community-based substance abuse and mental
21 health services throughout the state.

22 (b) The initial plan must include an assessment of the
23 clinical practice guidelines and standards for community-based
24 mental health and substance abuse services delivered by
25 persons or agencies under contract with the Department of
26 Children and Family Services. The assessment must include an
27 inventory of current clinical guidelines and standards used by
28 persons and agencies under contract with the department, and
29 by nationally recognized accreditation organizations, to
30 address the quality of care and must specify additional
31 clinical practice standards and guidelines for new or existing

1 services and programs.

2 (c) The plan must propose changes in department policy
3 or statutory revisions to strengthen the quality of mental
4 health and substance abuse treatment and support services.

5 (d) The plan must identify strategies for meeting the
6 treatment and support needs of children, adolescents, adults,
7 and older adults who have, or are at risk of having, mental,
8 emotional, or substance abuse problems as defined in chapter
9 394 or chapter 397.

10 (e) The plan must include input from persons who
11 represent local communities; local government entities that
12 contribute funds to the local substance abuse and mental
13 health treatment systems; consumers of publicly funded
14 substance abuse and mental health services, and their
15 families; and stakeholders interested in mental health and
16 substance abuse services. The plan must describe the means by
17 which this local input occurred. The plan shall be updated
18 annually.

19 (f) The plan must include statewide policies and
20 planning parameters that will be used by the health and human
21 services boards in preparing the district substance abuse and
22 mental health plans.

23 (g) The district plans shall be one component of the
24 state master plan.

25 (2) The state master plan shall also include:

26 (a) A proposal for the development of a data system
27 that will evaluate the effectiveness of programs and services
28 provided to clients of the substance abuse and mental health
29 service system.

30 (b) A proposal to resolve the funding discrepancies
31 between districts.

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1 (c) A methodology for the allocation of resources
2 available from federal, state, and local sources and a
3 description of the current level of funding available from
4 each source.

5 (d) A description of the statewide priorities for
6 clients and services, and each district's priorities for
7 clients and services.

8 (e) Recommendations for methods of enhancing local
9 participation in the planning, organization, and financing of
10 substance abuse and mental health services.

11 (f) A description of the current methods of
12 contracting for services, an assessment of the efficiency of
13 these methods in providing accountability for contracted
14 funds, and recommendations for improvements to the system of
15 contracting.

16 (g) Recommendations for improving access to services
17 by clients and their families.

18 (h) Guidelines and formats for the development of
19 district plans.

20 (i) Recommendations for future directions for the
21 substance abuse and mental health service delivery system.

22
23 A schedule, format, and procedure for development and review
24 of the state master plan shall be adopted by the department by
25 June of each year. The plan and annual updates must be
26 submitted to the President of the Senate and the Speaker of
27 the House of Representatives by January 1 of each year,
28 beginning January 1, 2001.

29 (3) The district health and human services board shall
30 prepare an integrated district substance abuse and mental
31 health plan. The plan shall be prepared and updated on a

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1 schedule established by the Alcohol, Drug Abuse, and Mental
 2 Health Program Office. The plan shall reflect the needs and
 3 program priorities established by the department and the needs
 4 of the district established under ss. 394.674 and 394.675. The
 5 plan must list in order of priority the mental health and the
 6 substance abuse treatment needs of the district and must rank
 7 each program separately. The plan shall include:

8 (a) A record of the total amount of money available in
 9 the district for mental health and substance abuse services.

10 (b) A description of each service that will be
 11 purchased with state funds.

12 (c) A record of the amount of money allocated for each
 13 service identified in the plan as being purchased with state
 14 funds.

15 (d) A record of the total funds allocated to each
 16 provider.

17 (e) A record of the total funds allocated to each
 18 provider by type of service to be purchased with state funds.

19 (f) Input from community-based persons, organizations,
 20 and agencies interested in substance abuse and mental health
 21 treatment services; local government entities that contribute
 22 funds to the public substance abuse and mental health
 23 treatment systems; and consumers of publicly funded substance
 24 abuse and mental health services, and their family members.
 25 The plan must describe the means by which this local input
 26 occurred.

27 ~~(1)(a) The district planning council shall prepare a~~
 28 ~~combined district alcohol, drug abuse, and mental health plan.~~
 29 ~~The plan shall be prepared on a biennial basis and shall be~~
 30 ~~reviewed annually and shall reflect both the program~~
 31 ~~priorities established by the department and the needs of the~~

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1 ~~district. The plan shall include a program description and~~
2 ~~line-item budget by program service component for alcohol,~~
3 ~~drug abuse, and mental health service providers that will~~
4 ~~receive state funds. The entire proposed operating budget for~~
5 ~~each service provider shall be displayed. A schedule, format,~~
6 ~~and procedure for development and review of the plan shall be~~
7 ~~promulgated by the department.~~

8
9 ~~(b)~~ The plan shall be submitted by the district board
10 ~~planning council~~ to the district administrator and to the
11 governing bodies for review, comment, and approval, ~~as~~
12 ~~provided in subsection (9).~~

13 ~~(4)(2)~~ The district plan shall:

14 (a) Describe the publicly funded, community-based
15 substance abuse and mental health system of care, and identify
16 statutorily defined populations, their service needs, and the
17 resources available and required to meet their needs.

18 (b) Provide the means for meeting the needs of the
19 district's eligible clients, specified in ss. 394.674 and
20 394.675, for substance abuse and mental health services.

21 (c) Provide a process for coordinating the delivery of
22 services within a community-based system of care to eligible
23 clients. Such process must involve service providers, clients,
24 and other stakeholders. The process must also provide a means
25 by which providers will coordinate and cooperate to strengthen
26 linkages, achieve maximum integration of services, foster
27 efficiencies in service delivery and administration, and
28 designate responsibility for outcomes for eligible clients.

29 ~~(d)(a)~~ Provide a projection of district program and
30 fiscal needs for the next fiscal year ~~biennium~~, provide for
31 the orderly and economical development of needed services, and

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1 indicate priorities and resources for each population served,
2 performance outcomes, and anticipated expenditures and
3 revenues.

4 (e)~~(b)~~ Include a summary budget request for the total
5 district substance ~~alcohol, drug~~ abuse, and mental health
6 program, which must ~~shall~~ include the funding priorities
7 established by the district planning process.

8 (f)~~(c)~~ Provide a basis for the district legislative
9 budget request.

10 (g)~~(d)~~ Include a policy and procedure for allocation
11 of funds.

12 (h)~~(e)~~ Include a procedure for securing local matching
13 funds. Such a procedure shall be developed in consultation
14 with governing bodies and service providers.

15 (i)~~(f)~~ Provide for the integration of substance
16 ~~alcohol, drug~~ abuse, and mental health services with the other
17 departmental programs and with the criminal justice, juvenile
18 justice, child protection, school, and health care systems
19 ~~system~~ within the district.

20 (j)~~(g)~~ Provide a plan for the coordination of services
21 in such manner as to ensure effectiveness and avoid
22 duplication, fragmentation of services, and unnecessary
23 expenditures.

24 (k)~~(h)~~ Provide for continuity of client care between
25 state treatment facilities and community programs to assure
26 that discharge planning results in the rapid application for
27 all benefits for which a client is eligible, including
28 Medicaid coverage for persons leaving state treatment
29 facilities and returning to community-based programs.

30 (l)~~(i)~~ Provide for the most appropriate and economical
31 use of all existing public and private agencies and personnel.

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1 ~~(m)(j)~~ Provide for the fullest possible and most
2 appropriate participation by existing programs; state
3 hospitals and other hospitals; city, county, and state health
4 and family service agencies; drug abuse and alcoholism
5 programs; probation departments; physicians; psychologists;
6 social workers; marriage and family therapists; mental health
7 counselors; clinical social workers; public health nurses;
8 school systems; and all other public and private agencies and
9 personnel that ~~which~~ are required to, or may agree to,
10 participate in the plan.

11 ~~(n)(k)~~ Include an inventory of all public and private
12 substance alcohol, drug abuse, and mental health resources
13 within the district, including consumer advocacy groups and
14 self-help groups known to ~~registered with~~ the department.

15 ~~(5)(3)~~ The district plan shall address how substance
16 abuse and mental health ~~primary care~~ services will be provided
17 and how a system of care for target populations ~~continuum of~~
18 ~~services~~ will be provided given the resources available in the
19 service district. The plan must include provisions for
20 maximizing client access to the most recently developed
21 psychiatric medications approved by the United States Food and
22 Drug Administration, for developing independent housing units
23 through participation in the Section 811 program operated by
24 the United States Department of Housing and Urban Development,
25 for developing supported employment services through the
26 Division of Vocational Rehabilitation of the Department of
27 Labor and Employment Security, for providing treatment
28 services to persons with co-occurring mental illness and
29 substance abuse problems which are integrated across treatment
30 systems, and for providing services to adults who have a
31 serious mental illness, as defined in s. 394.67, and who

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1 reside in assisted-living facilities.

2 ~~(6)(4)~~ The district plan shall provide the means by
3 which the needs of the ~~following~~ population groups specified
4 pursuant to s. 394.674 ~~having priority~~ will be addressed in
5 the district.†

6 ~~(a) Chronic public inebriates†~~

7 ~~(b) Marginally functional alcoholics†~~

8 ~~(c) Chronic opiate abusers†~~

9 ~~(d) Poly-drug abusers†~~

10 ~~(e) Chronically mentally ill individuals†~~

11 ~~(f) Acutely mentally ill individuals†~~

12 ~~(g) Severely emotionally disturbed children and~~
13 ~~adolescents†~~

14 ~~(h) Elderly persons at high risk of~~
15 ~~institutionalization† and~~

16 ~~(i) Individuals returned to the community from a state~~
17 ~~mental health treatment facility.~~

18 ~~(7)(5)~~ In developing the district plan, optimum use
19 shall be made of any federal, state, and local funds that may
20 be available for substance alcohol, drug abuse, and mental
21 health service planning. However, the department must provide
22 these services within legislative appropriations.

23 ~~(8)(6)~~ The district health and human services board
24 ~~planning council†~~ shall establish a subcommittee to prepare the
25 portion of the district plan relating to children and
26 adolescents. The subcommittee shall include representative
27 membership of any committee organized or established by the
28 district to review placement of children and adolescents in
29 residential treatment programs. The board shall establish a
30 subcommittee to prepare the portion of the district plan which
31 relates to adult mental health and substance abuse. The

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1 subcommittee must include representatives from the community
2 who have an interest in mental health and substance abuse
3 treatment for adults.

4 ~~(9)(7)~~ All departments of state government and all
5 local public agencies shall cooperate with officials to assist
6 them in service planning. Each district administrator shall,
7 upon request and the availability of staff, provide
8 consultative services to the local agency directors and
9 governing bodies.

10 ~~(10)(8)~~ The district administrator shall ensure that
11 the district plan:

12 (a) Conforms to the priorities in the state plan, the
13 requirements of this part, and the standards adopted under
14 this part;

15 (b) Ensures that the most effective and economical use
16 will be made of available public and private substance
17 ~~alcohol, drug~~ abuse, and mental health resources in the
18 service district; and

19 (c) Has adequate provisions made for review and
20 evaluation of the services provided in the service district.

21 ~~(11)(9)~~ The district administrator shall require such
22 modifications in the district plan as he or she deems
23 necessary to bring the plan into conformance with the
24 provisions of this part. If the district board ~~planning~~
25 ~~council~~ and the district administrator cannot agree on the
26 plan, including the projected budget, the issues under dispute
27 shall be submitted directly to the secretary of the department
28 for immediate resolution.

29 ~~(12)(10)~~ Each governing body that provides local funds
30 has the authority to require necessary modification to only
31 that portion of the district plan which affects substance

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1 ~~alcohol, drug~~ abuse, and mental health programs and services
2 within the jurisdiction of that governing body.

3 (13)~~(11)~~ The district administrator shall report
4 annually to the district board ~~planning council~~ the status of
5 funding for priorities established in the district plan. Each
6 report must include:

7 (a) A description of the district plan priorities that
8 were included in the district legislative budget request.†

9 (b) A description of the district plan priorities that
10 were included in the departmental budget request prepared
11 under s. 20.19.†

12 (c) A description of the programs and services
13 included in the district plan priorities that were
14 appropriated funds by the Legislature in the legislative
15 session that preceded the report.

16 Section 12. Subsection (3) of section 394.4574,
17 Florida Statutes, is amended to read:

18 394.4574 Department responsibilities for a mental
19 health resident who resides in an assisted living facility
20 that holds a limited mental health license.--

21 (3) The Secretary of Children and Family Services, in
22 consultation with the Agency for Health Care Administration,
23 shall annually require each district administrator to develop,
24 with community input, detailed plans that demonstrate how the
25 district will ensure the provision of state-funded mental
26 health and substance abuse treatment services to residents of
27 assisted living facilities that hold a limited mental health
28 license. These plans must be consistent with the substance
29 ~~alcohol, drug~~ abuse, and mental health district plan developed
30 pursuant to s. 394.75 and must address case management
31 services; access to consumer-operated drop-in centers; access

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1 to services during evenings, weekends, and holidays;
2 supervision of the clinical needs of the residents; and access
3 to emergency psychiatric care.

4 Section 13. Subsections (3), (4), (8), (9), (10), and
5 (11) of section 394.76, Florida Statutes, are amended to read:

6 394.76 Financing of district programs and
7 services.--If the local match funding level is not provided in
8 the General Appropriations Act or the substantive bill
9 implementing the General Appropriations Act, such funding
10 level shall be provided as follows:

11 (3) The state share of financial participation shall
12 be determined by the following formula:

13 (a) The state share of approved program costs shall be
14 a percentage of the net balance determined by deducting from
15 the total operating cost of services and programs, as
16 specified in s. 394.675(1), those expenditures which are
17 ineligible for state participation as provided in subsection
18 (7) and those ineligible expenditures established by rule of
19 the department pursuant to s. 394.78.

20 (b) Residential and case management services which are
21 funded as part of a deinstitutionalization project shall not
22 require local matching funds and shall not be used as local
23 matching funds. The state and federal financial participation
24 portions of Medicaid earnings pursuant to Title XIX of the
25 Social Security Act, except for the amount of general revenue
26 equal to the amount appropriated in 1985-1986 plus all other
27 general revenue that is shifted from any other alcohol, drug
28 abuse, and mental health appropriation category after fiscal
29 year 1986-1987 or substance abuse and mental health
30 appropriation category after fiscal year 2000-2001, shall not
31 require local matching funds and shall not be used as local

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1 matching funds. Local matching funds are not required for
2 general revenue transferred by the department into substance
3 ~~alcohol, drug~~ abuse, and mental health appropriations
4 categories during a fiscal year to match federal funds earned
5 from Medicaid services provided for mental health clients in
6 excess of the amounts initially appropriated. Funds for
7 children's services which were provided through the Children,
8 Youth, and Families Services budget which did not require
9 local match prior to being transferred to the Substance
10 ~~Alcohol, Drug~~ Abuse, and Mental Health Services budget shall
11 be exempt from local matching requirements. All other
12 contracted community alcohol and mental health services and
13 programs, except as identified in s. 394.457(3), shall require
14 local participation on a 75-to-25 state-to-local ratio.

15 (c) The expenditure of 100 percent of all third-party
16 payments and fees shall be considered as eligible for state
17 financial participation if such expenditures are in accordance
18 with subsection (7) and the approved district plan.

19 (d) Fees generated by residential and case management
20 services which are funded as part of a deinstitutionalization
21 program and do not require local matching funds shall be used
22 to support program costs approved in the district plan.

23 (e) Any earnings pursuant to Title XIX of the Social
24 Security Act in excess of the amount appropriated shall be
25 used to support program costs approved in the district plan.

26 (4) Notwithstanding the provisions of subsection (3),
27 the department is authorized to develop and demonstrate
28 alternative financing systems for substance ~~alcohol, drug~~
29 ~~abuse,~~ and mental health services. Proposals for
30 demonstration projects conducted pursuant to this subsection
31 shall be reviewed by the substantive and appropriations

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1 committees of the Senate and the House of Representatives
2 prior to implementation of the projects.

3 (8) Expenditures for capital improvements relating to
4 construction of, addition to, purchase of, or renovation of a
5 community substance alcohol, drug abuse, or mental health
6 facility may be made by the state, provided such expenditures
7 or capital improvements are part and parcel of an approved
8 district plan. Nothing shall prohibit the use of such
9 expenditures for the construction of, addition to, renovation
10 of, or purchase of facilities owned by a county, city, or
11 other governmental agency of the state or a nonprofit entity.
12 Such expenditures are subject to the provisions of subsection
13 (6).

14 (9)(a) State funds for community alcohol and mental
15 health services shall be matched by local matching funds as
16 provided in paragraph (3)(b). The governing bodies within a
17 district or subdistrict shall be required to participate in
18 the funding of alcohol and mental health services under the
19 jurisdiction of such governing bodies. The amount of the
20 participation shall be at least that amount which, when added
21 to other available local matching funds, is necessary to match
22 state funds.

23 (b) The provisions of paragraph (a) to the contrary
24 notwithstanding, no additional matching funds may be required
25 solely due to the addition in the General Appropriations Act
26 of Substance Alcohol, Drug Abuse, and Mental Health Block
27 Grant Funds for local community mental health centers and
28 alcohol project grants.

29 (10) A local governing body is authorized to
30 appropriate moneys, in lump sum or otherwise, from its public
31 funds for the purpose of carrying out the provisions of this

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1 part. In addition to the payment of claims upon submission of
 2 proper vouchers, such moneys may also, at the option of the
 3 governing body, be disbursed in the form of a lump-sum or
 4 advance payment for services for expenditure, in turn, by the
 5 recipient of the disbursement without prior audit by the
 6 auditor of the governing body. Such funds shall be expended
 7 only for substance ~~alcohol, drug~~ abuse, or mental health
 8 purposes as provided in the approved district plan. Each
 9 governing body appropriating and disbursing moneys pursuant to
 10 this subsection shall require the expenditure of such moneys
 11 by the recipient of the disbursement to be audited annually
 12 either in conjunction with an audit of other expenditures or
 13 by a separate audit. Such annual audits shall be furnished to
 14 the governing bodies of each participating county and
 15 municipality for their examination.

16 (11) No additional local matching funds shall be
 17 required solely due to the addition in the General
 18 Appropriations Act of substance ~~alcohol, drug~~ abuse, and
 19 mental health block grant funds for local community mental
 20 health centers, drug abuse programs, and alcohol project
 21 grants.

22 Section 14. Subsection (1) of section 394.77, Florida
 23 Statutes, is amended to read:

24 394.77 Uniform management information, accounting, and
 25 reporting systems for providers.--The department shall
 26 establish, for the purposes of control of costs:

27 (1) A uniform management information system and fiscal
 28 accounting system for use by providers of community substance
 29 ~~alcohol, drug~~ abuse, and mental health services.

30 Section 15. Subsections (2), (3), (4), and (5) of
 31 section 394.78, Florida Statutes, are amended to read:

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1 394.78 Operation and administration; personnel
2 standards; procedures for audit and monitoring of service
3 providers; resolution of disputes.--

4 (2) The department shall, by rule, establish standards
5 of education and experience for professional and technical
6 personnel employed in substance ~~alcohol, drug~~ abuse, and
7 mental health programs.

8 (3) The department shall establish, to the extent
9 possible, a standardized auditing procedure for substance
10 ~~alcohol, drug~~ abuse, and mental health service providers; and
11 audits of service providers shall be conducted pursuant to
12 such procedure and the applicable department rules. Such
13 procedure shall be supplied to all current and prospective
14 contractors and subcontractors prior to the signing of any
15 contracts.

16 (4) The department shall monitor service providers for
17 compliance with contracts and applicable state and federal
18 regulations. A representative of the district health and
19 human services board ~~planning council~~ shall be represented on
20 the monitoring team.

21 (5) In unresolved disputes regarding this part or
22 rules established pursuant to this part, providers and
23 district health and human services boards ~~planning councils~~
24 shall adhere to formal procedures specified under s.
25 20.19(8)(n) ~~as provided by the rules established by the~~
26 ~~department.~~

27 Section 16. Section 394.908, Florida Statutes, is
28 amended to read:

29 394.908 Substance ~~Alcohol, drug~~ abuse, and mental
30 health funding equity; distribution of appropriations.--In
31 recognition of the historical inequity among service districts

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1 of the former Department of Health and Rehabilitative Services
2 in the funding of substance ~~alcohol, drug~~ abuse, and mental
3 health services, and in order to rectify this inequity and
4 provide for equitable funding in the future throughout the
5 state, the following funding process shall be adhered to,
6 ~~beginning with the 1997-1998 fiscal year:~~

7 (1) Funding thresholds for substance ~~alcohol, drug~~
8 abuse, and mental health services in each of the current
9 districts, statewide, shall be established based on the
10 current number of persons in need per district of substance
11 ~~for alcohol and drug~~ abuse, and ~~for~~ mental health services,
12 respectively.

13 (2) "Persons in need" means those persons who fit the
14 profile of the respective target populations and require
15 mental health or substance abuse services.

16 (3) Seventy-five ~~Beginning July 1, 1997,~~ 75 percent of
17 any additional funding beyond the 1996-1997 fiscal year base
18 appropriation for alcohol, drug abuse, and mental health
19 services shall be allocated to districts for substance abuse
20 and mental health services based on:

21 (a) Epidemiological estimates of disabilities which
22 apply to the respective target populations.

23 (b) A pro rata share distribution that ensures
24 districts below the statewide average funding level per person
25 in each target population of "persons in need" receive funding
26 necessary to achieve equity.

27 (4) The remaining 25 percent shall be allocated based
28 on the number of persons in need of substance ~~alcohol, drug~~
29 abuse, and mental health services per district without regard
30 to current funding levels.

31 (5) Target populations for persons in need shall be

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1 displayed for each district and distributed concurrently with
2 the approved operating budget. The display by target
3 population shall show: The annual number of persons served
4 based on prior year actual numbers, the annual cost per person
5 served, the number of persons served by service cost center,
6 and the estimated number of the total target population for
7 persons in need.

8 (6) The annual cost per person served shall be defined
9 as the total actual funding for each target population divided
10 by the number of persons served in the target population for
11 that year.

12 (7) Commencing on July 1, 1998, all additional funding
13 pursuant to this section shall be performance-based.

14 Section 17. Subsection (2) of section 397.321, Florida
15 Statutes, is amended to read:

16 397.321 Duties of the department.--The department
17 shall:

18 (2) Ensure that a plan for substance abuse services is
19 developed at the district level in accordance with the
20 provisions of part IV of chapter 394, ~~and the state plan~~
21 ~~pursuant to s. 394.79.~~

22 Section 18. By November 1 of each year, the Department
23 of Children and Family Services shall submit a report to the
24 President of the Senate and the Speaker of the House of
25 Representatives which describes the compliance of providers
26 that provide substance abuse treatment programs and mental
27 health services under contract with the Department of Children
28 and Family Services. The report must describe the status of
29 compliance with the annual performance outcome standards
30 established by the Legislature and must address the providers
31 that meet or exceed performance standards, the providers that

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1 did not achieve performance standards for which corrective
2 action measures were developed, and the providers whose
3 contracts were terminated due to failure to meet the
4 requirements of the corrective plan.

5 Section 19. The Commission on Mental Health and
6 Substance Abuse is directed to study and make recommendations
7 regarding who should receive publicly funded mental health and
8 substance abuse services. The commission shall submit its
9 recommendations to the President of the Senate, the Speaker of
10 the House of Representatives, and the majority and minority
11 leaders of each chamber no later than December 1, 2000.

12 Section 20. Target groups.--The Department of Children
13 and Family Services shall revise its target groups for
14 substance abuse and mental health services approved pursuant
15 to s. 216.0166, Florida Statutes, to include "older adults in
16 crisis," "older adults who are at risk of being placed in a
17 more restrictive environment because of their mental illness
18 or substance abuse," "older adults with severe and persistent
19 mental illness," and "older adults in need of substance abuse
20 treatment." The department shall track and report specifically
21 on substance abuse and mental health services provided to
22 older adults.

23 Section 21. Section 394.79, Florida Statutes, is
24 repealed.

25 Section 22. Subsection (3) of section 400.6065,
26 Florida Statutes, is amended, and subsections (4) through (8)
27 are added to said section, to read:

28 400.6065 Background screening.--

29 (3) The agency may grant a provisional license to a
30 hospice applying for an initial license when each individual
31 required by this section to undergo screening has completed

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1 the ~~abuse registry~~ and Department of Law Enforcement
2 background check checks, but has not yet received results from
3 the Federal Bureau of Investigation.

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

8 (5) The agency may grant exemptions from
9 disqualification from employment under this section as
10 provided in s. 435.07.

11 (6) The administration of each hospice must sign an
12 affidavit annually, under penalty of perjury, stating that all
13 personnel employed or contracted with on or after October 1,
14 1998, who provide hospice services in a facility, or who enter
15 the home of a patient in their service capacity, have been
16 screened.

17 (7) Proof of compliance with the screening
18 requirements of chapter 435 shall be accepted in lieu of the
19 requirements of this section if the person has been
20 continuously employed or registered without a breach in
21 service that exceeds 180 days, the proof of compliance is not
22 more than 2 years old, and the person has been screened, at
23 the discretion of the hospice.

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

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

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1 section;

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

6 3. Use information from the criminal records obtained
7 under this section for any purpose other than screening as
8 specified in this section, or release such information to any
9 other person for any purpose other than screening under this
10 section.

11 (b) It is a felony of the third degree, punishable
12 under s. 775.082, s. 775.083, or s. 775.084, for any person
13 willfully, knowingly, or intentionally to use information from
14 the juvenile records of a person obtained under this section
15 for any purpose other than screening for employment under this
16 section.

17 Section 23. Part XII of chapter 400, Florida Statutes,
18 consisting of s. 400.980, Florida Statutes, is created,
19 entitled "Health Care Services Pools."

20 Section 24. Section 402.48, Florida Statutes, is
21 renumbered as section 400.980, Florida Statutes, and amended
22 to read:

23 400.980~~402.48~~ Health care services pools.--

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

25 (a) "Agency" means the Agency for Health Care
26 Administration. "~~Department~~" means the Department of Health.

27 (b) "Health care services pool" means any person,
28 firm, corporation, partnership, or association engaged for
29 hire in the business of providing temporary employment in
30 health care facilities, residential facilities, and agencies
31 for licensed, certified, or trained health care personnel

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1 including, without limitation, nursing assistants, nurses'
2 aides, and orderlies. However, the term does not include
3 nursing registries, a facility licensed under chapter 400, a
4 health care services pool established within a health care
5 facility to provide services only within the confines of such
6 facility, or any individual contractor directly providing
7 temporary services to a health care facility without use or
8 benefit of a contracting agent.

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

22 (3) Each application for registration must include:

23 (a) The name and address of any person who has an
24 ownership interest in the business, and, in the case of a
25 corporate owner, copies of the articles of incorporation,
26 bylaws, and names and addresses of all officers and directors
27 of the corporation.

28 (b) Any other information required by the agency
29 department.

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

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1 (a) Upon receipt of a completed, signed, and dated
2 application, the agency shall require background screening, in
3 accordance with the level 1 standards for screening set forth
4 in chapter 435, of every individual who will have contact with
5 patients. The agency shall require background screening of the
6 managing employee or other similarly titled individual who is
7 responsible for the operation of the entity, and of the
8 financial officer or other similarly titled individual who is
9 responsible for the financial operation of the entity,
10 including billings for services in accordance with the level 2
11 standards for background screening as set forth in chapter
12 435.

13 (b) The agency may require background screening of any
14 other individual who is affiliated with the applicant if the
15 agency has a reasonable basis for believing that he or she has
16 been convicted of a crime or has committed any other offense
17 prohibited under the level 2 standards for screening set forth
18 in chapter 435.

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

24 (d) A provisional registration 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 Department of Law Enforcement background check but the agency
28 has not yet received background screening results from the
29 Federal Bureau of Investigation. A standard registration may
30 be granted to the applicant upon the agency's receipt of a
31 report of the results of the Federal Bureau of Investigation

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

13 (e) Each applicant must submit to the agency, with its
14 application, a description and explanation of any exclusions,
15 permanent suspensions, or terminations of the applicant from
16 the Medicare or Medicaid programs. Proof of compliance with
17 the requirements for disclosure of ownership and controlling
18 interests under the Medicaid or Medicare programs may be
19 accepted in lieu of this submission.

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

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1 financial interest and no family members having a financial
2 interest in the corporation or organization, if the director
3 and the not-for-profit corporation or organization include in
4 the application a statement affirming that the director's
5 relationship to the corporation satisfies the requirements of
6 this paragraph.

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

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

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

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

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

26 1. Has falsely represented a material fact in the
27 application required by paragraph (e) or paragraph (f), or has
28 omitted any material fact from the application required by
29 paragraph (e) or paragraph (f); or

30 2. Has had prior action taken against the applicant
31 under the Medicaid or Medicare program as set forth in

1 paragraph (e).
2 3. Fails to comply with this section or applicable
3 rules.
4 4. Commits an intentional, reckless, or negligent act
5 that materially affects the health or safety of a person
6 receiving services.
7 (5) It is a misdemeanor of the first degree,
8 punishable under s. 775.082 or s. 775.083, for any person
9 willfully, knowingly, or intentionally to:
10 (a) Fail, by false statement, misrepresentation,
11 impersonation, or other fraudulent means, to disclose in any
12 application for voluntary or paid employment a material fact
13 used in making a determination as to an applicant's
14 qualifications to be a contractor under this section;
15 (b) Operate or attempt to operate an entity registered
16 under this part with persons who do not meet the minimum
17 standards of chapter 435 as contained in this section; or
18 (c) Use information from the criminal records obtained
19 under this section for any purpose other than screening an
20 applicant for temporary employment as specified in this
21 section, or release such information to any other person for
22 any purpose other than screening for employment under this
23 section.
24 (6) It is a felony of the third degree, punishable
25 under s. 775.082, s. 775.083, or s. 775.084, for any person
26 willfully, knowingly, or intentionally to use information from
27 the juvenile records of a person obtained under this section
28 for any purpose other than screening for employment under this
29 section.
30 (7) It is unlawful for a person to offer or advertise
31 services, as defined by rule, to the public without obtaining

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1 a certificate of registration from the Agency for Health Care
2 Administration. It is unlawful for any holder of a certificate
3 of registration to advertise or hold out to the public that he
4 or she holds a certificate of registration for other than that
5 for which he or she actually holds a certificate of
6 registration. Any person who violates this subsection is
7 subject to injunctive proceedings under s. 400.515.

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

14 (9)(5) A health care services pool may not require an
15 employee to recruit new employees from persons employed at a
16 health care facility to which the health care services pool
17 employee is assigned. Nor shall a health care facility to
18 which employees of a health care services pool are assigned
19 recruit new employees from the health care services pool.

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

26 (11)(7) When referring persons for temporary
27 employment in health care facilities, a health care services
28 pool shall comply with all pertinent state and federal laws,
29 rules, and regulations ~~of the appropriate regulatory agency~~
30 relating to health, background screening, and other
31 qualifications required of persons working in a facility of

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1 ~~that type of personnel employed in health care facilities.~~

2 ~~(12)(8)~~(a) As a condition of registration and prior to
3 the issuance or renewal of a certificate of registration, a
4 health care services pool applicant must prove financial
5 responsibility to pay claims, and costs ancillary thereto,
6 arising out of the rendering of services or failure to render
7 services by the pool or by its employees in the course of
8 their employment with the pool. The agency department shall
9 promulgate rules establishing minimum financial responsibility
10 coverage amounts which shall be adequate to pay potential
11 claims and costs ancillary thereto.

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

22 (c) Proof of financial responsibility must be
23 demonstrated to the satisfaction of the agency department,
24 through one of the following methods:

25 1. Establishing and maintaining an escrow account
26 consisting of cash or assets eligible for deposit in
27 accordance with s. 625.52;

28 2. Obtaining and maintaining an unexpired irrevocable
29 letter of credit established pursuant to chapter 675. Such
30 letters of credit shall be nontransferable and nonassignable
31 and shall be issued by any bank or savings association

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1 organized and existing under the laws of this state or any
2 bank or savings association organized under the laws of the
3 United States that has its principal place of business in this
4 state or has a branch office which is authorized under the
5 laws of this state or of the United States to receive deposits
6 in this state; or

7 3. Obtaining and maintaining professional liability
8 coverage from one of the following:

9 a. An authorized insurer as defined under s. 624.09;
10 b. An eligible surplus lines insurer as defined under
11 s. 626.918(2);
12 c. A risk retention group or purchasing group as
13 defined under s. 627.942; or
14 d. A plan of self-insurance as provided in s. 627.357.

15 (d) If financial responsibility requirements are met
16 by maintaining an escrow account or letter of credit, as
17 provided in this section, upon the entry of an adverse final
18 judgment arising from a medical malpractice arbitration award
19 from a claim of medical malpractice either in contract or
20 tort, or from noncompliance with the terms of a settlement
21 agreement arising from a claim of medical malpractice either
22 in contract or tort, the financial institution holding the
23 escrow account or the letter of credit shall pay directly to
24 the claimant the entire amount of the judgment together with
25 all accrued interest or the amount maintained in the escrow
26 account or letter of credit as required by this section,
27 whichever is less, within 60 days after the date such judgment
28 became final and subject to execution, unless otherwise
29 mutually agreed to in writing by the parties. If timely
30 payment is not made, the agency department shall suspend the
31 registration license of the pool pursuant to procedures set

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1 forth by the department through rule. Nothing in this
 2 paragraph shall abrogate a judgment debtor's obligation to
 3 satisfy the entire amount of any judgment.

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

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

15 (g) Meeting the financial responsibility requirements
 16 of this section must be established at the time of issuance or
 17 renewal of a certificate of registration.

18 ~~(13)(9)~~ The agency ~~department~~ shall adopt rules to
 19 implement this section, including rules providing for the
 20 establishment of:

21 (a) Minimum standards for the operation and
 22 administration of health care personnel pools, including
 23 procedures for recordkeeping and personnel.

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

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

29 Section 25. All powers, duties and functions, rules,
 30 records, personnel, property, and unexpended balances of
 31 appropriations, allocations, or other funds of the Department

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1 of Health relating to the regulation of health care services
2 pools are transferred by a type two transfer, as defined in s.
3 20.06(2), Florida Statutes, from the Department of Health to
4 the Agency for Health Care Administration.

5 Section 26. Section 415.102, Florida Statutes, is
6 amended to read:

7 415.102 Definitions of terms used in ss.

8 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

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

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

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

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

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

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

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

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

30 ~~(6) "Confirmed report" means a proposed confirmed~~
31 ~~report that has been determined to be valid after a hearing~~

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

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

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

14 ~~(6)(9) "Department" means the Department of Children~~
15 ~~and Family Services.~~

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

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

28 ~~(12) "Elderly person" means a person 60 years of age~~
29 ~~or older who is suffering from the infirmities of aging as~~
30 ~~manifested by advanced age or organic brain damage, or other~~
31 ~~physical, mental, or emotional dysfunctioning to the extent~~

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1 ~~that the ability of the person to provide adequately for the~~
2 ~~person's own care or protection is impaired.~~

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

9 ~~(7)(14)(a)~~ "Exploitation" means a person who:

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

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

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

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

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1 transfer of property;

2 2. Unauthorized taking of personal assets;

3 3. Misappropriation, misuse, or transfer of moneys

4 belonging to a vulnerable disabled adult ~~or elderly person~~

5 from a personal or joint account; or

6 4. Intentional or negligent failure to effectively use

7 a vulnerable disabled adult's ~~or elderly person's~~ income and

8 assets for the necessities required for that person's support

9 and maintenance.

10 ~~(8)(15)~~ "Facility" means any location providing day or

11 residential care or treatment for vulnerable disabled adults

12 ~~or elderly persons~~. The term "facility" may include, but is

13 not limited to, any hospital, ~~training center~~, state

14 institution, nursing home, assisted living facility, adult

15 family-care home, adult day care center, group home, or mental

16 health treatment center.

17 ~~(9)(16)~~ "False report" means a report of abuse,

18 neglect, or exploitation of a vulnerable disabled adult ~~or an~~

19 ~~elderly person~~ to the central abuse hotline registry and

20 ~~tracking system~~ which is not true unfounded and is maliciously

21 made for the purpose of:

22 (a) Harassing, embarrassing, or harming another

23 person;

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

25 (c) Acquiring custody of a vulnerable disabled adult

26 ~~or an elderly person~~; or

27 (d) Personal benefit for the reporting person in any

28 other private dispute involving a vulnerable disabled adult ~~or~~

29 ~~an elderly person~~.

30

31 The term "false report" does not include a report of abuse,

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1 neglect, or exploitation of a vulnerable disabled adult ~~or an~~
2 ~~elderly person~~ which is made in good faith to the central
3 abuse hotline registry and tracking system and which is
4 ~~classified as unfounded at the conclusion of the~~
5 ~~investigation.~~

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

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

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

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1 homes.

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

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

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

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

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1 ~~415.101-415.113.~~

2 (16)~~(24)~~ "Obtains or uses" means any manner of:

3 (a) Taking or exercising control over property; ~~or~~

4 (b) Making any use, disposition, or transfer of

5 property;

6 (c) Obtaining property by fraud, willful

7 misrepresentation of a future act, or false promise; or

8 (d)1. Conduct otherwise known as stealing; larceny;

9 purloining; abstracting; embezzlement; misapplication;

10 misappropriation; conversion; or obtaining money or property

11 by false pretenses, fraud, or deception; or

12 2. Other conduct similar in nature.

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

17 (17)~~(26)~~ "Position of trust and confidence" with

18 respect to a vulnerable disabled adult ~~or an elderly person~~

19 means the position of a person who:

20 (a) Is a parent, spouse, adult child, or other

21 relative by blood or marriage ~~of the disabled adult or elderly~~
22 ~~person;~~

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

25 (c) Has a legal or fiduciary relationship ~~with the~~
26 ~~disabled adult or elderly person~~, including, but not limited
27 to, a court-appointed or voluntary guardian, trustee,
28 attorney, or conservator; or

29 (d) Is a caregiver ~~of the disabled adult or elderly~~
30 ~~person~~ or any other person who has been entrusted with or has
31 assumed responsibility for the use or management of the

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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~~

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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.

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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

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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 27. 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.

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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 pertinent information relative to the present report or any

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1 noted earlier reports.

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

5 Section 28. Section 415.1034, Florida Statutes, is
6 amended to read:

7 415.1034 Mandatory reporting of abuse, neglect, or
8 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~;
9 mandatory reports of death.--

10 (1) MANDATORY REPORTING.--

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

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

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

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

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

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

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

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

30

31 who knows, or has reasonable cause to suspect, that a

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

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

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

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

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

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

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

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

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

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

28 (2) MANDATORY REPORTS OF DEATH.--Any person who is
29 required to investigate reports of abuse, neglect, or
30 exploitation and who has reasonable cause to suspect that a
31 vulnerable ~~disabled adult or an elderly person~~ died as a

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

12 Section 29. Section 415.1035, Florida Statutes, is
13 amended to read:

14 415.1035 Facility's duty to inform residents of their
15 right to report abusive, neglectful, or exploitive
16 practices.--The department shall work cooperatively with the
17 Agency for Health Care Administration and the Department of
18 Elderly Affairs to ensure that every facility that serves
19 vulnerable adults informs residents of their right to report
20 abusive, neglectful, or exploitive practices. Each facility
21 must establish appropriate policies and procedures to
22 facilitate such reporting.

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

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

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

6 Section 30. Subsection (1) of section 415.1036,
7 Florida Statutes, is amended to read:

8 415.1036 Immunity.--

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

24 Section 31. Section 415.104, Florida Statutes, is
25 amended to read:

26 415.104 Protective ~~services~~ investigations of cases of
27 abuse, neglect, or exploitation of vulnerable aged persons ~~or~~
28 ~~disabled~~ adults; transmittal of records to state attorney.--

29 (1) The department shall, upon receipt of a report
30 alleging abuse, neglect, or exploitation of a vulnerable an
31 ~~aged person or disabled adult, begin~~ commence, ~~or cause to be~~

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

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1 council, when appropriate, that an alleged abuse, neglect, or
2 exploitation perpetrated by a second party has occurred.
3 Notice to the human rights advocacy committee or long-term
4 care ombudsman council may be accomplished orally or in
5 writing and shall include the name and location of the
6 vulnerable ~~aged person or disabled~~ adult alleged to have been
7 abused, neglected, or exploited and the nature of the report.

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

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

13 (b) The purpose of the investigation.

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

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

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

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

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1 aspects of the investigation, including interviews with other
2 persons. In an investigative interview with a vulnerable
3 adult, the protective investigator may conduct the interview
4 with no other person present.

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

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

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

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

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

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

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

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1 ~~central abuse registry and tracking system to the fullest~~
2 ~~extent possible.~~

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

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

12 ~~(4)(2)~~ No later than 60 ~~30~~ days after receiving the
13 initial report, the designated protective investigative adult
14 ~~services~~ staff of the department shall complete the ~~its~~
15 investigation and ~~classify the report as proposed confirmed or~~
16 ~~unfounded or close the report without classification and~~
17 notify the guardian of the vulnerable ~~aged person or disabled~~
18 adult, the vulnerable ~~aged person or disabled~~ adult, and the
19 caregiver of any recommendations of services to be provided to
20 ameliorate the causes or effects of abuse, neglect, or
21 exploitation ~~alleged perpetrator. These findings must be~~
22 ~~reported to the department's central abuse registry and~~
23 ~~tracking system. For proposed confirmed reports, after~~
24 ~~receiving the final administrative order rendered in a hearing~~
25 ~~requested pursuant to s. 415.103(3)(d) or after the 30-day~~
26 ~~period during which an alleged perpetrator may request such a~~
27 ~~hearing has expired, the department shall classify the report~~
28 ~~of abuse, neglect, or exploitation as confirmed or unfounded~~
29 ~~and shall report its findings to the department's central~~
30 ~~abuse registry and tracking system, and must do so in~~
31 ~~accordance with the final order if a hearing was held.~~

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1 ~~(5)(3)~~ Whenever the law enforcement ~~criminal justice~~
2 agency and the department have conducted independent
3 investigations, the law enforcement ~~criminal justice~~ agency
4 shall, within 5 working days after concluding its
5 investigation, report its findings ~~from its investigation~~ to
6 the state attorney and to the department.

7 ~~(6)(4)~~ Upon receipt of a report which alleges that an
8 employee or agent of the department acting in an official
9 capacity has committed an act of abuse, neglect, or
10 exploitation, the department shall commence, or cause to be
11 commenced ~~within 24 hours~~, a protective ~~services~~ investigation
12 and shall notify the state attorney in whose circuit the
13 alleged abuse, neglect, or exploitation occurred.

14 ~~(7)(5)~~ With respect to any case of reported abuse,
15 neglect, or exploitation of a vulnerable ~~an aged person or~~
16 ~~disabled~~ adult, the department, when appropriate, shall
17 transmit all relevant reports ~~received by it which pertain to~~
18 ~~the investigation~~ to the state attorney of the circuit where
19 the incident occurred.

20 ~~(8)(6)~~ Within 15 days after ~~of~~ completion of the state
21 attorney's investigation of a case reported to him or her
22 pursuant to this section, the state attorney shall report his
23 or her findings to the department and shall include a
24 determination of whether or not prosecution is justified and
25 appropriate in view of the circumstances of the specific case.

26 ~~(9)(7)~~ The department shall not use a warning,
27 reprimand, or disciplinary action against an employee found
28 in that employee's personnel records, as the sole basis for a
29 finding of abuse, neglect, or exploitation.

30 Section 32. Section 415.1045, Florida Statutes, is
31 amended to read:

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1 415.1045 ~~Protective investigations; onsite~~
2 ~~investigations; Photographs, videotapes, and medical~~
3 ~~examinations; abrogation of privileged communications;~~
4 ~~confidential records and documents; classification or closure~~
5 ~~of records.--~~

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

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

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

20 ~~1. The names of the investigators and identifying~~
21 ~~credentials from the department.~~

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

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

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

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

31 ~~6. The name and telephone number of the adult~~

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1 ~~protective investigator's supervisor available to answer~~
2 ~~questions.~~

3 ~~(c) Except as provided in paragraph (d), in an~~
4 ~~investigative interview, any person being interviewed may be~~
5 ~~represented by an attorney, at the person's own expense, or~~
6 ~~may choose to have another person present. The other person~~
7 ~~present may not be an alleged perpetrator in any report~~
8 ~~currently under investigation. Before participating in such~~
9 ~~interview, the other person present shall execute an agreement~~
10 ~~to comply with the confidentiality requirements of ss.~~
11 ~~415.101-415.113. The absence of an attorney or other person~~
12 ~~does not prevent the department from proceeding with other~~
13 ~~aspects of the investigation, including interviews with other~~
14 ~~persons.~~

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

18 ~~(2) ONSITE INVESTIGATIONS. For each report it~~
19 ~~receives, the department shall perform an onsite investigation~~
20 ~~to:~~

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

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

26 ~~(c) Determine whether there is an indication that any~~
27 ~~disabled adult or elderly person has been or is being abused,~~
28 ~~neglected, or exploited, including a determination of the~~
29 ~~immediate and long-term risk; the nature and extent of present~~
30 ~~or prior injuries; and the nature and extent of any abuse,~~
31 ~~neglect, or exploitation, and any evidence thereof.~~

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1 ~~(d) Determine whether protective and ameliorative~~
2 ~~services are necessary to safeguard and ensure the disabled~~
3 ~~adult's or elderly person's well-being and cause the delivery~~
4 ~~of those services.~~

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

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

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

17 ~~(1)(3) PHOTOGRAPHS AND VIDEOTAPES.--~~

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

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

30 ~~(2)(4) MEDICAL EXAMINATIONS.--~~

31 (a) With the consent of the vulnerable disabled adult

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

8 1. The areas of trauma visible on the vulnerable
9 ~~disabled~~ adult ~~or elderly person~~ indicate a need for medical
10 examination;

11 2. The vulnerable disabled adult ~~or elderly person~~
12 verbally complains or otherwise exhibits signs or symptoms
13 indicating a need for medical attention as a consequence of
14 suspected abuse, neglect, or exploitation; or

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

17 (b) Upon admission to a hospital or health care
18 facility, with the consent of the vulnerable disabled adult ~~or~~
19 ~~elderly person~~ who has capacity to consent or that person's
20 guardian, or pursuant to s. 415.1051, the medical staff of the
21 facility may examine, diagnose, or treat the vulnerable
22 ~~disabled~~ adult ~~or elderly person~~. If a person who has legal
23 authority to give consent for the provision of medical
24 treatment to a vulnerable disabled adult ~~or elderly person~~ has
25 not given or has refused to give such consent, examination and
26 treatment must be limited to reasonable examination of the
27 patient to determine the medical condition of the patient and
28 treatment reasonably necessary to alleviate the medical
29 condition or to stabilize the patient pending a determination
30 by the court of the department's petition authorizing
31 protective services. Any person may seek an expedited

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1 judicial intervention under rule 5.900 of the Florida Probate
2 Rules concerning medical treatment procedures.

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

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

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

18 ~~(3)(5)~~ ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
19 privileged quality of communication between husband and wife
20 and between any professional and the professional's patient or
21 client, and any other privileged communication except that
22 between attorney and client or clergy and person, as such
23 communication relates to both the competency of the witness
24 and to the exclusion of confidential communications, does not
25 apply to any situation involving known or suspected abuse,
26 neglect, or exploitation of a vulnerable disabled ~~adult or an~~
27 ~~elderly person~~ and does not constitute grounds for failure to
28 report as required by s. 415.1034, for failure to cooperate
29 with the department in its activities under ss.
30 415.101-415.113, or for failure to give evidence in any
31 judicial or administrative proceeding relating to abuse,

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1 neglect, or exploitation of a vulnerable disabled adult ~~or an~~
 2 ~~elderly person~~.

3 (4)(6) MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR
 4 DOCUMENTS.--

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

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

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

23 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
 24 refuses to allow the protective investigator to have access
 25 to, inspect, or copy any medical, social, or financial record
 26 or document in the possession of any person, caregiver,
 27 guardian, or facility which is relevant to the allegations
 28 under investigation, the department may petition the court for
 29 an order requiring the person to allow access to the record or
 30 document. The petition must allege specific facts sufficient
 31 to show that the record or document is relevant to the

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

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

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1 such information and to comply with all applicable laws and
2 rules of the Department of Law Enforcement.

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

13 Section 33. Section 415.105, Florida Statutes, is
14 amended to read:

15 415.105 Provision of protective services with consent;
16 withdrawal of consent; interference.--

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

31 (2) WITHDRAWAL OF CONSENT.--If the vulnerable disabled

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1 adult ~~or elderly person~~ withdraws consent to the receipt of
2 protective services or protective supervision, the services
3 may not be provided, except pursuant to s. 415.1051.

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

18 Section 34. Section 415.1051, Florida Statutes, is
19 amended to read:

20 415.1051 Protective services interventions when
21 capacity to consent is lacking; nonemergencies; emergencies;
22 orders; limitations.--

23 (1) NONEMERGENCY PROTECTIVE SERVICES
24 INTERVENTIONS.--If the department has reasonable cause to
25 believe that a vulnerable ~~disabled~~ adult ~~or elderly person~~ is
26 being abused, neglected, or exploited and is in need of
27 protective services but lacks the capacity to consent to
28 protective services, the department shall petition the court
29 for an order authorizing the provision of protective services.

30 (a) Nonemergency protective services petition.--The
31 petition must state the name, age, and address of the

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1 ~~vulnerable disabled~~ adult ~~or elderly person~~, allege specific
2 facts sufficient to show that the vulnerable disabled adult ~~or~~
3 ~~elderly person~~ is in need of protective services and lacks the
4 capacity to consent to them, and indicate the services needed.

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

12 (c) Hearing.--

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

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

25 3. The court shall determine whether:

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

28 b. The vulnerable disabled adult ~~or elderly person~~
29 lacks the capacity to consent to the provision of such
30 services.

31 (d) Hearing findings.--If at the hearing the court

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1 finds by clear and convincing evidence that the vulnerable
2 ~~disabled adult or elderly person~~ is in need of protective
3 services and lacks the capacity to consent to ~~protective~~
4 ~~services~~, the court may issue an order authorizing the
5 provision of protective services. If an order for protective
6 services is issued, it must include a statement of the
7 services to be provided and designate an individual or agency
8 to be responsible for performing or obtaining the essential
9 services on behalf of the vulnerable ~~disabled adult or elderly~~
10 ~~person~~ or otherwise consenting to protective services on
11 behalf of the vulnerable ~~disabled adult or elderly person~~.

12 (e) Continued protective services.--

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

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

19 b. Protective services will be continued for the
20 vulnerable ~~disabled adult or elderly person~~ who lacks
21 capacity;

22 c. Protective services will be discontinued; or

23 d. A petition for guardianship should be filed
24 pursuant to chapter 744.

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

30 (f) Costs.--The costs of services ordered under this
31 section must be paid by the perpetrator if the perpetrator is

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1 financially able to do so; or by third-party reimbursement, if
2 available. If the vulnerable ~~disabled adult or elderly person~~
3 is unable to pay for guardianship, application may be made to
4 the public guardian for public guardianship services, if
5 available.

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

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

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1 ~~nonemergency protective services or protective supervision~~
2 ~~pursuant to subsection (1).~~

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

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

20 (d) Emergency protective services petition.--A
21 petition filed under this subsection must state the name, age,
22 and address of the vulnerable ~~disabled~~ adult ~~or elderly person~~
23 and allege the facts constituting the emergency protective
24 services intervention and subsequent removal of the vulnerable
25 ~~disabled~~ adult ~~or elderly person~~ or provision of in-home
26 services, the facts relating to the capacity of the vulnerable
27 ~~disabled~~ adult ~~or elderly person~~ to consent to services, the
28 efforts of the department to obtain consent, and the services
29 needed or delivered.

30 (e) Notice.--Notice of the filing of the emergency
31 protective services petition and a copy of the petition must

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1 be given to the vulnerable ~~disabled~~ adult ~~or elderly person~~,
2 to that person's spouse, to that person's guardian, if any, to
3 legal counsel representing the vulnerable ~~disabled~~ adult ~~or~~
4 ~~elderly person~~, and, when known, to adult children or next of
5 kin of the vulnerable ~~disabled~~ adult ~~or elderly person~~. Such
6 notice must be given at least 24 hours before any hearing on
7 the petition for emergency protective services.

8 (f) Hearing.--When emergency removal has occurred
9 under this subsection, a hearing must be held within 4 days
10 after the filing of the emergency protective services
11 petition, excluding Saturday, Sunday, and legal holidays, to
12 establish reasonable cause for grounds to continue emergency
13 protective services.

14 1. The court shall determine, by clear and convincing
15 evidence, whether an emergency existed which justified the
16 emergency protective services intervention, whether the
17 vulnerable ~~disabled~~ adult ~~or elderly person~~ is in need of
18 emergency protective services, whether the vulnerable ~~disabled~~
19 adult ~~or elderly person~~ lacks the capacity to consent to
20 emergency protective services, and whether:

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

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

27 c. Emergency protective services will be discontinued.

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

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1 legal representation.

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

5 4. If an order to continue emergency protective
6 services is issued, it must state the services to be provided
7 and designate an individual or agency to be responsible for
8 performing or obtaining the essential services ~~on behalf of~~
9 ~~the disabled adult or elderly person~~, or otherwise consenting
10 to protective services on behalf of the vulnerable ~~disabled~~
11 adult ~~or elderly person~~.

12 (g) Continued emergency protective services.--

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

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

19 b. Emergency protective services will be continued for
20 the vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
21 capacity;

22 c. Emergency protective services will be discontinued;
23 or

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

25 2. If it is decided to file a petition under chapter
26 744, for good cause shown, the court may order continued
27 emergency protective services until a determination is made by
28 the court ~~regarding the disabled adult's or elderly person's~~
29 ~~capacity~~.

30 (h) Costs.--The costs of services ordered under this
31 section must be paid by the perpetrator if the perpetrator is

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1 financially able to do so, or by third-party reimbursement, if
2 available. ~~If the disabled adult or elderly person is unable~~
3 ~~to pay for guardianship, application may be made to the public~~
4 ~~guardian for public guardianship services, if available.~~

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

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

12 (b) Protective services ordered may not include a
13 change of residence, unless the court specifically finds such
14 action is necessary to ameliorate the conditions creating the
15 abuse, neglect, or exploitation and the court gives specific
16 approval for such action in the order. Placement may be made
17 to such facilities as adult family-care homes, assisted living
18 facilities, or nursing homes, or to other appropriate
19 facilities. Placement may not be made to facilities for the
20 acutely mentally ill, except as provided in chapter 394.

21 (c) If an order to continue emergency protective
22 services is issued, it must include the designation of an
23 individual or agency to be responsible for performing or
24 obtaining the essential services on behalf of the vulnerable
25 ~~disabled adult or elderly person~~ or otherwise consenting to
26 protective services on behalf of the vulnerable ~~disabled adult~~
27 ~~or elderly person~~.

28 (4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER
29 OR GUARDIAN PRESENT.--

30 (a) When a vulnerable ~~disabled adult or an elderly~~
31 ~~person~~ who lacks the capacity to consent has been identified

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1 ~~in a report as the victim of abuse, neglect, or exploitation~~
 2 ~~and evidences a need for emergency or nonemergency protective~~
 3 ~~services or protective supervision, and a caregiver or~~
 4 ~~guardian who is responsible for the care of the disabled adult~~
 5 ~~or elderly person is present, the adult protective~~
 6 investigator must first request consent from the caregiver or
 7 guardian, if present, before providing protective services or
 8 protective supervision, unless the ~~adult~~ protective
 9 investigator suspects that the ~~disabled adult's or elderly~~
 10 ~~person's~~ caregiver or guardian has caused the abuse, neglect,
 11 or exploitation ~~of the disabled adult or elderly person~~.

12 (b) If the caregiver or guardian agrees to engage or
 13 provide services designed to prevent further abuse, neglect,
 14 or exploitation, the department may provide protective
 15 supervision ~~for the disabled adult or elderly person~~.

16 (c) If the caregiver or guardian refuses to give
 17 consent or later withdraws consent to agreed-upon services, or
 18 otherwise fails to provide needed care and supervision, the
 19 department may provide emergency protective services as
 20 provided in subsection (2). If emergency protective services
 21 are so provided, the department must then petition the court
 22 for an order to provide emergency protective services under
 23 subsection (3).

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

30 (6)(5) LIMITATIONS.--This section does not limit in
 31 any way the authority of the court or a criminal justice

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1 officer, or any other duly appointed official, to intervene in
2 emergency circumstances under existing statutes. This section
3 does not limit the authority of any person to file a petition
4 for guardianship under chapter 744.

5 Section 35. Section 415.1052, Florida Statutes, is
6 amended to read:

7 415.1052 Interference with investigation or with the
8 provision of protective services.--

9 (1) If, upon arrival of the adult protective
10 investigator, any person refuses to allow the department to
11 begin a protective investigation, interferes with the
12 department's ability to conduct such an investigation, or
13 refuses to give access to the vulnerable ~~disabled~~ adult or
14 ~~elderly person~~, the appropriate law enforcement agency must be
15 contacted to assist the department in commencing the
16 protective investigation.

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

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1 ~~(2)(3)~~ When any person refuses to allow the provision
 2 of protective services to the vulnerable ~~disabled~~ adult ~~or~~
 3 ~~elderly person~~ who has the capacity to consent to services,
 4 the department shall petition the court for an order enjoining
 5 the person from interfering with the provision of protective
 6 services. The petition must allege specific facts sufficient
 7 to show that the vulnerable ~~disabled~~ adult ~~or elderly person~~
 8 is in need of protective services and that the person refuses
 9 to allow the provision of such services. If the court finds
 10 by clear and convincing evidence that the vulnerable ~~disabled~~
 11 adult ~~or elderly person~~ is in need of protective services and
 12 that the person refuses to allow the provision of such
 13 services, the court may issue an order enjoining the person
 14 from interfering with the provision of protective services to
 15 the vulnerable ~~disabled~~ adult ~~or elderly person~~.

16 ~~(4)~~ ~~When a court order exists authorizing protective~~
 17 ~~services for a disabled adult or an elderly person who lacks~~
 18 ~~capacity to consent and any person interferes with the~~
 19 ~~provision of such court-ordered protective services to the~~
 20 ~~disabled adult or elderly person, the appropriate law~~
 21 ~~enforcement agency shall enforce the order of the court.~~

22 Section 36. Section 415.1055, Florida Statutes, is
 23 amended to read:

24 415.1055 Notification to administrative entities,
 25 ~~subjects, and reporters; notification to law enforcement and~~
 26 ~~state attorneys.--~~

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

28 ~~(a) The department shall, within 24 hours after~~
 29 ~~receipt of a report of abuse, neglect, or exploitation of a~~
 30 ~~disabled adult or an elderly person within a facility,~~
 31 ~~excluding Saturdays, Sundays, and legal holidays, notify the~~

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1 ~~appropriate human rights advocacy committee and the long-term~~
2 ~~care ombudsman council, in writing, that the department has~~
3 ~~reasonable cause to believe that a disabled adult or an~~
4 ~~elderly person has been abused, neglected, or exploited at the~~
5 ~~facility.~~

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

13 (2)(c) If at any time during a protective
14 investigation the department has reasonable cause to believe
15 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
16 abused, neglected, or exploited by another person, the state
17 attorney having jurisdiction in the county in which the abuse,
18 neglect, or exploitation occurred shall be notified
19 immediately, either orally or in writing.

20 (3)(d) If at any time during a protective
21 investigation the department has reasonable cause to believe
22 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
23 abused, neglected, or exploited by another person, the
24 appropriate law enforcement agency shall be immediately
25 notified. Such agency may begin a criminal investigation
26 concurrent with or independent of the protective investigation
27 of the department. This notification may be oral or written.

28 (4)(e) If at any time during a protective
29 investigation the department has reasonable cause to believe
30 that abuse, neglect, or exploitation of a vulnerable ~~disabled~~
31 adult ~~or an elderly person~~ has occurred within a facility that

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1 receives Medicaid funds, the department shall notify the
2 Medicaid Fraud Control Unit within the Department of Legal
3 Affairs, Office of the Attorney General, in order that it may
4 begin an investigation concurrent with the protective
5 investigation of the department. This notification may be oral
6 or written.

7 (5)~~(f)~~ If at any time during a protective
8 investigation the department has reasonable cause to believe
9 that an employee of a facility, as defined in s. 415.102~~(13)~~,
10 is the alleged perpetrator of abuse, neglect, or exploitation
11 of a vulnerable ~~disabled~~ adult ~~or an elderly person~~, the
12 department shall notify the Agency for Health Care
13 Administration, Division of Health Quality Assurance, in
14 writing.

15 (6)~~(g)~~ If at any time during a protective
16 investigation the department has reasonable cause to believe
17 that professional licensure violations have occurred, the
18 department shall notify the Division of Medical Quality
19 Assurance within the Department of Health. This notification
20 must be in writing.

21 (7)~~(h)~~ ~~When a report has been classified as proposed~~
22 ~~confirmed,~~The department shall notify the state attorney
23 having jurisdiction in the county in which the abuse, neglect,
24 or exploitation occurred. ~~The department may submit a report~~
25 ~~that has been closed without classification~~ if evidence
26 indicates that further criminal investigation is warranted.
27 This notification must be in writing.

28 (8)~~(i)~~ At the conclusion of a protective investigation
29 at a facility, the department shall notify either the human
30 rights advocacy committee or long-term care ombudsman council
31 of the results of the investigation. This notification must

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1 be in writing.

2 ~~(j) At the conclusion of a protective investigation,~~
3 ~~the department shall notify the Agency for Health Care~~
4 ~~Administration when a licensee or a certified nursing~~
5 ~~assistant has been named as perpetrator in a report that has~~
6 ~~been classified as proposed confirmed or confirmed. This~~
7 ~~notification must be in writing.~~

8 ~~(9)(k) When a report has been classified as proposed~~
9 ~~confirmed in cases involving a guardian of the person or~~
10 ~~property, or both, is received, the department shall notify~~
11 ~~the probate court having jurisdiction over the guardianship,~~
12 ~~of the proposed confirmed report. This notification must be in~~
13 ~~writing.~~

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

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

25 ~~(a) In the case of a report that has been classified~~
26 ~~as unfounded, notice of the classification must be given to~~
27 ~~the disabled adult or elderly person, the guardian of that~~
28 ~~person, the caregiver of that person, and the person who had~~
29 ~~been named as the alleged perpetrator. The notice must be~~
30 ~~sent by regular mail and must advise the recipient that the~~
31 ~~report will be expunged in 1 year.~~

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

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

9 ~~2. The notice must advise the recipient of the~~
10 ~~recipient's right to request a copy of the report within 60~~
11 ~~days after receipt of the notice.~~

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

21 ~~4. The notice must state that, if the report becomes~~
22 ~~confirmed, the alleged perpetrator may be disqualified from~~
23 ~~working with children, the developmentally disabled, disabled~~
24 ~~adults, and elderly persons.~~

25 ~~5. Notice of a proposed confirmed report must be~~
26 ~~personally served upon the alleged perpetrator in this state~~
27 ~~by an adult protective investigator, a sheriff, or a private~~
28 ~~process server in the district in which the alleged~~
29 ~~perpetrator resides, works, or can be found. Proof of service~~
30 ~~of the notice must be by affidavit prepared by the individual~~
31 ~~serving the notice upon the alleged perpetrator. The~~

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1 ~~affidavit must state the name of the person serving the~~
2 ~~notice, the name of the alleged perpetrator served, the~~
3 ~~location at which the alleged perpetrator was served, and the~~
4 ~~time the notice was served. If the notice of a proposed~~
5 ~~confirmed report cannot be personally served upon the alleged~~
6 ~~perpetrator in this state or if the alleged perpetrator does~~
7 ~~not reside in this state, the notice of the proposed confirmed~~
8 ~~report must be sent by certified mail, return receipt~~
9 ~~requested, forwarding and address correction requested, to the~~
10 ~~last known address of the alleged perpetrator. If an alleged~~
11 ~~perpetrator cannot be served either by personal service or by~~
12 ~~certified mail, the record of the proposed confirmed report~~
13 ~~must be maintained pursuant to s. 415.1065.~~

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

18 ~~7. If a proposed confirmed report becomes confirmed~~
19 ~~because the alleged perpetrator fails to make a timely request~~
20 ~~to amend or expunge the proposed confirmed report, the~~
21 ~~department must give notice of the confirmed classification to~~
22 ~~the perpetrator and the perpetrator's legal counsel.~~

23 ~~a. Notice of the confirmed classification must inform~~
24 ~~the perpetrator that the perpetrator may be disqualified from~~
25 ~~working with children, the developmentally disabled, disabled~~
26 ~~adults, and elderly persons.~~

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

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

31 ~~(c) If a report is closed without classification,~~

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1 ~~notice must be given to the guardian of the disabled adult or~~
2 ~~elderly person, the disabled adult or elderly person, the~~
3 ~~caregiver of that person, any person or facility named in the~~
4 ~~report, and the person who had been named as the alleged~~
5 ~~perpetrator. The notice must be sent by regular mail and must~~
6 ~~advise the recipient that:~~

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

8 ~~2. The recipient has a right to request a copy of this~~
9 ~~report.~~

10 ~~3. Any person or facility named in a report classified~~
11 ~~as closed without classification has the right to request~~
12 ~~amendment or expunction of the report within 60 days after the~~
13 ~~receipt of the notice, and that failure to request amendment~~
14 ~~or expunction within 60 days means that the report will remain~~
15 ~~classified as closed without classification and that the~~
16 ~~person agrees not to contest the classification of the report.~~
17 ~~No further proceeding will be allowed in this matter.~~

18 ~~(d) In the case of a report that has been determined~~
19 ~~by an adult protective services investigator to be either a~~
20 ~~disabled adult in need of services or an elderly person in~~
21 ~~need of services, as defined in s. 415.102, no classification~~
22 ~~of the report shall be made and no notification shall be~~
23 ~~required.~~

24 ~~(e) The department shall adopt rules prescribing the~~
25 ~~content of the notices to be provided and requiring uniformity~~
26 ~~of content and appearance of each notice of classification or~~
27 ~~closure without classification.~~

28 ~~(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE~~
29 ~~ATTORNEYS.~~

30 ~~(a) Whenever the law enforcement agency and the~~
31 ~~department have conducted independent investigations, the law~~

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1 ~~enforcement agency shall, within 5 working days after~~
2 ~~concluding its investigation, report its findings to the~~
3 ~~department and to the state attorney.~~

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

10 Section 37. Subsections (2) and (3) of section
11 415.106, Florida Statutes, are amended to read:

12 415.106 Cooperation by the department and criminal
13 justice and other agencies.--

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

28 (3) To the fullest extent possible, the department
29 shall cooperate with and seek cooperation from all appropriate
30 public and private agencies, including health agencies,
31 educational agencies, social service agencies, courts,

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1 organizations, or programs providing or concerned with human
 2 services related to the prevention, identification, or
 3 treatment of abuse, neglect, or exploitation of vulnerable
 4 ~~disabled adults and elderly persons.~~

5 Section 38. Section 415.107, Florida Statutes, is
 6 amended to read:

7 415.107 Confidentiality of reports and records.--

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

17 415.101-415.113.

18 (2) Upon the request of the committee chairperson,
 19 access to all records shall be granted to staff of the
 20 legislative committees with jurisdiction over issues and
 21 services related to vulnerable adults, or over the department.
 22 All confidentiality provisions that apply to the Department of
 23 Children and Family Services continue to apply to the records
 24 made available to legislative staff under this subsection.

25 ~~(3)(2)~~ Access to all records, excluding the name of
 26 the reporter which shall be released only as provided in
 27 subsection (6), shall be granted only to the following
 28 persons, officials, and agencies:

29 (a) Employees or agents of the department, of the
 30 Agency for Health Care Administration, or of the Department of
 31 Elderly Affairs who are responsible for carrying out ~~adult~~

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1 protective investigations, ongoing ~~adult~~ protective services,
2 or licensure or approval of nursing homes, assisted living
3 facilities, adult day care centers, adult family-care homes,
4 home care for the elderly, hospices, or other facilities used
5 for the placement of vulnerable ~~disabled~~ adults ~~or elderly~~
6 ~~persons~~.

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

10 (c) The state attorney of the judicial circuit in
11 which the vulnerable ~~disabled~~ adult ~~or elderly person~~ resides
12 or in which the alleged abuse, neglect, or exploitation
13 occurred.

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

18 (e) A court, by subpoena, upon its finding that access
19 to such records may be necessary for the determination of an
20 issue before the court; however, such access must be limited
21 to inspection in camera, unless the court determines that
22 public disclosure of the information contained in such records
23 is necessary for the resolution of an issue then pending
24 before it.

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

28 (g) Any appropriate official of the human rights
29 advocacy committee or long-term care ombudsman council
30 investigating a report of known or suspected abuse, neglect,
31 or exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~

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1 person.

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

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

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

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

16 (j) Employees or agents of an agency of another state
17 that has jurisdiction comparable to the jurisdiction described
18 in paragraph (a).

19 (k) The Public Employees Relations Commission for the
20 sole purpose of obtaining evidence for appeals filed pursuant
21 to s. 447.207. Records may be released only after deletion of
22 all information that specifically identifies persons other
23 than the employee.

24 (l) Any person in the event of the death of a
25 vulnerable ~~disabled~~ adult ~~or elderly person~~ determined to be a
26 result of abuse, neglect, or exploitation. Information
27 identifying the person reporting abuse, neglect, or
28 exploitation shall not be released. Any information otherwise
29 made confidential or exempt by law shall not be released
30 pursuant to this paragraph.

31 ~~(3) The Division of Administrative Hearings may have~~

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1 ~~access to a proposed confirmed or a confirmed report,~~
2 ~~excluding the name of the reporter, for purposes of any~~
3 ~~administrative challenge relating to a proposed confirmed or~~
4 ~~confirmed report.~~

5 (4) The Department of Health, the Department of
6 Business and Professional Regulation, and the Agency for
7 Health Care Administration may have access to a ~~confirmed~~
8 report, excluding the name of the reporter, when considering
9 taking disciplinary action against a licensee or certified
10 nursing assistant pursuant to allegations ~~for actions that~~
11 ~~resulted in a confirmed report~~ of abuse, neglect, or
12 exploitation ~~which has been upheld following a chapter 120~~
13 ~~hearing or a waiver of such proceedings.~~

14 (5) The department may release to any professional
15 person such information as is necessary for the diagnosis and
16 treatment of, and service delivery to, a vulnerable disabled
17 ~~adult or an elderly person~~ or the person perpetrating the
18 abuse, neglect, or exploitation.

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

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1 who is the subject of a report, if the fact that the person
2 made the report is not disclosed.

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

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

8 ~~(8) The department, upon receipt of the applicable~~
9 ~~fee, shall search its central abuse registry and tracking~~
10 ~~system records pursuant to the requirements of ss. 110.1127,~~
11 ~~393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,~~
12 ~~402.305(1), 402.3055, 402.313, 409.175, 409.176, and 985.407~~
13 ~~for the existence of a confirmed report made on the personnel~~
14 ~~as defined in the foregoing provisions. The department shall~~
15 ~~report the existence of any confirmed report and advise the~~
16 ~~authorized licensing agency, applicant for licensure, or other~~
17 ~~authorized agency or person of the results of the search and~~
18 ~~the date of the report. Prior to a search being conducted, the~~
19 ~~department or its designee shall notify such person that an~~
20 ~~inquiry will be made. The department shall notify each person~~
21 ~~for whom a search is conducted of the results of the search~~
22 ~~upon request.~~

23 ~~(9) Upon receipt of the applicable fee and with the~~
24 ~~written consent of a person applying to work with disabled~~
25 ~~adults or elderly persons, the department shall search its~~
26 ~~central abuse registry and tracking system for the existence~~
27 ~~of a confirmed report. The department shall advise the~~
28 ~~employer and the person of any such report found and the~~
29 ~~results of the investigation.~~

30 ~~(10) The department may charge a user fee to an~~
31 ~~employer or the agency in charge of a volunteer, whichever is~~

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1 ~~applicable, for a search of the central abuse registry and~~
2 ~~tracking system of up to one-third of the actual cost of the~~
3 ~~screening process. All fees received by the department under~~
4 ~~this section shall be deposited in an administrative trust~~
5 ~~fund of the department and may be expended only for the~~
6 ~~caregiver screening program.~~

7 Section 39. Section 415.1102, Florida Statutes, is
8 amended to read:

9 415.1102 Adult protection teams; services; eligible
10 cases.--Subject to an appropriation, the department may
11 develop, maintain, and coordinate the services of one or more
12 multidisciplinary adult protection teams in each of the
13 districts of the department. Such teams may be composed of,
14 but need not be limited to, representatives of appropriate
15 health, mental health, social service, legal service, and law
16 enforcement agencies.

17 ~~(1)~~ The department shall utilize and convene the teams
18 to supplement the protective services activities of the ~~adult~~
19 protective services program of the department. This section
20 does not prevent a person from reporting under s. 415.1034 all
21 suspected or known cases of abuse, neglect, or exploitation of
22 a vulnerable disabled adult ~~or an elderly person~~. The role of
23 the teams is to support activities of the ~~adult~~ protective
24 services program and to provide services deemed by the teams
25 to be necessary and appropriate to abused, neglected, and
26 exploited vulnerable disabled adults ~~or elderly persons~~ upon
27 referral. Services must be provided with the consent of the
28 vulnerable disabled adult, ~~or elderly person~~ or that person's
29 guardian, or through court order. ~~The specialized diagnostic~~
30 ~~assessment, evaluation, coordination, and other supportive~~
31 ~~services that an adult protection team must be capable of~~

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- 1 ~~providing include, but are not limited to:~~
- 2 ~~(a) Medical diagnosis and evaluation services,~~
- 3 ~~including provision or interpretation of X rays and laboratory~~
- 4 ~~tests, and related services, as needed, and documentation of~~
- 5 ~~findings relative thereto.~~
- 6 ~~(b) Telephone consultation services in emergencies and~~
- 7 ~~in other situations.~~
- 8 ~~(c) Medical evaluation related to abuse, neglect, or~~
- 9 ~~exploitation as defined by department policy or rule.~~
- 10 ~~(d) Psychological and psychiatric diagnosis and~~
- 11 ~~evaluation services for the disabled adult or elderly person.~~
- 12 ~~(e) Short-term psychological treatment. It is the~~
- 13 ~~intent of the Legislature that short-term psychological~~
- 14 ~~treatment be limited to no more than 6 months' duration after~~
- 15 ~~treatment is initiated.~~
- 16 ~~(f) Expert medical, psychological, and related~~
- 17 ~~professional testimony in court cases.~~
- 18 ~~(g) Case staffings to develop, implement, and monitor~~
- 19 ~~treatment plans for disabled adults and elderly persons whose~~
- 20 ~~cases have been referred to the team. An adult protection~~
- 21 ~~team may provide consultation with respect to a disabled adult~~
- 22 ~~or elderly person who has not been referred to the team. The~~
- 23 ~~consultation must be provided at the request of a~~
- 24 ~~representative of the adult protective services program or at~~
- 25 ~~the request of any other professional involved with the~~
- 26 ~~disabled adult or elderly person or that person's guardian or~~
- 27 ~~other caregivers. In every such adult protection team case~~
- 28 ~~staffing consultation or staff activity involving a disabled~~
- 29 ~~adult or elderly person, an adult protective services program~~
- 30 ~~representative shall attend and participate.~~
- 31 ~~(h) Service coordination and assistance, including the~~

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1 ~~location of services available from other public and private~~
2 ~~agencies in the community.~~

3 ~~(i) Such training services for program and other~~
4 ~~department employees as is deemed appropriate to enable them~~
5 ~~to develop and maintain their professional skills and~~
6 ~~abilities in handling adult abuse, neglect, or exploitation~~
7 ~~cases.~~

8 ~~(j) Education and community awareness campaigns on~~
9 ~~adult abuse, neglect, or exploitation in an effort to enable~~
10 ~~citizens to prevent, identify, and treat adult abuse, neglect,~~
11 ~~and exploitation in the community more successfully.~~

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

16 ~~(a) Unexplained or implausibly explained bruises,~~
17 ~~burns, fractures, or other injuries in a disabled adult or an~~
18 ~~elderly person.~~

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

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

23 ~~(d) Reported financial exploitation of a disabled~~
24 ~~adult or elderly person.~~

25
26 In all instances in which an adult protection team is
27 providing certain services to abused, neglected, or exploited
28 vulnerable disabled adults or elderly persons, other offices
29 and units of the department shall avoid duplicating the
30 provisions of those services.

31 Section 40. Section 415.111, Florida Statutes, is

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1 amended to read:

2 415.111 Criminal penalties.--

3 (1) A person who knowingly and willfully fails to
4 report a case of known or suspected abuse, neglect, or
5 exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
6 ~~person~~, or who knowingly and willfully prevents another person
7 from doing so, commits a misdemeanor of the second degree,
8 punishable as provided in s. 775.082 or s. 775.083.

9 (2) A person who knowingly and willfully makes public
10 or discloses any confidential information contained in the
11 central abuse hotline ~~registry and tracking system~~, or in
12 other computer systems, or in the records of any case of
13 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
14 ~~or elderly person~~, except as provided in ss. 415.101-415.113,
15 commits a misdemeanor of the second degree, punishable as
16 provided in s. 775.082 or s. 775.083.

17 (3) A person who has custody of records and documents
18 the confidentiality of which is abrogated under s.
19 415.1045~~(3)(5)~~ and who refuses to grant access to such records
20 commits a misdemeanor of the second degree, punishable as
21 provided in s. 775.082 or s. 775.083.

22 (4) If the department or its authorized agent has
23 determined after its investigation that a report is false, the
24 department shall, with the consent of the alleged perpetrator,
25 refer the reports to the local law enforcement agency having
26 jurisdiction for an investigation to determine whether
27 sufficient evidence exists to refer the case for prosecution
28 for filing a false report as defined in s. 415.102. During the
29 pendency of the investigation by the local law enforcement
30 agency, the department must notify the local law enforcement
31 agency of, and the local law enforcement agency must respond

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1 to, all subsequent reports concerning the same vulnerable
2 ~~disabled adult or elderly person~~ in accordance with s. 415.104
3 or s. 415.1045. If the law enforcement agency believes that
4 there are indicators of abuse, neglect, or exploitation, it
5 must immediately notify the department, which must assure the
6 safety of the vulnerable ~~disabled adult or elderly person~~. If
7 the law enforcement agency finds sufficient evidence for
8 prosecution for filing a false report, it must refer the case
9 to the appropriate state attorney for prosecution.

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

15 (a) The department shall establish procedures for
16 determining whether a false report of abuse, neglect, or
17 exploitation of a vulnerable ~~disabled adult or an elderly~~
18 ~~person~~ has been made and for submitting all identifying
19 information relating to such a false report to the local law
20 enforcement agency as provided in this subsection and shall
21 report annually to the Legislature the number of reports
22 referred.

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

25 (6) Each state attorney shall establish and publish
26 procedures to facilitate the prosecution of persons under this
27 section and shall report to the Legislature annually the
28 number of complaints that have resulted in the filing of an
29 information or indictment under this section.

30 Section 41. Section 415.1111, Florida Statutes, is
31 amended to read:

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1 415.1111 Civil penalties.--

2 ~~(1) A person who is named as a perpetrator in a~~
3 ~~confirmed report of abuse, neglect, or exploitation of a~~
4 ~~disabled adult or an elderly person is subject to civil~~
5 ~~penalties as follows:~~

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

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

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

10

11 ~~Second and subsequent offenses may be for the same type of~~
12 ~~abuse, neglect, or exploitation or for a different type, and~~
13 ~~may be perpetrated upon the same or a different disabled adult~~
14 ~~or elderly person.~~

15 ~~(2) All fines received by the department under this~~
16 ~~section must be deposited in the Operations and Maintenance~~
17 ~~Trust Fund within the department. The Legislature shall~~
18 ~~annually appropriate from the fund an amount that is no less~~
19 ~~than the amount deposited under this section, to be expended~~
20 ~~only for the adult protective services program.~~

21 ~~(1)(3) A vulnerable adult who has been abused,~~
22 ~~neglected, or exploited disabled adult or an elderly person~~
23 ~~who has been named as a victim in a confirmed report of abuse,~~
24 ~~neglect, or exploitation as specified in this chapter part has~~
25 ~~a cause of action against any perpetrator named in the~~
26 ~~confirmed report and may recover actual and punitive damages~~
27 ~~for such abuse, neglect, or exploitation. The action may be~~
28 ~~brought by the vulnerable disabled adult or elderly person, or~~
29 ~~that person's guardian, by a person or organization acting on~~
30 ~~behalf of the vulnerable disabled adult or elderly person with~~
31 ~~the consent of that person or that person's guardian, or by~~

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1 the personal representative of the estate of a deceased victim
2 ~~disabled adult or elderly person~~ without regard to whether the
3 cause of death resulted from the abuse, neglect, or
4 exploitation. The action may be brought in any court of
5 competent jurisdiction to enforce such action and to recover
6 actual and punitive damages for any deprivation of or
7 infringement on the rights of a vulnerable ~~disabled~~ adult ~~or~~
8 ~~an elderly person~~. A party who prevails in any such action
9 may be entitled to recover reasonable attorney's fees, costs
10 of the action, and damages. The remedies provided in this
11 section are in addition to and cumulative with other legal and
12 administrative remedies available to a vulnerable ~~disabled~~
13 adult ~~or an elderly person~~.

14 Section 42. Subsections (1), (2), and (5) of section
15 415.1113, Florida Statutes, are amended to read:

16 415.1113 Administrative fines for false report of
17 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
18 ~~or an elderly person~~.--

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

26 (2) If the department alleges that a person has
27 knowingly and willfully filed a false report with the central
28 abuse hotline ~~registry and tracking system~~, the department
29 must file a notice of intent that alleges the name, age, and
30 address of the individual; the facts constituting the
31 allegation that the individual made a false report; and the

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1 administrative fine that the department proposes to impose on
2 the person. Each time that a false report is made constitutes
3 a separate violation.

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

9 Section 43. Section 415.113, Florida Statutes, is
10 amended to read:

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

22 (1) Eliminate the requirement that such a case be
23 reported to the department;

24 (2) Prevent the department from investigating such a
25 case; or

26 (3) Preclude a court from ordering, when the health of
27 the individual requires it, the provision of medical services
28 by a licensed physician or treatment by a duly accredited
29 practitioner who relies solely on spiritual means for healing
30 in accordance with the tenets and practices of a
31 well-recognized church or religious denomination or

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1 organization.

2 Section 44. Sections 435.01, 435.02, 435.03, 435.04,
3 435.045, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and
4 435.11, Florida Statutes, are designated as part I of chapter
5 435, Florida Statutes.

6 Section 45. Paragraph (a) of subsection (2) and
7 paragraph (a) of subsection (3) of section 435.03, Florida
8 Statutes, are amended to read:

9 435.03 Level 1 screening standards.--

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

16 (a) Section 415.111, relating to ~~adult~~ abuse, neglect,
17 or exploitation of a vulnerable adult ~~aged persons or disabled~~
18 ~~adults.~~

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

20 (a) For employees and employers licensed or registered
21 pursuant to chapter 400, and for employees and employers of
22 developmental services institutions as defined in s. 393.063,
23 intermediate care facilities for the developmentally disabled
24 as defined in s. 393.063, and mental health treatment
25 facilities as defined in s. 394.455, meets the requirements of
26 part II does not have a confirmed report of abuse, neglect, or
27 exploitation as defined in s. 415.102(5), which has been
28 uncontested or upheld under s. 415.103.

29 Section 46. Paragraphs (b) and (c) of subsection (1)
30 and subsection (2) of section 435.05, Florida Statutes, are
31 amended to read:

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1 435.05 Requirements for covered employees.--Except as
2 otherwise provided by law, the following requirements shall
3 apply to covered employees:

4 (1)

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

18 (c) For level 2 screening, the employer or licensing
19 agency must submit the information necessary for screening to
20 the Florida Department of Law Enforcement within 5 working
21 days after receiving it. ~~When required, the employer or~~
22 ~~licensing agency must also submit sufficient information to~~
23 ~~the Department of Children and Family Services to complete a~~
24 ~~check of its records.~~The Florida Department of Law
25 Enforcement will conduct a search of its criminal and juvenile
26 records and will request that the Federal Bureau of
27 Investigation conduct a search of its records for each
28 employee for whom the request is made. The Florida Department
29 of Law Enforcement ~~and the Department of Children and Family~~
30 ~~Services~~ will respond to the employer or licensing agency, and
31 the employer or licensing agency will inform the employee

1 whether screening has revealed disqualifying information.

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

6 Section 47. Subsection (1) of section 435.07, Florida
7 Statutes, is amended to read:

8 435.07 Exemptions from disqualification.--Unless
9 otherwise provided by law, the provisions of this section
10 shall apply to exemptions from disqualification.

11 (1) The appropriate licensing agency may grant to any
12 employee otherwise disqualified from employment an exemption
13 from disqualification for:

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

16 (b) Misdemeanors prohibited under any of the Florida
17 Statutes cited in this chapter or under similar statutes of
18 other jurisdictions;

19 (c) Offenses that were felonies when committed but are
20 now misdemeanors;

21 (d) Findings of delinquency; or

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

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

26
27 For the purposes of this subsection, the term "felonies" means
28 both felonies prohibited under any of the Florida Statutes
29 cited in this part ~~chapter~~ or under similar statutes of other
30 jurisdictions.

31 Section 48. Section 435.08, Florida Statutes, is

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1 amended to read:

2 435.08 Payment for processing of fingerprints and,
3 state criminal records checks, ~~and abuse hotline~~
4 ~~checks.~~--Either the employer or the employee is responsible
5 for paying the costs of screening. Payment shall be submitted
6 to the Florida Department of Law Enforcement with the request
7 for screening. ~~When a search of the central abuse hotline is~~
8 ~~required, payment shall be submitted by separate check to the~~
9 ~~Department of Children and Family Services with the request~~
10 ~~for screening.~~

11 Section 49. Section 435.09, Florida Statutes, is
12 amended to read:

13 435.09 Confidentiality of personnel background check
14 information.--No criminal or, ~~juvenile, or abuse hotline~~
15 information obtained under this section may be used for any
16 purpose other than determining whether persons meet the
17 minimum standards for employment or for an owner or director
18 of a covered service provider. The criminal records and
19 juvenile records obtained by the department or by an employer
20 are exempt from s. 119.07(1).

21 Section 50. Paragraph (g) of subsection (3) of section
22 20.43, Florida Statutes, is amended to read:

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

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

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

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

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1 ~~402.48.~~
2 2.3. The Board of Acupuncture, created under chapter
3 457.
4 3.4. The Board of Medicine, created under chapter 458.
5 4.5. The Board of Osteopathic Medicine, created under
6 chapter 459.
7 5.6. The Board of Chiropractic Medicine, created under
8 chapter 460.
9 6.7. The Board of Podiatric Medicine, created under
10 chapter 461.
11 7.8. Naturopathy, as provided under chapter 462.
12 8.9. The Board of Optometry, created under chapter
13 463.
14 9.10. The Board of Nursing, created under chapter 464.
15 10.11. The Board of Pharmacy, created under chapter
16 465.
17 11.12. The Board of Dentistry, created under chapter
18 466.
19 12.13. Midwifery, as provided under chapter 467.
20 13.14. The Board of Speech-Language Pathology and
21 Audiology, created under part I of chapter 468.
22 14.15. The Board of Nursing Home Administrators,
23 created under part II of chapter 468.
24 15.16. The Board of Occupational Therapy, created
25 under part III of chapter 468.
26 16.17. Respiratory therapy, as provided under part V
27 of chapter 468.
28 17.18. Dietetics and nutrition practice, as provided
29 under part X of chapter 468.
30 18.19. The Board of Athletic Training, created under
31 part XIII of chapter 468.

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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 51. Paragraph (h) of subsection (2) of section
30 39.202, Florida Statutes, is amended to read:
31 39.202 Confidentiality of reports and records in cases

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1 of child abuse or neglect.--

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

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

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

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

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

20 Section 52. Paragraphs (a) and (b) of subsection (3)
21 of section 110.1127, Florida Statutes, are amended to read:

22 110.1127 Employee security checks.--

23 (3)(a) All positions in programs providing care to
24 children, the developmentally disabled, or vulnerable adults
25 ~~disabled adults, or elderly persons~~ for 15 hours or more per
26 week; all permanent and temporary employee positions of the
27 central abuse hotline; and all persons working under contract
28 who have access to abuse records are deemed to be persons and
29 positions of special trust or responsibility, and require
30 employment screening pursuant to chapter 435, using the level
31 2 standards set forth in that chapter.

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

5 Section 53. Paragraph (a) of subsection (12) of
 6 section 112.0455, Florida Statutes, is amended to read:

7 112.0455 Drug-Free Workplace Act.--

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

9 (a) A laboratory may analyze initial or confirmation
 10 drug specimens only if:

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

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

28 b. The agency may require background screening of any
 29 other individual who is an applicant if the agency has
 30 probable cause to believe that he or she has been convicted of
 31 an offense prohibited under the level 2 standards for

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1 screening set forth in chapter 435.

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

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

30 e. Each applicant must submit to the agency, with its
31 application, a description and explanation of any exclusions,

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1 permanent suspensions, or terminations of the applicant from
2 the Medicare or Medicaid programs. Proof of compliance with
3 the requirements for disclosure of ownership and control
4 interests under the Medicaid or Medicare programs shall be
5 accepted in lieu of this submission.

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

24 g. A license may not be granted to any applicant if
25 the applicant or managing employee has been found guilty of,
26 regardless of adjudication, or has entered a plea of nolo
27 contendere or guilty to, any offense prohibited under the
28 level 2 standards for screening set forth in chapter 435,
29 unless an exemption from disqualification has been granted by
30 the agency as set forth in chapter 435.

31 h. The agency may deny or revoke licensure if the

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1 applicant:

2 (I) Has falsely represented a material fact in the
3 application required by sub-subparagraph e. or
4 sub-subparagraph f., or has omitted any material fact from the
5 application required by sub-subparagraph e. or
6 sub-subparagraph f.; or

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

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

12 2. The laboratory has written procedures to ensure
13 chain of custody.

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

16 a. The use of internal quality controls including the
17 use of samples of known concentrations which are used to check
18 the performance and calibration of testing equipment, and
19 periodic use of blind samples for overall accuracy.

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

23 c. Security measures implemented by the testing
24 laboratory to preclude adulteration of specimens and drug test
25 results.

26 d. Other necessary and proper actions taken to ensure
27 reliable and accurate drug test results.

28 Section 54. Paragraphs (a), (b), and (c) of subsection
29 (7) of section 119.07, Florida Statutes, are amended to read:

30 119.07 Inspection, examination, and duplication of
31 records; exemptions.--

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

25 (b) In cases involving serious bodily injury to a
26 child or a vulnerable, ~~a disabled adult or an elderly person~~,
27 the Department of Children and Family Services may petition
28 the court for an order for the immediate public release of
29 records of the department which pertain to the protective
30 ~~investigation of abuse, neglect, abandonment, or exploitation~~
31 ~~of the child, disabled adult, or elderly person who suffered~~

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

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

20
21 The summary information may not include the name of, or other
22 identifying information with respect to, any person identified
23 in any investigation. In making a determination to release
24 confidential information, the court shall balance the best
25 interests of the vulnerable ~~disabled adult or elderly person~~
26 or child who is the focus of the investigation and, in the
27 case of the child, the interests of that child's siblings,
28 together with the privacy rights of other persons identified
29 in the reports against the public interest for access to
30 public records. However, this paragraph does not contravene
31 ss. 39.202 and 415.107, which protect the name of any person

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1 reporting abuse, neglect, or exploitation of a child or a
2 vulnerable, ~~a disabled adult, or an elderly person.~~

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

13 Section 55. Subsection (1) of section 232.50, Florida
14 Statutes, is amended to read:

15 232.50 Child abuse, abandonment, and neglect
16 policy.--Every school board shall by March 1, 1985:

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

27 Section 56. Subsection (4) and paragraph (b) of
28 subsection (5) of section 242.335, Florida Statutes, are
29 amended to read:

30 242.335 Personnel screening; Florida School for the
31 Deaf and the Blind.--

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

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

16 (b) Use the criminal records, ~~abuse registry~~
17 ~~information,~~ private investigator findings, or information
18 from reference checks obtained under this section or
19 information obtained from such records or findings for
20 purposes other than screening for employment or release such
21 information or records to persons for purposes other than
22 screening for employment.

23 Section 57. Paragraph (a) of subsection (8) of section
24 320.0848, Florida Statutes, is amended to read:

25 320.0848 Persons who have disabilities; issuance of
26 disabled parking permits; temporary permits; permits for
27 certain providers of transportation services to persons who
28 have disabilities.--

29 (8) A law enforcement officer may confiscate the
30 disabled parking permit from any person who fraudulently
31 obtains or unlawfully uses such a permit. A law enforcement

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1 officer may confiscate any disabled parking permit that is
2 expired, reported as lost or stolen, or defaced, or that does
3 not display a personal identification number.

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

14 Section 58. Paragraph (c) of subsection (1) of section
15 381.0059, Florida Statutes, is amended to read:

16 381.0059 Background screening requirements for school
17 health services personnel.--

18 (1)

19 (c) The person subject to the required background
20 screening or his or her employer must pay the fees required to
21 obtain the background screening. Payment for the screening ~~and~~
22 ~~the abuse registry check~~ must be submitted to the Department
23 of Health. The Florida Department of Law Enforcement shall
24 charge the Department of Health for a level 2 screening at a
25 rate sufficient to cover the costs of such screening pursuant
26 to s. 943.053(3). The Department of Health shall establish a
27 schedule of fees to cover the costs of the level 2 screening
28 ~~and the abuse registry check~~. The applicant or his or her
29 employer who pays for the required screening may be reimbursed
30 by the Department of Health from funds designated for this
31 purpose.

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1 Section 59. Paragraph (d) of subsection (1) of section
2 381.60225, Florida Statutes, is amended to read:

3 381.60225 Background screening.--

4 (1) Each applicant for certification must comply with
5 the following requirements:

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

30 Section 60. Paragraph (d) of subsection (7) of section
31 383.305, Florida Statutes, is amended to read:

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1 383.305 Licensure; issuance, renewal, denial,
2 suspension, revocation; fees; background screening.--

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

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

28 Section 61. Paragraph (d) of subsection (3) of section
29 390.015, Florida Statutes, is amended to read:

30 390.015 Application for license.--

31 (3) Each applicant for licensure must comply with the

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1 following requirements:

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

25 Section 62. Paragraph (c) of subsection (5) and
26 paragraph (d) of subsection (6) of section 393.067, Florida
27 Statutes, are amended to read:

28 393.067 Licensure of residential facilities and
29 comprehensive transitional education programs.--

30 (5) The applicant shall submit evidence which
31 establishes the good moral character of the manager or

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1 supervisor of the facility or program and the direct service
2 providers in the facility or program and its component centers
3 or units. A license may be issued if all the screening
4 materials have been timely submitted; however, a license may
5 not be issued or renewed if any of the direct service
6 providers have failed the screening required by s. 393.0655.

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

20 (6) Each applicant for licensure as an intermediate
21 care facility for the developmentally disabled must comply
22 with the following requirements:

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

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

15 Section 63. Paragraph (c) of subsection (1) of section
16 393.0674, Florida Statutes, is amended to read:

17 393.0674 Penalties.--

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

21 (c) Use information from the criminal records or
22 central abuse hotline registry obtained under s. 393.0655, s.
23 393.066, or s. 393.067 for any purpose other than screening
24 that person for employment as specified in those sections or
25 release such information to any other person for any purpose
26 other than screening for employment as specified in those
27 sections.

28 Section 64. Paragraph (e) of subsection (5) of section
29 394.459, Florida Statutes, is amended to read:

30 394.459 Rights of patients.--

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

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

10 Section 65. Paragraph (d) of subsection (12) of
11 section 394.875, Florida Statutes, is amended to read:

12 394.875 Crisis stabilization units and residential
13 treatment facilities; authorized services; license required;
14 penalties.--

15 (12) 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

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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 66. Subsection (4) of section 395.0055,
10 Florida Statutes, is amended to read:

11 395.0055 Background screening.--Each applicant for
12 licensure must comply with the following requirements:

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

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

5 Section 67. Paragraph (d) of subsection (4) of section
6 395.0199, Florida Statutes, is amended to read:

7 395.0199 Private utilization review.--

8 (4) Each applicant for registration must comply with
9 the following requirements:

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

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1 as set forth in chapter 435.

2 Section 68. Paragraph (g) of subsection (4) of section
3 395.3025, Florida Statutes, is amended to read:

4 395.3025 Patient and personnel records; copies;
5 examination.--

6 (4) Patient records are confidential and must not be
7 disclosed without the consent of the person to whom they
8 pertain, but appropriate disclosure may be made without such
9 consent to:

10 (g) The Department of Children and Family Services or
11 its agent, for the purpose of investigations of cases of
12 abuse, neglect, or exploitation of children or vulnerable
13 ~~disabled adults or elderly persons.~~

14 Section 69. Subsection (3) of section 397.461, Florida
15 Statutes, is amended to read:

16 397.461 Unlawful activities relating to personnel;
17 penalties.--It is a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083, for any
19 person willfully, knowingly, or intentionally to:

20 (3) Use or release any criminal or juvenile ~~or central~~
21 ~~abuse registry~~ information obtained under this chapter for any
22 purpose other than background checks of personnel for
23 employment.

24 Section 70. Subsection (2) of section 400.022, Florida
25 Statutes, is amended to read:

26 400.022 Residents' rights.--

27 (2) The licensee for each nursing home shall orally
28 inform the resident of the resident's rights and provide a
29 copy of the statement required by subsection (1) to each
30 resident or the resident's legal representative at or before
31 the resident's admission to a facility. The licensee shall

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1 provide a copy of the resident's rights to each staff member
2 of the facility. Each such licensee shall prepare a written
3 plan and provide appropriate staff training to implement the
4 provisions of this section. The written statement of rights
5 must include a statement that a resident may file a complaint
6 with the agency or district ombudsman council. The statement
7 must be in boldfaced type and shall include the name, address,
8 and telephone numbers of the district ombudsman council and
9 central adult abuse hotline registry where complaints may be
10 lodged.

11 Section 71. Paragraph (d) of subsection (4) of section
12 400.071, Florida Statutes, is amended to read:

13 400.071 Application for license.--

14 (4) Each applicant for licensure must comply with the
15 following requirements:

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

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

8 Section 72. Paragraphs (a), (c), and (e) of subsection
9 (2) and subsections (3) and (8) of section 400.215, Florida
10 Statutes, are amended to read:

11 400.215 Personnel screening requirement.--

12 (2) Employers and employees shall comply with the
13 requirements of s. 435.05.

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

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1 ~~screening.~~

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

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

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~~number, against the listing of disqualified persons. The agency may charge a fee for issuing the user code sufficient to cover the cost of establishing and maintaining the direct access screening system. The direct access screening system shall provide immediately to the user only the electronic notification of applicant clearance or disqualification. The system shall also maintain for appropriate entry into the agency screening database an electronic record of the inquiry on behalf of the applicant.~~

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

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

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1 Administration.

2 Section 73. Paragraph (g) of subsection (1) of section
3 400.414, Florida Statutes, is amended to read:

4 400.414 Denial, revocation, or suspension of license;
5 imposition of administrative fine; grounds.--

6 (1) The agency may deny, revoke, or suspend any
7 license issued under this part, or impose an administrative
8 fine in the manner provided in chapter 120, for any of the
9 following actions by an assisted living facility, any person
10 subject to level 2 background screening under s. 400.4174, or
11 any facility employee:

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

24 Section 74. Paragraph (c) of subsection (1) and
25 subsection (3) of section 400.4174, Florida Statutes, are
26 amended to read:

27 400.4174 Background screening; exemptions; ~~reports of~~
28 ~~abuse in facilities.--~~

29 (1)

30 (c) The agency may grant a provisional license to a
31 facility applying for an initial license when each individual

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1 required by this subsection to undergo screening has completed
2 the ~~abuse registry and~~ Department of Law Enforcement
3 background checks, but has not yet received results from the
4 Federal Bureau of Investigation, or when a request for an
5 exemption from disqualification has been submitted to the
6 agency pursuant to s. 435.07, but a response has not been
7 issued.

8 ~~(3) When an employee, volunteer, administrator, or~~
9 ~~owner of a facility is the subject of a confirmed report of~~
10 ~~adult abuse, neglect, or exploitation, as defined in s.~~
11 ~~415.102, and the protective investigator knows that the~~
12 ~~individual is an employee, volunteer, administrator, or owner~~
13 ~~of a facility, the agency shall be notified of the confirmed~~
14 ~~report.~~

15 Section 75. Subsection (4) of section 400.426, Florida
16 Statutes, is amended to read:

17 400.426 Appropriateness of placements; examinations of
18 residents.--

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

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1 fulfills the requirements for a medical examination under this
2 subsection and s. 400.407(4)(3)(b)6.

3 Section 76. Subsection (2) of section 400.428, Florida
4 Statutes, is amended to read:

5 400.428 Resident bill of rights.--

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

20 Section 77. Subsection (20) of section 400.462,
21 Florida Statutes, is amended to read:

22 400.462 Definitions.--As used in this part, the term:

23 (20) "Screening" means the assessment of the
24 background of home health agency personnel, nurse registry
25 personnel, and persons registered under s. 400.509 and
26 includes employment or contractual history checks, ~~records~~
27 ~~checks of the department's central abuse hotline under chapter~~
28 ~~415 relating to vulnerable adults,~~ and statewide criminal
29 records correspondence checks through the Department of Law
30 Enforcement.

31 Section 78. Paragraph (d) of subsection (4) of section

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1 400.471, Florida Statutes, is amended to read:

2 400.471 Application for license; fee; provisional
3 license; temporary permit.--

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

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

26 Section 79. Section 400.495, Florida Statutes, is
27 amended to read:

28 400.495 Notice of toll-free telephone number for
29 central abuse hotline ~~registry~~.--On or before the first day
30 home health services are provided to a patient, any home
31 health agency or nurse registry licensed under this part must

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

16 Section 80. Paragraph (d) of subsection (2) of section
17 400.506, Florida Statutes, is amended to read:

18 400.506 Licensure of nurse registries; requirements;
19 penalties.--

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

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

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

11 Section 81. Subsection (6) of section 400.509, Florida
12 Statutes, is amended to read:

13 400.509 Registration of particular service providers
14 exempt from licensure; certificate of registration; regulation
15 of registrants.--

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

28 Section 82. Subsections (3), (4), (5), and (6) and
29 paragraph (a) of subsection (7) of section 400.512, Florida
30 Statutes, are amended to read:

31 400.512 Screening of home health agency personnel;

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1 nurse registry personnel; and companions and homemakers.--The
2 agency shall require employment or contractor screening as
3 provided in chapter 435, using the level 1 standards for
4 screening set forth in that chapter, for home health agency
5 personnel; persons referred for employment by nurse
6 registries; and persons employed by companion or homemaker
7 services registered under s. 400.509.

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

25 (4) Proof of compliance with the screening
26 requirements of chapter 435 shall be accepted in lieu of the
27 requirements of this section if the person has been
28 continuously employed or registered without a breach in
29 service that exceeds 180 days, the proof of compliance is not
30 more than 2 years old, and the person has been screened
31 ~~through the central abuse registry and tracking system of the~~

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1 ~~department~~ and by the Department of Law Enforcement. A home
2 health agency, nurse registry, or companion or homemaker
3 service registered under s. 400.509 shall directly provide
4 proof of compliance to another home health agency, nurse
5 registry, or companion or homemaker service registered under
6 s. 400.509. The recipient home health agency, nurse registry,
7 or companion or homemaker service registered under s. 400.509
8 may not accept any proof of compliance directly from the
9 person who requires screening. Proof of compliance with the
10 screening requirements of this section shall be provided upon
11 request to the person screened by the home health agencies;
12 nurse registries; or companion or homemaker services
13 registered under s. 400.509.

14 (5) There is no monetary liability on the part of, and
15 no cause of action for damages arises against, a licensed home
16 health agency, licensed nurse registry, or companion or
17 homemaker service registered under s. 400.509, that, upon
18 notice that the employee or contractor has been found guilty
19 of, regardless of adjudication, or entered a plea of nolo
20 contendere or guilty to, any offense prohibited under s.
21 435.03 or under any similar statute of another jurisdiction of
22 ~~a confirmed report of adult abuse, neglect, or exploitation,~~
23 ~~terminates the employee or contractor against whom the report~~
24 ~~was issued,~~ whether or not the employee or contractor has
25 filed for an exemption with the agency in accordance with
26 chapter 435 and whether or not the time for filing has
27 expired.

28 (6) The costs of processing the statewide
29 correspondence criminal records checks ~~and the search of the~~
30 ~~department's central abuse hotline~~ must be borne by the home
31 health agency; the nurse registry; or the companion or

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1 homemaker service registered under s. 400.509, or by the
2 person being screened, at the discretion of the home health
3 agency, nurse registry, or s. 400.509 registrant.

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

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

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

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

22 Section 83. Paragraph (c) of subsection (1) and
23 subsection (3) of section 400.5572, Florida Statutes, are
24 amended to read:

25 400.5572 Background screening.--

26 (1)

27 (c) The agency may grant a provisional license to an
28 adult day care center applying for an initial license when
29 each individual required by this subsection to undergo
30 screening has completed the ~~abuse registry and~~ Department of
31 Law Enforcement background check ~~checks~~, but has not yet

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1 received results from the Federal Bureau of Investigation, or
2 when a request for an exemption from disqualification has been
3 submitted to the agency pursuant to s. 435.07, but a response
4 has not been issued.

5 ~~(3) When an employee, volunteer, operator, or owner of~~
6 ~~an adult day care center is the subject of a confirmed report~~
7 ~~of adult abuse, neglect, or exploitation, as defined in s.~~
8 ~~415.102, and the protective investigator knows that the~~
9 ~~individual is an employee, volunteer, operator, or owner of a~~
10 ~~center, the agency shall be notified of the confirmed report.~~

11 Section 84. Subsection (2) of section 400.628, Florida
12 Statutes, is amended to read:

13 400.628 Residents' bill of rights.--

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

21 Section 85. Paragraph (d) of subsection (4) of section
22 400.801, Florida Statutes, is amended to read:

23 400.801 Homes for special services.--

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

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

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

18 Section 86. Paragraph (d) of subsection (3) of section
19 400.805, Florida Statutes, is amended to read:

20 400.805 Transitional living facilities.--

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

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

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

15 Section 87. Paragraph (d) of subsection (5) of section
16 400.906, Florida Statutes, is amended to read:

17 400.906 Initial application for license.--

18 (5) 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

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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 88. Subsection (10) of section 400.931,
13 Florida Statutes, is amended to read:

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

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

30 Section 89. Section 400.95, Florida Statutes, is
31 amended to read:

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

15 Section 90. Subsections (3), (4), (5), and (6) and
16 paragraph (a) of subsection (7) of section 400.953, Florida
17 Statutes, are amended to read:

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

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

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

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

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

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

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- 1 (7)(a) It is a misdemeanor of the first degree,
2 punishable as provided in s. 775.082 or s. 775.083, for any
3 person willfully, knowingly, or intentionally to:
- 4 1. Fail, by false statement, misrepresentation,
5 impersonation, or other fraudulent means, to disclose in any
6 application for paid employment a material fact used in making
7 a determination as to the person's qualifications to be an
8 employee under this section;
 - 9 2. Operate or attempt to operate an entity licensed
10 under this part with persons who do not meet the minimum
11 standards for good moral character as contained in this
12 section; or
 - 13 3. Use information from the criminal records ~~or~~
14 ~~central abuse registry~~ obtained under this section for any
15 purpose other than screening that person for employment as
16 specified in this section, or release such information to any
17 other person for any purpose other than screening for
18 employment under this section.

19 Section 91. Subsection (1) of section 400.955, Florida
20 Statutes, is amended to read:

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

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

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

7 Section 92. Paragraph (d) of subsection (10) of
8 section 400.962, Florida Statutes, is amended to read:

9 400.962 License required; license application.--

10 (10)

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

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1 been granted by the agency as set forth in chapter 435.

2 Section 93. Subsections (4) and (8) of section
3 400.964, Florida Statutes, are amended to read:

4 400.964 Personnel screening requirement.--

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

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

18 Section 94. Paragraph (d) of subsection (2) of section
19 402.3025, Florida Statutes, is amended to read:

20 402.3025 Public and nonpublic schools.--For the
21 purposes of ss. 402.301-402.319, the following shall apply:

22 (2) NONPUBLIC SCHOOLS.--

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

28 2. The department or local licensing agency shall
29 enforce compliance with such standards, where possible, to
30 eliminate or minimize duplicative inspections or visits by
31 staff enforcing the minimum child care standards and staff

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1 enforcing other standards under the jurisdiction of the
2 department.

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

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

8 b. To enforce its rules and regulations.

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

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

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

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

30 a. Fail, by false statement, misrepresentation,
31 impersonation, or other fraudulent means, to disclose in any

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1 required written documentation for exclusion from licensure
2 pursuant to this section a material fact used in making a
3 determination as to such exclusion; or

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

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

19 Section 95. Paragraph (c) of subsection (5) of section
20 402.3125, Florida Statutes, is amended to read:

21 402.3125 Display and appearance of license; posting of
22 violations; information to be provided to parents.--

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

26 (c) The brochure shall, at a minimum, contain the
27 following information:

28 1. A statement that the facility is licensed and has
29 met state standards for licensure as established by s. 402.305
30 or that the facility is licensed by a local licensing agency
31 and has met or exceeded the state standards, pursuant to ss.

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1 402.306 and 402.307. Such statement shall include a listing of
2 specific standards that licensed facilities must meet pursuant
3 to s. 402.305.

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

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

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

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

21 Section 96. Paragraph (d) of subsection (6) of section
22 402.313, Florida Statutes, is amended to read:

23 402.313 Family day care homes.--

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

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1 workers; and law enforcement officers. The brochure shall, at
2 a minimum, contain the following information:

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

8 Section 97. Paragraph (b) of subsection (11) of
9 section 409.175, Florida Statutes, is amended to read:

10 409.175 Licensure of family foster homes, residential
11 child-caring agencies, and child-placing agencies.--

12 (11)

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

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

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

26 Section 98. Subsection (29) of section 409.912,
27 Florida Statutes, is amended to read:

28 409.912 Cost-effective purchasing of health care.--The
29 agency shall purchase goods and services for Medicaid
30 recipients in the most cost-effective manner consistent with
31 the delivery of quality medical care. The agency shall

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

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

21 Section 99. Subsection (5) of section 430.205, Florida
22 Statutes, is amended to read:

23 430.205 Community care service system.--

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

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1 by the adult protective services program, shall be given
2 primary consideration for receiving
3 community-care-for-the-elderly services. As used in this
4 subsection, "primary consideration" means that an assessment
5 and services must commence within 72 hours after referral to
6 the department or as established in accordance with department
7 contracts by local protocols developed between department
8 service providers and the adult protective services program.

9 Section 100. Subsection (1) of section 447.208,
10 Florida Statutes, is amended to read:

11 447.208 Procedure with respect to certain appeals
12 under s. 447.207.--

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

31 Section 101. Section 447.401, Florida Statutes, is

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1 amended to read:

2 447.401 Grievance procedures.--Each public employer
3 and bargaining agent shall negotiate a grievance procedure to
4 be used for the settlement of disputes between employer and
5 employee, or group of employees, involving the interpretation
6 or application of a collective bargaining agreement. Such
7 grievance procedure shall have as its terminal step a final
8 and binding disposition by an impartial neutral, mutually
9 selected by the parties; however, when the issue under appeal
10 is an allegation of abuse, abandonment, or neglect by an
11 employee under s. 39.201 or s. 415.1034 ~~s. 415.1075~~, the
12 grievance may not be decided until the abuse, abandonment, or
13 neglect of a child has been judicially determined ~~or until a~~
14 ~~confirmed report of abuse or neglect of a disabled adult or~~
15 ~~elderly person has been upheld pursuant to the procedures for~~
16 ~~appeal in s. 415.1075~~. However, an arbiter or other neutral
17 shall not have the power to add to, subtract from, modify, or
18 alter the terms of a collective bargaining agreement. If an
19 employee organization is certified as the bargaining agent of
20 a unit, the grievance procedure then in existence may be the
21 subject of collective bargaining, and any agreement which is
22 reached shall supersede the previously existing procedure.
23 All public employees shall have the right to a fair and
24 equitable grievance procedure administered without regard to
25 membership or nonmembership in any organization, except that
26 certified employee organizations shall not be required to
27 process grievances for employees who are not members of the
28 organization. A career service employee shall have the option
29 of utilizing the civil service appeal procedure, an unfair
30 labor practice procedure, or a grievance procedure established
31 under this section, but such employee is precluded from

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1 availing himself or herself to more than one of these
2 procedures.

3 Section 102. Subsection (5) of section 455.712,
4 Florida Statutes, is amended to read:

5 455.712 Business establishments; requirements for
6 active status licenses.--

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

13 Section 103. Paragraph (e) of subsection (1) of
14 section 464.018, Florida Statutes, is amended to read:

15 464.018 Disciplinary actions.--

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

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

26 Section 104. Paragraph (f) of subsection (4) of
27 section 468.520, Florida Statutes, is amended to read:

28 468.520 Definitions.--As used in this part:

29 (4) "Employee leasing" means an arrangement whereby a
30 leasing company assigns its employees to a client and
31 allocates the direction of and control over the leased

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1 employees between the leasing company and the client. The term
2 does not include the following:

3 (f) A health care services pool licensed under s.
4 400.980 ~~402.48~~, unless otherwise engaged in business as an
5 employee leasing company.

6 Section 105. Section 468.826, Florida Statutes, is
7 amended to read:

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

25 Section 106. Subsections (1) and (2) of section
26 468.828, Florida Statutes, are amended to read:

27 468.828 Background screening information; rulemaking
28 authority.--

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

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1 ~~and Family Services shall allow the department to~~
2 ~~electronically access its central abuse registry and tracking~~
3 ~~system under chapter 415.~~

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

11 Section 107. Paragraph (d) of subsection (2) of
12 section 483.101, Florida Statutes, is amended to read:

13 483.101 Application for clinical laboratory license.--

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

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

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

8 Section 108. Paragraph (d) of subsection (2) of
9 section 483.30, Florida Statutes, is amended to read:

10 483.30 Licensing of centers.--

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

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

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

5 Section 109. Paragraph (a) of subsection (2) of
6 section 509.032, Florida Statutes, is amended to read:

7 509.032 Duties.--

8 (2) INSPECTION OF PREMISES.--

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

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1 and, if necessary, identifies alternative living arrangements
 2 such as facilities licensed under part II or part III of
 3 chapter 400.

4 Section 110. Subsection (3) of section 744.309,
 5 Florida Statutes, is amended to read:

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

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

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

6 Section 111. Subsection (12) of section 744.474,
7 Florida Statutes, is amended to read:

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

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

20 Section 112. Section 744.7081, Florida Statutes, is
21 amended to read:

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

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

14 Section 113. Paragraph (a) of subsection (6) of
15 section 775.21, Florida Statutes, is amended to read:

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

20 (6) REGISTRATION.--

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

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

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

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

20 Section 114. Paragraph (e) of subsection (5) of
21 section 916.107, Florida Statutes, is amended to read:

22 916.107 Rights of forensic clients.--

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

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

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1 Section 115. 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

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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 (a) The person who is the subject of a criminal

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

- 6 1. Is a candidate for employment with a criminal
7 justice agency;
- 8 2. Is a defendant in a criminal prosecution;
- 9 3. Concurrently or subsequently petitions for relief
10 under this section or s. 943.059;
- 11 4. Is a candidate for admission to The Florida Bar;
- 12 5. Is seeking to be employed or licensed by or to
13 contract with the Department of Children and Family Services
14 or the Department of Juvenile Justice or to be employed or
15 used by such contractor or licensee in a sensitive position
16 having direct contact with children, the developmentally
17 disabled, the aged, or the elderly as provided in s.
18 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
19 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), ~~s.~~
20 ~~415.1075(4)~~, s. 985.407, or chapter 400; or
- 21 6. Is seeking to be employed or licensed by the Office
22 of Teacher Education, Certification, Staff Development, and
23 Professional Practices of the Department of Education, any
24 district school board, or any local governmental entity that
25 licenses child care facilities.

26 Section 116. Paragraph (e) of subsection (4) of
27 section 985.05, Florida Statutes, is amended to read:

28 985.05 Court records.--

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

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1 (e) Records of proceedings under this part may be used
2 to prove disqualification pursuant to ss. 110.1127, 393.0655,
3 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
4 985.407, ~~and for proof in a chapter 120 proceeding pursuant to~~
5 ~~s. 415.1075.~~

6 Section 117. Sections 415.1065, 415.1075, 415.1085,
7 and 415.109, Florida Statutes, are repealed.

8 Section 118. There is hereby appropriated from the
9 Health Care Trust Fund to the Agency for Health Care
10 Administration one full-time equivalent position and \$60,000
11 to implement the provisions of s. 400.980, Florida Statutes,
12 relating to the regulation of health care services pools, as
13 provided for in this act.

14 Section 119. Subsection (4) of section 20.41, Florida
15 Statutes, is amended to read:

16 20.41 Department of Elderly Affairs.--There is created
17 a Department of Elderly Affairs.

18 (4) The department shall administratively house the
19 State Long-Term Care Ombudsman Council, created by s.
20 400.0067, and the local district long-term care ombudsman
21 councils, created by s. 400.0069 and shall, as required by s.
22 712 of the federal Older Americans Act of 1965, ensure that
23 both the state and local district long-term care ombudsman
24 councils operate in compliance with the Older Americans Act.
25 The councils in performance of their duties shall not be
26 subject to control, supervision, or direction by the
27 department.

28 Section 120. Paragraph (h) of subsection (4) of
29 section 395.3025, Florida Statutes, is amended to read:

30 395.3025 Patient and personnel records; copies;
31 examination.--

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

5 (h) The State Long-Term Care Ombudsman Council and the
6 local ~~district~~ long-term care ombudsman councils, with respect
7 to the records of a patient who has been admitted from a
8 nursing home or long-term care facility, when the councils are
9 conducting an investigation involving the patient as
10 authorized under part II of chapter 400, upon presentation of
11 identification as a council member by the person making the
12 request. Disclosure under this paragraph shall only be made
13 after a competent patient or the patient's representative has
14 been advised that disclosure may be made and the patient has
15 not objected.

16 Section 121. Paragraph (b) of subsection (3) of
17 section 400.0063, Florida Statutes, is amended to read:

18 400.0063 Establishment of Office of State Long-Term
19 Care Ombudsman; designation of ombudsman and legal advocate.--

20 (3)

21 (b) The duties of the legal advocate shall include,
22 but not be limited to:

23 1. Assisting the ombudsman in carrying out the duties
24 of the office with respect to the abuse, neglect, or violation
25 of rights of residents of long-term care facilities.

26 2. Assisting the state and local ~~district~~ ombudsman
27 councils in carrying out their responsibilities under this
28 part.

29 3. Initiating and prosecuting legal and equitable
30 actions to enforce the rights of long-term care facility
31 residents as defined in this chapter.

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1 4. Serving as legal counsel to the state and local
2 ~~district~~ ombudsman councils, or individual members thereof,
3 against whom any suit or other legal action is initiated in
4 connection with the performance of the official duties of the
5 councils or an individual member.

6 Section 122. Paragraph (f) of subsection (1) and
7 subsections (2) and (3) of section 400.0065, Florida Statutes,
8 are amended to read:

9 400.0065 State Long-Term Care Ombudsman; duties and
10 responsibilities; conflict of interest.--

11 (1) The purpose of the Office of State Long-Term Care
12 Ombudsman shall be to:

13 (f) Provide administrative and technical assistance to
14 state and local ~~district~~ ombudsman councils.

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

17 (a) Assist and support the efforts of the State
18 Long-Term Care Ombudsman Council in the establishment and
19 coordination of local ~~district~~ ombudsman councils throughout
20 the state.

21 (b) Perform the duties specified in state and federal
22 law, rules, and regulations.

23 (c) Within the limits of federal and state funding
24 authorized and appropriated, employ such personnel, including
25 staff for local ~~district~~ ombudsman councils, as are necessary
26 to perform adequately the functions of the office and provide
27 or contract for legal services to assist the state and local
28 ~~district~~ ombudsman councils in the performance of their
29 duties. Staff positions for each local ~~district~~ ombudsman
30 council may be established as career service positions, and
31 shall be filled by the ombudsman after ~~in~~ consultation with

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1 the respective local ~~district~~ ombudsman council.

2 (d) Contract for services necessary to carry out the
3 activities of the office.

4 (e) Apply for, receive, and accept grants, gifts, or
5 other payments, including, but not limited to, real property,
6 personal property, and services from a governmental entity or
7 other public or private entity or person, and make
8 arrangements for the use of such grants, gifts, or payments.

9 (f) Annually prepare a budget request that shall be
10 submitted to the Governor by the department for transmittal to
11 the Legislature.

12 ~~(f) Perform the duties specified in state and federal~~
13 ~~law without interference by officials of the Department of~~
14 ~~Elderly Affairs, the Agency for Health Care Administration, or~~
15 ~~the Department of Children and Family Services. The ombudsman~~
16 ~~shall report to the Governor, the President of the Senate, and~~
17 ~~the Speaker of the House of Representatives whenever~~
18 ~~organizational or departmental policy issues threaten the~~
19 ~~ability of the Office of State Long-Term Care Ombudsman to~~
20 ~~carry out its duties under state or federal law.~~

21 (g) Coordinate, to the greatest extent possible, state
22 and local ~~district~~ ombudsman services with the protection and
23 advocacy systems for individuals with developmental
24 disabilities and mental illnesses and with legal assistance
25 programs for the poor through adoption of memoranda of
26 understanding and other means.

27 (h) Enter into a cooperative agreement with the
28 statewide and district human rights advocacy committees for
29 the purpose of coordinating advocacy services provided to
30 residents of long-term care facilities.

31 (i) Enter into a cooperative agreement with the

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1 Medicaid Fraud Division as prescribed under s. 731(e)(2)(B) of
2 the Older Americans Act.

3 (3) The State Long-Term Care Ombudsman shall not:
4 (a) Have a direct involvement in the licensing or
5 certification of, or an ownership or investment interest in, a
6 long-term care facility or a provider of a long-term care
7 service.

8 (b) Be employed by, or participate in the management
9 of, a long-term care facility.

10 (c) Receive, or have a right to receive, directly or
11 indirectly, remuneration, in cash or in kind, under a
12 compensation agreement with the owner or operator of a
13 long-term care facility.

14
15 The Department of Elderly Affairs, in consultation with
16 ombudsman, shall adopt rules to establish procedures to
17 identify and eliminate conflicts of interest as described in
18 this subsection.

19 Section 123. Section 400.0066, Florida Statutes, is
20 created to read:

21 400.0066 Office of State Long-Term Care Ombudsman and
22 departments of state government.--

23 (1) The State Long-Term Care Ombudsman shall perform
24 the duties specified in state and federal law.

25 (2) Officials from the Department of Elderly Affairs,
26 the Agency for Health Care Administration, and the Department
27 of Children and Family Services shall not interfere in the
28 performance of official duties of any ombudsman staff or
29 volunteers.

30 (3) The Department of Elderly Affairs shall provide
31 administrative support to the long-term care ombudsman

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1 program, including:

2 (a) Office space for state and local ombudsman
3 councils.

4 (b) Assistance with personnel, accounting, and
5 management information systems.

6 (4) The Department of Elderly Affairs shall meet the
7 costs associated with these functions from funds appropriated
8 to the department.

9 (5) The Department of Elderly Affairs shall include
10 the costs associated with support of the long-term care
11 ombudsman program in developing its budget requests for
12 consideration by the Governor and submittal to the
13 Legislature.

14 (6) The Department of Elderly Affairs may divert from
15 the federal ombudsman appropriation an amount equal to the
16 department's administrative cost ratio, not to exceed 10
17 percent of the federal appropriation, for the ombudsman. The
18 remaining ninety percent or more of the allotment from the
19 Older Americans Act Program shall be expended on direct
20 ombudsman activities.

21 Section 124. Section 400.0067, Florida Statutes, is
22 amended to read:

23 400.0067 Establishment of State Long-Term Care
24 Ombudsman Council; duties; membership.--

25 (1) There is created within the Office of State
26 Long-Term Care Ombudsman, the State Long-Term Care Ombudsman
27 Council.

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

29 (a) Assist the ombudsman in reaching a consensus among
30 local ~~district~~ ombudsman councils on issues of statewide
31 concern.

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1 (b) Serve as an appellate body in receiving from the
2 local ~~district~~ ombudsman councils complaints not resolved at
3 the local ~~district~~ level. The state ombudsman council may
4 enter any long-term care facility involved in an appeal,
5 pursuant to the conditions specified in s. 400.0069(3).

6 (c) Assist the ombudsman to discover, investigate, and
7 determine the existence of abuse or neglect in any long-term
8 care facility and to develop procedures, in consultation with
9 the Department of Elderly Affairs, relating to such
10 investigations. Investigations may consist, in part, of one or
11 more onsite administrative inspections.

12 (d) Assist the ombudsman in eliciting, receiving,
13 responding to, and resolving complaints made by or on behalf
14 of long-term care facility residents and in developing
15 procedures, in consultation with the Department of Elderly
16 Affairs, relating to the receipt and resolution of such
17 complaints.

18 (e) Elicit and coordinate state, local, and voluntary
19 organizational assistance for the purpose of improving the
20 care received by residents of a long-term care facility.

21 (f) Be authorized to call upon appropriate agencies of
22 state government for such professional assistance as may be
23 needed in the discharge of its duties, including assistance
24 from the adult protective services program of the Department
25 of Children and Family Services.

26 ~~(g) Enter into a cooperative agreement with the~~
27 ~~statewide and district human rights advocacy committees for~~
28 ~~the purpose of coordinating advocacy services provided to~~
29 ~~residents of long-term care facilities.~~

30 (g)(h) Prepare an annual report describing the
31 activities carried out by the ombudsman and the State

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1 Long-Term Care Ombudsman Council in the year for which the
2 report is prepared. The State Long-Term Care Ombudsman
3 Council shall submit the report to the Commissioner of the
4 United States Administration on Aging, the Governor, the
5 President of the Senate, the Speaker of the House of
6 Representatives, the minority leaders of the House and Senate,
7 the chairpersons of appropriate House and Senate committees,
8 the Secretaries of Elderly Affairs and Children and Family
9 Services, and the Director of Health Care Administration. The
10 report shall be submitted at least 30 days before the
11 convening of the regular session of the Legislature and shall,
12 at a minimum:

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

15 2. Evaluate the problems experienced by residents of
16 long-term care facilities.

17 3. Contain recommendations for improving the quality
18 of life of the residents and for protecting the health,
19 safety, welfare, and rights of the residents.

20 4. Analyze the success of the ombudsman program during
21 the preceding year and identify the barriers that prevent the
22 optimal operation of the program. The report of the program's
23 successes shall also address the relationship between the
24 state long-term care ombudsman program, the Department of
25 Elderly Affairs, the Agency for Health Care Administration,
26 and the Department of Children and Family Services, and an
27 assessment of how successfully the state long-term care
28 ombudsman program has carried out its responsibilities under
29 the Older Americans Act.

30 5. Provide policy and regulatory and legislative
31 recommendations to solve identified problems; resolve

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1 residents' complaints; improve the quality of care and life of
2 the residents; protect the health, safety, welfare, and rights
3 of the residents; and remove the barriers to the optimal
4 operation of the state long-term care ombudsman program.

5 6. Contain recommendations from the local district
6 ombudsman councils regarding program functions and activities.

7 7. Include a report on the activities of the legal
8 advocate and other legal advocates acting on behalf of the
9 local district and state councils.

10 (3)(a) The State Long-Term Care Ombudsman Council
11 shall be composed of: one active local council member
12 designated by each local council and three persons appointed
13 by the Governor. ~~a number of members equal to the number of~~
14 ~~district councils in the state plus three. Each district~~
15 ~~ombudsman council, including the ombudsman councils for~~
16 ~~subdistricts 3A and 3B, shall appoint one member and the~~
17 ~~Governor shall appoint three members to the State Long-Term~~
18 ~~Care Ombudsman Council. An individual designated by a~~
19 ~~district ombudsman council must have been a member of a~~
20 ~~district ombudsman council for at least 1 year, and shall~~
21 ~~continue to serve as an active member at the district level.~~
22 ~~The Governor's appointments shall be made from a list of not~~
23 ~~fewer than eight nominees, to be selected by the secretary in~~
24 ~~consultation with the State Long-Term Care Ombudsman Council~~
25 ~~and submitted to the Governor. If the appointments are not~~
26 ~~made within 30 days after the Governor receives the list of~~
27 ~~nominees, the secretary shall, in consultation with the State~~
28 ~~Long-Term Care Ombudsman Council, appoint three members from~~
29 ~~the list of nominees submitted to the Governor. At least one~~
30 ~~member appointed by the Governor must be over 60 years of age.~~

31 (b)1. The ombudsman, in consultation with the

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1 secretary and the state ombudsman council, shall submit a list
2 of at least eight names to the Governor of persons not serving
3 on a local council.

4 2. The Governor shall appoint three members from the
5 list, at least one of whom must be over 60 years of age.

6 3. If the Governor's appointments are not made within
7 60 days after the ombudsman submits the list, the ombudsman,
8 in consultation with the state ombudsman council, shall
9 appoint three members, at least one of whom must be over 60
10 years of age.

11 (c)(b) All members shall be appointed to serve 3-year
12 terms. A member of the state ombudsman council may not serve
13 more than two consecutive terms. Any vacancy shall be filled
14 in the same manner as the original appointment. The position
15 of any member missing three consecutive regular meetings
16 without cause shall be declared vacant. The findings of the
17 ombudsman regarding cause shall be final and binding.

18 (d)(e) The state ombudsman council shall elect a
19 chairperson for a term of 1 year from among the members who
20 have served for at least 1 year. The chairperson shall select
21 a vice chairperson from among the members. The vice
22 chairperson shall preside over the council in the absence of
23 the chairperson.

24 (e)(d) The state ombudsman council shall meet upon the
25 call of the chairperson, at least quarterly or more frequently
26 as needed.

27 (f)(e) Members shall receive no compensation but shall
28 be reimbursed for per diem and travel expenses as provided in
29 s. 112.061.

30 ~~(4) Members shall be appointed and serve 3-year terms~~
31 ~~as provided by this section.~~

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1 ~~(4)(5)~~ No officer, employee, or representative of the
2 Office of State Long-Term Care Ombudsman or of the State
3 Long-Term Care Ombudsman Council, nor any member of the
4 immediate family of such officer, employee, or representative,
5 may have a conflict of interest. ~~The Department of Elderly~~
6 ~~Affairs, in consultation with~~ The ombudsman, shall adopt rules
7 to identify and remove conflicts of interest.

8 ~~(5)(6)~~ The Department of Elderly Affairs shall make a
9 separate and distinct request for an appropriation for all
10 expenses for the state and local ~~district~~ ombudsman councils.

11 Section 125. Section 400.0069, Florida Statutes, is
12 amended to read:

13 400.0069 Local ~~District~~ long-term care ombudsman
14 councils; duties; membership.--

15 (1) There shall be at least one long-term care
16 ombudsman council in each of the planning and service areas of
17 the Department of Elderly Affairs, which shall function under
18 the direction of the ombudsman and the state ombudsman
19 council.

20 (2) The duties of the local ~~district~~ ombudsman council
21 are:

22 (a) To serve as a third-party mechanism for protecting
23 the health, safety, welfare, and civil and human rights of
24 residents of a long-term care facility.

25 (b) To discover, investigate, and determine the
26 existence of abuse or neglect in any long-term care facility
27 and to use the procedures provided for in ss. 415.101-415.113
28 when applicable. Investigations may consist, in part, of one
29 or more onsite administrative inspections.

30 (c) To elicit, receive, investigate, respond to, and
31 resolve complaints made by, or on behalf of, long-term care

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1 facility residents.

2 (d) To review and, if necessary, to comment on, for
3 their effect on the rights of long-term care facility
4 residents, all existing or proposed rules, regulations, and
5 other governmental policies relating to long-term care
6 facilities.

7 (e) To review personal property and money accounts of
8 Medicaid residents pursuant to an investigation to obtain
9 information regarding a specific complaint or problem.

10 (f) To represent the interests of residents before
11 government agencies and to seek administrative, legal, and
12 other remedies to protect the health, safety, welfare, and
13 rights of the residents.

14 (g) To carry out other activities that the ombudsman
15 determines to be appropriate.

16 (3) In order to carry out the duties specified in
17 subsection (2), the local ~~district~~ ombudsman council is
18 authorized, pursuant to ss. 400.19(1) and 400.434, to enter
19 any long-term care facility without notice or first obtaining
20 a warrant, subject to the provisions of s. 400.0073(5).

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

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

14 (5) All members shall be appointed to serve 3-year
15 terms. Upon expiration of a term and in case of any other
16 vacancy, the council shall select ~~appoint~~ a replacement by
17 majority vote ~~of the council, subject to the approval of the~~
18 ~~Governor.~~ The ombudsman shall review the selection of the
19 council and recommend approval or disapproval to the Governor.
20 If no action is taken by the Governor to approve or disapprove
21 the replacement of a member within 30 days after the ombudsman
22 ~~council~~ has notified the Governor of his or her
23 ~~recommendation, the appointment, the appointment of the~~
24 replacement shall be considered disapproved and the process
25 for selection of a replacement shall be repeated ~~approved.~~ ~~The~~
26 ~~term of any member missing three consecutive regular meetings~~
27 ~~without cause shall be declared vacant.~~

28 (6) The local ~~district~~ ombudsman council shall elect a
29 chair for a term of 1 year from members who have served at
30 least 1 year. The chair shall select a vice chair from among
31 the members of the council. The vice chair shall preside over

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1 the council in the absence of the chair.

2 (7) The local ~~district~~ ombudsman council shall meet
3 upon the call of the chair or the ombudsman, at least once a
4 month or more frequently as needed to handle emergency
5 situations.

6 (8) A member of a local ~~district~~ ombudsman council
7 shall receive no compensation but shall be reimbursed for
8 travel expenses both within and outside the county of
9 residence in accordance with the provisions of s. 112.061.

10 (9) The local ~~district~~ ombudsman councils are
11 authorized to call upon appropriate agencies of state
12 government for such professional assistance as may be needed
13 in the discharge of their duties. All state agencies shall
14 cooperate with the local ~~district~~ ombudsman councils in
15 providing requested information and agency representatives at
16 council meetings. ~~The Department of Children and Family~~
17 ~~Services shall continue to provide space and in-kind~~
18 ~~administrative support for each district ombudsman council~~
19 ~~staff within available resources until the Legislature~~
20 ~~appropriates funds for office space and administrative~~
21 ~~support.~~

22 (10) No officer, employee, or representative of a
23 local ~~district~~ long-term care ombudsman council, nor any
24 member of the immediate family of such officer, employee, or
25 representative, may have a conflict of interest. ~~The~~
26 ~~Department of Elderly Affairs, in consultation with The~~
27 ~~ombudsman,~~ shall adopt rules to identify and remove conflicts
28 of interest.

29 Section 126. Section 400.0071, Florida Statutes, is
30 amended to read:

31 400.0071 Complaint procedures.--

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1 (1) The state ombudsman council shall establish state
2 and local ~~district~~ procedures for receiving complaints against
3 a nursing home or long-term care facility or its employee.

4 (2) These procedures shall be posted in full view in
5 every nursing home or long-term care facility. Every resident
6 or representative of a resident shall receive, upon admission
7 to a nursing home or long-term care facility, a printed copy
8 of the procedures of the state and the local ~~district~~
9 ombudsman councils.

10 Section 127. Subsections (1), (2), (3), and (4) of
11 section 400.0073, Florida Statutes, are amended to read:

12 400.0073 State and local ~~district~~ ombudsman council
13 investigations.--

14 (1) A local ~~district~~ ombudsman council shall
15 investigate any complaint of a resident or representative of a
16 resident based on an action by an administrator or employee of
17 a nursing home or long-term care facility which might be:

18 (a) Contrary to law.

19 (b) Unreasonable, unfair, oppressive, or unnecessarily
20 discriminatory, even though in accordance with law.

21 (c) Based on a mistake of fact.

22 (d) Based on improper or irrelevant grounds.

23 (e) Unaccompanied by an adequate statement of reasons.

24 (f) Performed in an inefficient manner.

25 (g) Otherwise erroneous.

26 (2) In an investigation, both the state and local
27 ~~district~~ ombudsman councils have the authority to hold
28 hearings.

29 (3) Subsequent to an appeal from a local ~~district~~
30 ombudsman council, the state ombudsman council may investigate
31 any nursing home or long-term care facility.

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1 (4) In addition to any specific investigation made
2 pursuant to a complaint, the local district ombudsman council
3 shall conduct, at least annually, an investigation, which
4 shall consist, in part, of an onsite administrative
5 inspection, of each nursing home or long-term care facility
6 within its jurisdiction.

7 Section 128. Section 400.0075, Florida Statutes, is
8 amended to read:

9 400.0075 Complaint resolution procedures.--

10 (1) Any complaint, including any problem identified by
11 an ombudsman council as a result of an investigation, deemed
12 valid and requiring remedial action by the local district
13 ombudsman council shall be identified and brought to the
14 attention of the long-term care facility administrator in
15 writing. Upon receipt of such document, the administrator, in
16 concurrence with the local district ombudsman council chair,
17 shall establish target dates for taking appropriate remedial
18 action. If, by the target date, the remedial action is not
19 completed or forthcoming, the local district ombudsman council
20 may:

21 (a) Extend the target date if the council has reason
22 to believe such action would facilitate the resolution of the
23 complaint.

24 (b) In accordance with s. 400.0077, publicize the
25 complaint, the recommendations of the council, and the
26 response of the long-term care facility.

27 (c) Refer the complaint to the state ombudsman
28 council.

29
30 If the health, safety, welfare, or rights of the resident are
31 in imminent danger, the local district long-term care

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1 ombudsman council may seek immediate legal or administrative
2 remedies to protect the resident.

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

9 (a) In accordance with s. 400.0077, publicize the
10 complaint, the recommendations of the council, and the
11 response of the long-term care facility.

12 (b) Recommend to the agency a series of facility
13 reviews pursuant to s. 400.19(4) to assure correction and
14 nonrecurrence of conditions that give rise to complaints
15 against a long-term care facility.

16 (c) Recommend to the agency changes in rules for
17 inspecting and licensing or certifying long-term care
18 facilities, and recommend to the Agency for Health Care
19 Administration changes in rules for licensing and regulating
20 long-term care facilities.

21 (d) Refer the complaint to the state attorney for
22 prosecution if there is reason to believe the long-term care
23 facility or its employee is guilty of a criminal act.

24 (e) Recommend to the Agency for Health Care
25 Administration that the long-term care facility no longer
26 receive payments under the State Medical Assistance Program
27 (Medicaid).

28 (f) Recommend that the agency initiate procedures for
29 revocation of license in accordance with chapter 120.

30 (g) Seek legal, administrative, or other remedies to
31 protect the health, safety, welfare, or rights of the

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1 resident.

2

3 If the health, safety, welfare, or rights of the resident are
4 in imminent danger, the State Long-Term Care Ombudsman Council
5 shall seek immediate legal or administrative remedies to
6 protect the resident.

7 (3) The state ombudsman council shall provide, as part
8 of its annual report required pursuant to s.

9 400.0067(2)(g)(h), information relating to the disposition of
10 all complaints to the Department of Elderly Affairs.

11 Section 129. Paragraph (a) of subsection (1) and
12 subsections (4) and (5) of section 400.0077, Florida Statutes,
13 are amended to read:

14 400.0077 Confidentiality.--

15 (1) The following are confidential and exempt from the
16 provisions of s. 119.07(1):

17 (a) Resident records held by the ombudsman or by the
18 state or a local district ombudsman council.

19 (4) Members of any state or local district ombudsman
20 council shall not be required to testify in any court with
21 respect to matters held to be confidential under s. 400.414
22 except as may be necessary to enforce the provisions of this
23 act.

24 (5) Subject to the provisions of this section, the
25 Office of State Long-Term Care Ombudsman ~~Department of Elderly~~
26 ~~Affairs, in consultation with the ombudsman and the State~~
27 ~~Long-Term Care Ombudsman Council,~~ shall adopt rules for the
28 disclosure by the ombudsman or local district ombudsman
29 councils of files maintained by the program.

30 Section 130. Subsection (2) of section 400.0079,
31 Florida Statutes, is amended to read:

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1 400.0079 Immunity.--

2 (2) The ombudsman or any person acting on behalf of
3 the Office of State Long-Term Care Ombudsman or the state or a
4 local district long-term care ombudsman council shall be
5 immune from any liability, civil or criminal, that otherwise
6 might be incurred or imposed, during the good faith
7 performance of official duties.

8 Section 131. Subsections (1) and (2) of section
9 400.0081, Florida Statutes, are amended to read:

10 400.0081 Access.--

11 (1) The Office of State Long-Term Care Ombudsman, the
12 State Long-Term Care Ombudsman Council, and the local district
13 long-term care ombudsman councils, or their representatives,
14 shall have access to:

15 (a) Long-term care facilities and residents.

16 (b) Medical and social records of a resident for
17 review, if:

18 1. The office has the permission of the resident or
19 the legal representative of the resident; or

20 2. The resident is unable to consent to the review and
21 has no legal representative.

22 (c) Medical and social records of the resident as
23 necessary to investigate a complaint, if:

24 1. A legal guardian of the resident refuses to give
25 permission.

26 2. The office has reasonable cause to believe that the
27 guardian is not acting in the best interests of the resident.

28 3. The representative obtains the approval of the
29 ombudsman.

30 (d) The administrative records, policies, and
31 documents to which the residents, or the general public, have

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1 access.

2 (e) Upon request, copies of all licensing and
3 certification records maintained by the state with respect to
4 a long-term care facility.

5 (2) Notwithstanding paragraph (1)(b), if, pursuant to
6 a complaint investigation by the state ombudsman council or a
7 local district ombudsman council, the legal representative of
8 the resident refuses to give permission for the release of the
9 resident's records, and if the Office of ~~the~~ State Long-Term
10 Care Ombudsman ~~Council~~ has reasonable cause to find that the
11 legal representative is not acting in the best interests of
12 the resident, the medical and social records of the resident
13 must be made available to the state or local district council
14 as is necessary for the members of the council to investigate
15 the complaint.

16 Section 132. Subsections (1) and (2) of section
17 400.0083, Florida Statutes, are amended to read:

18 400.0083 Interference; retaliation; penalties.--

19 (1) It shall be unlawful for any person, long-term
20 care facility, or other entity to willfully interfere with a
21 representative of the Office of ~~the~~ State Long-Term Care
22 Ombudsman, the State Long-Term Care Ombudsman Council, or a
23 local district long-term care ombudsman council in the
24 performance of official duties.

25 (2) It shall be unlawful for any person, long-term
26 care facility, or other entity to retaliate against any
27 resident, employee, or other person for filing a complaint
28 with, providing information to, or otherwise cooperating with
29 any representative of the Office of ~~the~~ State Long-Term Care
30 Ombudsman, the State Long-Term Care Ombudsman Council, or a
31 local district long-term care ombudsman council.

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1 Section 133. Section 400.0087, Florida Statutes, is
2 amended to read:

3 400.0087 Agency oversight.--

4 (1) The Department of Elderly Affairs shall monitor
5 the local ~~district~~ ombudsman councils responsible for carrying
6 out the duties delegated by s. 400.0069 and federal law. The
7 department, in consultation with the ombudsman and the State
8 Long-Term Care Ombudsman Council, shall adopt rules to
9 establish the policies and procedures for the monitoring of
10 local ~~district~~ ombudsman councils.

11 (2) The department is responsible for ensuring that
12 the Office of State Long-Term Care Ombudsman prepares its
13 annual report; provides information to public and private
14 agencies, legislators, and others; provides appropriate
15 training to representatives of the office or of the state or
16 local ~~district~~ long-term care ombudsman councils; and
17 coordinates ombudsman services with the Advocacy Center for
18 Persons with Disabilities and with providers of legal services
19 to residents of long-term care facilities in compliance with
20 state and federal laws.

21 (3) The Department of Elderly Affairs is the
22 designated state unit on aging for purposes of complying with
23 the federal Older Americans Act. The Department of Elderly
24 Affairs shall ensure that the ombudsman program has the
25 objectivity and independence required to qualify it for
26 funding under the federal Older Americans Act, and shall carry
27 out the long-term care ombudsman program through the Office of
28 ~~the~~ State Long-Term Care Ombudsman ~~Council~~. The Department of
29 Elderly Affairs shall also:

30 (a) Receive and disburse state and federal funds for
31 purposes that the state ombudsman council has formulated in

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1 accordance with the Older Americans Act.

2 (b) Act as liaison between the federal program
3 representatives, the staffs of the state and local ~~district~~
4 ombudsman councils, and members of the state and local
5 ~~district~~ ombudsman councils.

6 Section 134. Section 400.0089, Florida Statutes, is
7 amended to read:

8 400.0089 Agency reports.--The State Long-Term Care
9 Ombudsman Council, shall, in cooperation with the Department
10 of Elderly Affairs, maintain a statewide uniform reporting
11 system to collect and analyze data relating to complaints and
12 conditions in long-term care facilities and to residents, for
13 the purpose of identifying and resolving significant problems.
14 The council shall submit such data as part of its annual
15 report required pursuant to s. 400.0067(2)(g)(h) to the Agency
16 for Health Care Administration, the Department of Children and
17 Family Services, the Statewide Human Rights Advocacy
18 Committee, the Advocacy Center for Persons with Disabilities,
19 the Commissioner for the United States Administration on
20 Aging, the National Ombudsman Resource Center, and any other
21 state or federal entities that the ombudsman determines
22 appropriate.

23 Section 135. Section 400.0091, Florida Statutes, is
24 amended to read:

25 400.0091 Training.--The ombudsman shall provide
26 appropriate training to all employees of the Office of State
27 Long-Term Care Ombudsman and to the state and local ~~district~~
28 long-term care ombudsman councils, including all unpaid
29 volunteers. The ombudsman shall implement the training
30 program no later than June 1, 1994. No employee, officer, or
31 representative of the office or of the state or local ~~district~~

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1 long-term care ombudsman councils, other than the ombudsman,
2 may carry out any authorized ombudsman duty or responsibility
3 unless the person has received the training required by this
4 section and has been approved by the ombudsman as qualified to
5 carry out ombudsman activities on behalf of the office or the
6 state or local ~~district~~ long-term care ombudsman councils.

7 Section 136. Present subsections (8), (9), and (10) of
8 section 400.021, Florida Statutes, are renumbered as
9 subsections (7), (8), and (9), respectively, and present
10 subsection (7) is renumbered as subsection (10) and amended to
11 read:

12 400.021 Definitions.--When used in this part, unless
13 the context otherwise requires, the term:

14 ~~(10)(7)~~ "Local ~~District~~ ombudsman council" means a
15 local ~~district~~ long-term care ombudsman council established
16 pursuant to s. 400.0069, located within the Older Americans
17 Act planning and service areas.

18 Section 137. Paragraph (c) of subsection (1) and
19 subsections (2) and (3) of section 400.022, Florida Statutes,
20 are amended to read:

21 400.022 Residents' rights.--

22 (1) All licensees of nursing home facilities shall
23 adopt and make public a statement of the rights and
24 responsibilities of the residents of such facilities and shall
25 treat such residents in accordance with the provisions of that
26 statement. The statement shall assure each resident the
27 following:

28 (c) Any entity or individual that provides health,
29 social, legal, or other services to a resident has the right
30 to have reasonable access to the resident. The resident has
31 the right to deny or withdraw consent to access at any time by

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1 any entity or individual. Notwithstanding the visiting policy
2 of the facility, the following individuals must be permitted
3 immediate access to the resident:

4 1. Any representative of the federal or state
5 government, including, but not limited to, representatives of
6 the Department of Children and Family Services, the Department
7 of Health, the Agency for Health Care Administration, the
8 Office of the Attorney General, and the Department of Elderly
9 Affairs; any law enforcement officer; members of the state or
10 local ~~district~~ ombudsman council; and the resident's
11 individual physician.

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

14
15 The facility must allow representatives of the State Long-Term
16 Care Ombudsman Council to examine a resident's clinical
17 records with the permission of the resident or the resident's
18 legal representative and consistent with state law.

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

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1 ombudsman council and adult abuse registry where complaints
2 may be lodged.

3 (3) Any violation of the resident's rights set forth
4 in this section shall constitute grounds for action by the
5 agency under the provisions of s. 400.102. In order to
6 determine whether the licensee is adequately protecting
7 residents' rights, the annual inspection of the facility shall
8 include private informal conversations with a sample of
9 residents to discuss residents' experiences within the
10 facility with respect to rights specified in this section and
11 general compliance with standards, and consultation with the
12 ombudsman council in the local ~~district~~ in which the nursing
13 home is located.

14 Section 138. Subsections (8), (9), (11), (12), (13),
15 and (14) of section 400.0255, Florida Statutes, are amended to
16 read:

17 400.0255 Resident transfer or discharge; requirements
18 and procedures; hearings.--

19 (8) The notice required by subsection (7) must be in
20 writing and must contain all information required by state and
21 federal law, rules, or regulations applicable to Medicaid or
22 Medicare cases. The agency shall develop a standard document
23 to be used by all facilities licensed under this part for
24 purposes of notifying residents of a discharge or transfer.
25 Such document must include a means for a resident to request
26 the local ~~district~~ long-term care ombudsman council to review
27 the notice and request information about or assistance with
28 initiating a fair hearing with the department's Office of
29 Appeals Hearings. In addition to any other pertinent
30 information included, the form shall specify the reason
31 allowed under federal or state law that the resident is being

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1 discharged or transferred, with an explanation to support this
2 action. Further, the form shall state the effective date of
3 the discharge or transfer and the location to which the
4 resident is being discharged or transferred. The form shall
5 clearly describe the resident's appeal rights and the
6 procedures for filing an appeal, including the right to
7 request the local ~~district~~ ombudsman council to review the
8 notice of discharge or transfer. A copy of the notice must be
9 placed in the resident's clinical record, and a copy must be
10 transmitted to the resident's legal guardian or representative
11 and to the local ~~district~~ ombudsman council.

12 (9) A resident may request that the local ~~district~~
13 ombudsman council review any notice of discharge or transfer
14 given to the resident. When requested by a resident to review
15 a notice of discharge or transfer, the local ~~district~~
16 ombudsman council shall do so within 7 days after receipt of
17 the request. The nursing home administrator, or the
18 administrator's designee, must forward the request for review
19 contained in the notice to the local ~~district~~ ombudsman
20 council within 24 hours after such request is submitted.
21 Failure to forward the request within 24 hours after the
22 request is submitted shall toll the running of the 30-day
23 advance notice period until the request has been forwarded.

24 (11) Notwithstanding paragraph (10)(b), an emergency
25 discharge or transfer may be implemented as necessary pursuant
26 to state or federal law during the period of time after the
27 notice is given and before the time a hearing decision is
28 rendered. Notice of an emergency discharge or transfer to the
29 resident, the resident's legal guardian or representative, and
30 the local ~~district~~ ombudsman council if requested pursuant to
31 subsection (9) must be by telephone or in person. This notice

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1 shall be given before the transfer, if possible, or as soon
2 thereafter as practicable. A local ~~district~~ ombudsman council
3 conducting a review under this subsection shall do so within
4 24 hours after receipt of the request. The resident's file
5 must be documented to show who was contacted, whether the
6 contact was by telephone or in person, and the date and time
7 of the contact. If the notice is not given in writing, written
8 notice meeting the requirements of subsection (8) must be
9 given the next working day.

10 (12) After receipt of any notice required under this
11 section, the local ~~district~~ ombudsman council may request a
12 private informal conversation with a resident to whom the
13 notice is directed, and, if known, a family member or the
14 resident's legal guardian or designee, to ensure that the
15 facility is proceeding with the discharge or transfer in
16 accordance with the requirements of this section. If
17 requested, the local ~~district~~ ombudsman council shall assist
18 the resident with filing an appeal of the proposed discharge
19 or transfer.

20 (13) The following persons must be present at all
21 hearings authorized under this section:

22 (a) The resident, or the resident's legal
23 representative or designee.

24 (b) The facility administrator, or the facility's
25 legal representative or designee.

26
27 A representative of the local ~~district~~ long-term care
28 ombudsman council may be present at all hearings authorized by
29 this section.

30 (14) In any hearing under this section, the following
31 information concerning the parties shall be confidential and

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- 1 exempt from the provisions of s. 119.07(1):
- 2 (a) Names and addresses.
- 3 (b) Medical services provided.
- 4 (c) Social and economic conditions or circumstances.
- 5 (d) Evaluation of personal information.
- 6 (e) Medical data, including diagnosis and past history
- 7 of disease or disability.
- 8 (f) Any information received verifying income
- 9 eligibility and amount of medical assistance payments. Income
- 10 information received from the Social Security Administration
- 11 or the Internal Revenue Service must be safeguarded according
- 12 to the requirements of the agency that furnished the data.

13

14 The exemption created by this subsection does not prohibit

15 access to such information by a local ~~district~~ long-term care

16 ombudsman council upon request, by a reviewing court if such

17 information is required to be part of the record upon

18 subsequent review, or as specified in s. 24(a), Art. I of the

19 State Constitution.

20 Section 139. Subsection (1) of section 400.19, Florida

21 Statutes, is amended to read:

22 400.19 Right of entry and inspection.--

23 (1) The agency and any duly designated officer or

24 employee thereof or a member of the State Long-Term Care

25 Ombudsman Council or the local ~~district~~ long-term care

26 ombudsman council shall have the right to enter upon and into

27 the premises of any facility licensed pursuant to this part,

28 or any distinct nursing home unit of a hospital licensed under

29 chapter 395 or any freestanding facility licensed under

30 chapter 395 that provides extended care or other long-term

31 care services, at any reasonable time in order to determine

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1 the state of compliance with the provisions of this part and
2 rules in force pursuant thereto. The right of entry and
3 inspection shall also extend to any premises which the agency
4 has reason to believe is being operated or maintained as a
5 facility without a license, but no such entry or inspection of
6 any premises shall be made without the permission of the owner
7 or person in charge thereof, unless a warrant is first
8 obtained from the circuit court authorizing same. Any
9 application for a facility license or renewal thereof, made
10 pursuant to this part, shall constitute permission for and
11 complete acquiescence in any entry or inspection of the
12 premises for which the license is sought, in order to
13 facilitate verification of the information submitted on or in
14 connection with the application; to discover, investigate, and
15 determine the existence of abuse or neglect; or to elicit,
16 receive, respond to, and resolve complaints. The agency shall,
17 within 60 days after receipt of a complaint made by a resident
18 or resident's representative, complete its investigation and
19 provide to the complainant its findings and resolution.

20 Section 140. Subsection (1) of section 400.191,
21 Florida Statutes, is amended to read:

22 400.191 Availability, distribution, and posting of
23 reports and records.--

24 (1) The agency shall provide information to the public
25 about all of the licensed nursing home facilities operating in
26 the state. The agency shall, within 60 days after an annual
27 inspection visit or within 30 days after any interim visit to
28 a facility, send copies of the inspection reports to the local
29 ~~district~~ long-term care ombudsman council, the agency's local
30 office, and a public library or the county seat for the county
31 in which the facility is located.

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1 Section 141. Subsection (6) and paragraph (c) of
2 subsection (7) of section 400.23, Florida Statutes, are
3 amended to read:

4 400.23 Rules; evaluation and deficiencies; licensure
5 status.--

6 (6) Prior to conducting a survey of the facility, the
7 survey team shall obtain a copy of the local ~~district~~
8 long-term care ombudsman council report on the facility.

9 Problems noted in the report shall be incorporated into and
10 followed up through the agency's inspection process. This
11 procedure does not preclude the local ~~district nursing home~~
12 ~~and~~ long-term care ~~facility~~ ombudsman council from requesting
13 the agency to conduct a followup visit to the facility.

14 (7) The agency shall, at least every 15 months,
15 evaluate all nursing home facilities and make a determination
16 as to the degree of compliance by each licensee with the
17 established rules adopted under this part as a basis for
18 assigning a licensure status to that facility. The agency
19 shall base its evaluation on the most recent inspection
20 report, taking into consideration findings from other official
21 reports, surveys, interviews, investigations, and inspections.
22 The agency shall assign a licensure status of standard or
23 conditional to each nursing home.

24 (c) In evaluating the overall quality of care and
25 services and determining whether the facility will receive a
26 conditional or standard license, the agency shall consider the
27 needs and limitations of residents in the facility and the
28 results of interviews and surveys of a representative sampling
29 of residents, families of residents, ombudsman council members
30 in the planning and service area ~~district~~ in which the
31 facility is located, guardians of residents, and staff of the

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1 nursing home facility.

2 Section 142. Subsection (13) of section 400.419,
3 Florida Statutes, is amended to read:

4 400.419 Violations; administrative fines.--

5 (13) The agency shall develop and disseminate an
6 annual list of all facilities sanctioned or fined \$5,000 or
7 more for violations of state standards, the number and class
8 of violations involved, the penalties imposed, and the current
9 status of cases. The list shall be disseminated, at no charge,
10 to the Department of Elderly Affairs, the Department of
11 Health, the Department of Children and Family Services, the
12 area agencies on aging, the Statewide Human Rights Advocacy
13 Committee, and the state and local ~~district nursing home~~
14 ombudsman councils. The Department of Children and Family
15 Services shall disseminate the list to service providers under
16 contract to the department who are responsible for referring
17 persons to a facility for residency. The agency may charge a
18 fee commensurate with the cost of printing and postage to
19 other interested parties requesting a copy of this list.

20 Section 143. Subsection (2) of section 400.428,
21 Florida Statutes, is amended to read:

22 400.428 Resident bill of rights.--

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

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

5 Section 144. Section 400.434, Florida Statutes, is
6 amended to read:

7 400.434 Right of entry and inspection.--Any duly
8 designated officer or employee of the department, the
9 Department of Children and Family Services, the agency, the
10 state or local fire marshal, or a member of the state or local
11 ~~district~~ long-term care ombudsman council shall have the right
12 to enter unannounced upon and into the premises of any
13 facility licensed pursuant to this part in order to determine
14 the state of compliance with the provisions of this part and
15 of rules or standards in force pursuant thereto. The right of
16 entry and inspection shall also extend to any premises which
17 the agency has reason to believe is being operated or
18 maintained as a facility without a license; but no such entry
19 or inspection of any premises may be made without the
20 permission of the owner or person in charge thereof, unless a
21 warrant is first obtained from the circuit court authorizing
22 such entry. The warrant requirement shall extend only to a
23 facility which the agency has reason to believe is being
24 operated or maintained as a facility without a license. Any
25 application for a license or renewal thereof made pursuant to
26 this part shall constitute permission for, and complete
27 acquiescence in, any entry or inspection of the premises for
28 which the license is sought, in order to facilitate
29 verification of the information submitted on or in connection
30 with the application; to discover, investigate, and determine
31 the existence of abuse or neglect; or to elicit, receive,

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1 respond to, and resolve complaints. Any current valid license
2 shall constitute unconditional permission for, and complete
3 acquiescence in, any entry or inspection of the premises by
4 authorized personnel. The agency shall retain the right of
5 entry and inspection of facilities that have had a license
6 revoked or suspended within the previous 24 months, to ensure
7 that the facility is not operating unlawfully. However, before
8 entering the facility, a statement of probable cause must be
9 filed with the director of the agency, who must approve or
10 disapprove the action within 48 hours. Probable cause shall
11 include, but is not limited to, evidence that the facility
12 holds itself out to the public as a provider of personal care
13 services or the receipt of a complaint by the long-term care
14 ombudsman council about the facility.

15 Section 145. Subsection (2) of section 400.435,
16 Florida Statutes, is amended to read:

17 400.435 Maintenance of records; reports.--

18 (2) Within 60 days after the date of the biennial
19 inspection visit or within 30 days after the date of any
20 interim visit, the agency shall forward the results of the
21 inspection to the local ~~district~~ ombudsman council in whose
22 planning and service area, as defined in part II, the facility
23 is located; to at least one public library or, in the absence
24 of a public library, the county seat in the county in which
25 the inspected assisted living facility is located; and, when
26 appropriate, to the district adult services and district
27 alcohol, drug abuse, and mental health program offices.

28 Section 146. Paragraph (i) of subsection (1) and
29 subsection (5) of section 400.4415, Florida Statutes, are
30 amended to read:

31 400.4415 Assisted living facilities advisory

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1 committee.--

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

8 (i) One consumer representative from a local district
9 long-term care ombudsman council.

10 (5) In determining the rating and evaluating the
11 overall quality of care and services, the agency shall
12 consider the needs and limitations of residents in the
13 facility and the results of interviews and surveys of a
14 representative sampling of residents, families of residents,
15 long-term care ombudsman council members in the planning and
16 service area district in which the facility is located,
17 guardians of residents, and staff of the facility.

18 Section 147. Subsection (7) of section 400.619,
19 Florida Statutes, is amended to read:

20 400.619 Licensure application and renewal.--

21 (7) Access to a licensed adult family-care home must
22 be provided at reasonable times for the appropriate officials
23 of the department, the Department of Health, the Department of
24 Children and Family Services, the agency, and the State Fire
25 Marshal, who are responsible for the development and
26 maintenance of fire, health, sanitary, and safety standards,
27 to inspect the facility to assure compliance with these
28 standards. In addition, access to a licensed adult
29 family-care home must be provided at reasonable times for the
30 local district long-term care ombudsman council.

31 Section 148. Subsection (2) of section 400.62, Florida

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1 Statutes, is amended to read:

2 400.628 Residents' bill of rights.--

3 (2) The provider shall ensure that residents and their
4 legal representatives are made aware of the rights,
5 obligations, and prohibitions set forth in this part.

6 Residents must also be given the names, addresses, and
7 telephone numbers of the local ~~district~~ ombudsman council and
8 the adult abuse registry where they may lodge complaints.

9 Section 149. There is hereby appropriated from the
10 General Revenue Fund to the long-term care ombudsman program
11 within the Department of Elderly Affairs the sum of \$40,000 in
12 nonrecurring funds to be used for training members of the
13 state and local long-term care ombudsman councils.

14 Section 150. There is hereby appropriated from the
15 General Revenue Fund to the long-term care ombudsman program
16 within the Department of Elderly Affairs the sum of \$40,000 in
17 nonrecurring funds to be used for materials to educate
18 residents of long-term care facilities and their families and
19 visitors, facility staff, and the general public about the
20 ombudsman program and to encourage such persons to seek
21 assistance from the long-term care ombudsman program.

22 Section 151. Section 39.407, Florida Statutes, is
23 amended to read:

24 39.407 Medical, psychiatric, and psychological
25 examination and treatment of child; physical or mental
26 examination of parent or person requesting custody of child.--

27 (1) When any child is removed from the home and
28 maintained in an out-of-home placement, the department is
29 authorized to have a medical screening performed on the child
30 without authorization from the court and without consent from
31 a parent or legal custodian. Such medical screening shall be

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1 performed by a licensed health care professional and shall be
2 to examine the child for injury, illness, and communicable
3 diseases and to determine the need for immunization. The
4 department shall by rule establish the invasiveness of the
5 medical procedures authorized to be performed under this
6 subsection. In no case does this subsection authorize the
7 department to consent to medical treatment for such children.

8 (2) When the department has performed the medical
9 screening authorized by subsection (1), or when it is
10 otherwise determined by a licensed health care professional
11 that a child who is in an out-of-home placement, but who has
12 not been committed to the department, is in need of medical
13 treatment, including the need for immunization, consent for
14 medical treatment shall be obtained in the following manner:

15 (a)1. Consent to medical treatment shall be obtained
16 from a parent or legal custodian of the child; or

17 2. A court order for such treatment shall be obtained.

18 (b) If a parent or legal custodian of the child is
19 unavailable and his or her whereabouts cannot be reasonably
20 ascertained, and it is after normal working hours so that a
21 court order cannot reasonably be obtained, an authorized agent
22 of the department shall have the authority to consent to
23 necessary medical treatment, including immunization, for the
24 child. The authority of the department to consent to medical
25 treatment in this circumstance shall be limited to the time
26 reasonably necessary to obtain court authorization.

27 (c) If a parent or legal custodian of the child is
28 available but refuses to consent to the necessary treatment,
29 including immunization, a court order shall be required unless
30 the situation meets the definition of an emergency in s.

31 743.064 or the treatment needed is related to suspected abuse,

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1 abandonment, or neglect of the child by a parent, caregiver,
2 or legal custodian. In such case, the department shall have
3 the authority to consent to necessary medical treatment. This
4 authority is limited to the time reasonably necessary to
5 obtain court authorization.

6

7 In no case shall the department consent to sterilization,
8 abortion, or termination of life support.

9 (3)(a) A judge may order a child in an out-of-home
10 placement to be examined by a licensed health care
11 professional.

12 (b) The judge may also order such child to be
13 evaluated by a psychiatrist or a psychologist, ~~by a district~~
14 ~~school board educational needs assessment team, or,~~ if a
15 developmental disability is suspected or alleged, by the
16 developmental disability diagnostic and evaluation team of the
17 department. If it is necessary to place a child in a
18 residential facility for such evaluation, ~~then~~ the criteria
19 and procedure established in s. 394.463(2) or chapter 393
20 shall be used, whichever is applicable.

21 (c) The judge may also order such child to be
22 evaluated by a district school board educational needs
23 assessment team. The educational needs assessment provided by
24 the district school board educational needs assessment team
25 shall include, but not be limited to, reports of intelligence
26 and achievement tests, screening for learning disabilities and
27 other handicaps, and screening for the need for alternative
28 education as defined in s. 230.23.

29 (4) A judge may order a child in an out-of-home
30 placement to be treated by a licensed health care professional
31 based on evidence that the child should receive treatment.

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1 The judge may also order such child to receive mental health
2 or developmental disabilities ~~retardation~~ services from a
3 psychiatrist, psychologist, or other appropriate service
4 provider. Except as provided in subsection (5), if it is
5 necessary to place the child in a residential facility for
6 such services, ~~then~~ the procedures and criteria established in
7 s. 394.467 or chapter 393 shall be used, whichever is
8 applicable. A child may be provided developmental disabilities
9 or mental health ~~or retardation~~ services in emergency
10 situations, pursuant to the procedures and criteria contained
11 in s. 394.463(1) or chapter 393, whichever is applicable.

12 (5) Children who are in the legal custody of the
13 department may be placed by the department in a residential
14 treatment center licensed under s. 394.875 or a hospital
15 licensed under chapter 395 for residential mental health
16 treatment only pursuant to this section or may be placed by
17 the court in accordance with an order of involuntary
18 examination or involuntary placement entered pursuant to s.
19 394.463 or s. 394.467. All children placed in a residential
20 treatment program under this subsection must have a guardian
21 ad litem appointed.

22 (a) As used in this subsection, the term:

23 1. "Residential treatment" means placement for
24 observation, diagnosis, or treatment of an emotional
25 disturbance in a residential treatment center licensed under
26 s. 394.875 or a hospital licensed under chapter 395.

27 2. "Least-restrictive alternative" means the treatment
28 and conditions of treatment that, separately and in
29 combination, are no more intrusive or restrictive of freedom
30 than reasonably necessary to achieve a substantial therapeutic
31 benefit or to protect the child or adolescent or others from

1 physical injury.
2 3. "Suitable for residential treatment" or
3 "suitability" means a determination concerning a child or
4 adolescent with an emotional disturbance as defined in s.
5 394.492(5) or a serious emotional disturbance as defined in s.
6 394.492(6) that each of the following criteria is met:
7 a. The child requires residential treatment.
8 b. The child is in need of a residential treatment
9 program and is expected to benefit from mental health
10 treatment.
11 c. An appropriate, less restrictive alternative to
12 residential treatment is unavailable.
13 (b) Whenever the department believes that a child in
14 its legal custody is emotionally disturbed and may need
15 residential treatment, an examination and suitability
16 assessment must be conducted by a qualified evaluator who is
17 appointed by the Agency for Health Care Administration. This
18 suitability assessment must be completed before the placement
19 of the child in a residential treatment center for emotionally
20 disturbed children and adolescents or a hospital. The
21 qualified evaluator must be a psychiatrist or a psychologist
22 licensed in Florida who has at least 3 years of experience in
23 the diagnosis and treatment of serious emotional disturbances
24 in children and adolescents and who has no actual or perceived
25 conflict of interest with any inpatient facility or
26 residential treatment center or program.
27 (c) Before a child is admitted under this subsection,
28 the child shall be assessed for suitability for residential
29 treatment by a qualified evaluator who has conducted a
30 personal examination and assessment of the child and has made
31 written findings that:

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1 1. The child appears to have an emotional disturbance
2 serious enough to require residential treatment and is
3 reasonably likely to benefit from the treatment.

4 2. The child has been provided with a clinically
5 appropriate explanation of the nature and purpose of the
6 treatment.

7 3. All available modalities of treatment less
8 restrictive than residential treatment have been considered,
9 and a less restrictive alternative that would offer comparable
10 benefits to the child is unavailable.

11
12 A copy of the written findings of the evaluation and
13 suitability assessment must be provided to the department and
14 to the guardian ad litem, who shall have the opportunity to
15 discuss the findings with the evaluator.

16 (d) Immediately upon placing a child in a residential
17 treatment program under this section, the department must
18 notify the guardian ad litem and the court having jurisdiction
19 over the child and must provide the guardian ad litem and the
20 court with a copy of the assessment by the qualified
21 evaluator.

22 (e)1. Within 10 days after the admission of a child to
23 a residential treatment program, the director of the
24 residential treatment program or the director's designee must
25 ensure that an individualized plan of treatment has been
26 prepared by the program and has been explained to the child,
27 to the department and to the guardian ad litem, and submitted
28 to the department. The child must be involved in the
29 preparation of the plan to the maximum feasible extent
30 consistent with his or her ability to understand and
31 participate, and the guardian ad litem and the child's foster

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1 parents must be involved to the maximum extent consistent with
2 the child's treatment needs. The plan must include a
3 preliminary plan for residential treatment and aftercare upon
4 completion of residential treatment. The plan must include
5 specific behavioral and emotional goals against which the
6 success of the residential treatment may be measured. A copy
7 of the plan must be provided to the child, to the guardian ad
8 litem, and to the department.

9 (f) Within 30 days after admission, the residential
10 treatment program must review the appropriateness and
11 suitability of the child's placement in the program. The
12 residential treatment program must determine whether the child
13 is receiving benefit towards the treatment goals and whether
14 the child could be treated in a less restrictive treatment
15 program. The residential treatment program shall prepare a
16 written report of its findings and submit the report to the
17 guardian ad litem and to the department. The department must
18 submit the report to the court. The report must include a
19 discharge plan for the child. The residential treatment
20 program must continue to evaluate the child's treatment
21 progress every 30 days thereafter and must include its
22 findings in a written report submitted to the department. The
23 department may not reimburse a facility until the facility has
24 submitted every written report that is due.

25 (g)1. The department must submit, at the beginning of
26 each month, to the court having jurisdiction over the child a
27 written report regarding the child's progress towards
28 achieving the goals specified in the individualized plan of
29 treatment.

30 2. The court must conduct a hearing to review the
31 status of the child's residential treatment plan no later than

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1 3 months after the child's admission to the residential
2 treatment program. An independent review of the child's
3 progress towards achieving the goals and objectives of the
4 treatment plan must be completed by a qualified evaluator and
5 submitted to the court before its 3-month review.

6 3. For any child in residential treatment at the time
7 a judicial review is held pursuant to s. 39.701, the child's
8 continued placement in residential treatment must be a subject
9 of the judicial review.

10 4. If at any time the court determines that the child
11 is not suitable for continued residential treatment, the court
12 shall order the department to place the child in the least
13 restrictive setting that is best suited to meet his or her
14 needs.

15 (h) After the initial 3-month review, the court must
16 conduct a review of the child's residential treatment plan
17 every 90 days.

18 (i) The department must adopt rules for implementing
19 timeframes for the completion of suitability assessments by
20 qualified evaluators and a procedure that includes timeframes
21 for completing the 3-month independent review by the qualified
22 evaluators of the child's progress towards achieving the goals
23 and objectives of the treatment plan which review must be
24 submitted to the court. The Agency for Health Care
25 Administration must adopt rules for the registration of
26 qualified evaluators, the procedure for selecting the
27 evaluators to conduct the reviews required under this section,
28 and a reasonable, cost-efficient fee schedule for qualified
29 evaluators.

30 (6)(5) When a child is in an out-of-home placement, a
31 licensed health care professional shall be immediately called

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1 if there are indications of physical injury or illness, or the
2 child shall be taken to the nearest available hospital for
3 emergency care.

4 ~~(7)(6)~~ Except as otherwise provided herein, nothing in
5 this section shall be deemed to eliminate the right of a
6 parent, legal custodian, or the child to consent to
7 examination or treatment for the child.

8 ~~(8)(7)~~ Except as otherwise provided herein, nothing in
9 this section shall be deemed to alter the provisions of s.
10 743.064.

11 ~~(9)(8)~~ A court shall not be precluded from ordering
12 services or treatment to be provided to the child by a duly
13 accredited practitioner who relies solely on spiritual means
14 for healing in accordance with the tenets and practices of a
15 church or religious organization, when required by the child's
16 health and when requested by the child.

17 ~~(10)(9)~~ Nothing in this section shall be construed to
18 authorize the permanent sterilization of the child unless such
19 sterilization is the result of or incidental to medically
20 necessary treatment to protect or preserve the life of the
21 child.

22 ~~(11)(10)~~ For the purpose of obtaining an evaluation or
23 examination, or receiving treatment as authorized pursuant to
24 this section, no child alleged to be or found to be dependent
25 shall be placed in a detention home or other program used
26 primarily for the care and custody of children alleged or
27 found to have committed delinquent acts.

28 ~~(12)(11)~~ The parents or legal custodian of a child in
29 an out-of-home placement remain financially responsible for
30 the cost of medical treatment provided to the child even if
31 either one or both of the parents or if the legal custodian

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1 did not consent to the medical treatment. After a hearing, the
2 court may order the parents or legal custodian, if found able
3 to do so, to reimburse the department or other provider of
4 medical services for treatment provided.

5 (13)~~(12)~~ Nothing in this section alters the authority
6 of the department to consent to medical treatment for a
7 dependent child when the child has been committed to the
8 department and the department has become the legal custodian
9 of the child.

10 (14)~~(13)~~ At any time after the filing of a shelter
11 petition or petition for dependency, when the mental or
12 physical condition, including the blood group, of a parent,
13 caregiver, legal custodian, or other person requesting custody
14 of a child is in controversy, the court may order the person
15 to submit to a physical or mental examination by a qualified
16 professional. The order may be made only upon good cause
17 shown and pursuant to notice and procedures as set forth by
18 the Florida Rules of Juvenile Procedure.

19 Section 152. Section 394.4785, Florida Statutes, is
20 amended to read:

21 394.4785 Children and adolescents ~~Minors~~; admission
22 and placement in mental facilities.--

23 (1) A child or adolescent as defined in s. 394.492 may
24 not be admitted to a state-owned or state-operated mental
25 health treatment facility. A child may be admitted pursuant to
26 s. 394.4625 or s. 394.467 to a crisis stabilization unit or a
27 residential treatment center licensed under chapter 394 or a
28 hospital licensed under chapter 395. The treatment center,
29 unit, or hospital must provide the least-restrictive available
30 treatment that is appropriate to the individual needs of the
31 child or adolescent and must adhere to the guiding principles,

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1 system of care, and service planning provisions contained in
2 part III of chapter 394. ~~(a) A minor who is admitted to a~~
3 ~~state mental hospital and placed in the general population or~~
4 ~~in a specialized unit for children or adolescents shall reside~~
5 ~~in living quarters separate from adult patients, and a minor~~
6 ~~who has not attained the age of 14 shall reside in living~~
7 ~~quarters separate from minors who are 14 years of age or~~
8 ~~older.~~

9 (2)(b) A person minor under the age of 14 who is
10 admitted to any hospital licensed pursuant to chapter 395 may
11 ~~shall~~ not be admitted to a bed in a room or ward with an adult
12 patient in a mental health unit or share common areas with an
13 adult patient in a mental health unit. However, a person
14 minor 14 years of age or older may be admitted to a bed in a
15 room or ward in the mental health unit with an adult if the
16 admitting physician documents in the case record that such
17 placement is medically indicated or for reasons of safety.
18 Such placement shall be reviewed by the attending physician or
19 a designee or on-call physician each day and documented in the
20 case record.

21 ~~(2) In all cases involving the admission of minors to~~
22 ~~a state mental hospital, the case record shall document that a~~
23 ~~good faith effort was made to place the minor in a less~~
24 ~~restrictive form of treatment. Admission to a state mental~~
25 ~~hospital shall be regarded as the last and only treatment~~
26 ~~option available. Notwithstanding the provision of paragraph~~
27 ~~(1)(a), an individual under the age of 18 may be housed in the~~
28 ~~general population if the hospital multidisciplinary treatment~~
29 ~~and rehabilitation team has reviewed the patient and has~~
30 ~~documented in the case record that such placement is necessary~~
31 ~~for reasons of safety. Such patients placed in the general~~

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1 ~~population must be reviewed by this team every 30 days and~~
2 ~~recertified as appropriate for placement in the general~~
3 ~~population.~~

4 Section 153. Present subsections (18), (19), and (20)
5 of section 394.67, Florida Statutes, are redesignated as
6 subsections (19), (20), and (21), respectively, and a new
7 subsection (18) is added to that section to read:

8 394.67 Definitions.--As used in this part, the term:
9 (18) "Residential treatment center for children and
10 adolescents" means a 24-hour residential program, including a
11 therapeutic group home, which provides mental health services
12 to emotionally disturbed children or adolescents as defined in
13 s. 394.492(5) or (6) and which is a private for-profit or
14 not-for-profit corporation under contract with the department
15 which offers a variety of treatment modalities in a more
16 restrictive setting.

17 Section 154. Section 394.875, Florida Statutes, is
18 amended to read:

19 394.875 Crisis stabilization units, ~~and~~ residential
20 treatment facilities, and residential treatment centers for
21 children and adolescents; authorized services; license
22 required; penalties.--

23 (1)(a) The purpose of a crisis stabilization unit is
24 to stabilize and redirect a client to the most appropriate and
25 least restrictive community setting available, consistent with
26 the client's needs. Crisis stabilization units may screen,
27 assess, and admit for stabilization persons who present
28 themselves to the unit and persons who are brought to the unit
29 under s. 394.463. Clients may be provided 24-hour
30 observation, medication prescribed by a physician or
31 psychiatrist, and other appropriate services. Crisis

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1 stabilization units shall provide services regardless of the
2 client's ability to pay and shall be limited in size to a
3 maximum of 30 beds.

4 (b) The purpose of a residential treatment facility is
5 to be a part of a comprehensive treatment program for mentally
6 ill individuals in a community-based residential setting.

7 (c) The purpose of a residential treatment center for
8 children and adolescents is to provide mental health
9 assessment and treatment services pursuant to ss. 394.491,
10 394.495, and 394.496 to children and adolescents who meet the
11 target population criteria specified in s. 394.493(1)(a), (b),
12 or (c).

13 (2) It is unlawful for any entity to hold itself out
14 as a crisis stabilization unit, or a residential treatment
15 facility, or a residential treatment center for children and
16 adolescents, or to act as a crisis stabilization unit, or a
17 residential treatment facility, or a residential treatment
18 center for children and adolescents, unless it is licensed by
19 the agency pursuant to this chapter.

20 (3) Any person who violates subsection (2) is guilty
21 of a misdemeanor of the first degree, punishable as provided
22 in s. 775.082 or s. 775.083.

23 (4) The agency may maintain an action in circuit court
24 to enjoin the unlawful operation of a crisis stabilization
25 unit, or a residential treatment facility, or a residential
26 treatment center for children and adolescents if the agency
27 first gives the violator 14 days' notice of its intention to
28 maintain such action and if the violator fails to apply for
29 licensure within such 14-day period.

30 (5) Subsection (2) does not apply to:

31 (a) Homes for special services licensed under chapter

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1 400; or

2 (b) Nursing homes licensed under chapter 400, ~~7 or~~

3 (c) Comprehensive transitional education programs

4 ~~Residential child caring facilities~~ licensed under s. 393.067

5 ~~s. 409.175.~~

6 (6) The department, in consultation with the agency,
7 may establish multiple license classifications for residential
8 treatment facilities.

9 (7) The agency may not issue a license to a crisis
10 stabilization unit unless the unit receives state mental
11 health funds and is affiliated with a designated public
12 receiving facility.

13 (8) The agency may issue a license for a crisis
14 stabilization unit or short-term residential treatment
15 facility, certifying the number of authorized beds for such
16 facility as indicated by existing need and available
17 appropriations. The agency may disapprove an application for
18 such a license if it determines that a facility should not be
19 licensed pursuant to the provisions of this chapter. Any
20 facility operating beds in excess of those authorized by the
21 agency shall, upon demand of the agency, reduce the number of
22 beds to the authorized number, forfeit its license, or provide
23 evidence of a license issued pursuant to chapter 395 for the
24 excess beds.

25 (9) A children's crisis stabilization unit which does
26 not exceed 20 licensed beds and which provides separate
27 facilities or a distinct part of a facility, separate
28 staffing, and treatment exclusively for minors may be located
29 on the same premises as a crisis stabilization unit serving
30 adults. The department, in consultation with the agency, shall
31 adopt rules governing facility construction, staffing and

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1 licensure requirements, and the operation of such units for
2 minors.

3 (10) The department, in consultation with the agency,
4 must adopt rules governing a residential treatment center for
5 children and adolescents which specify licensure standards
6 for: admission; length of stay; program and staffing;
7 discharge and discharge planning; treatment planning;
8 seclusion, restraints, and time-out; rights of patients under
9 s. 394.459; use of psychotropic medications; and standards for
10 the operation of such centers.

11 (11)(10) Notwithstanding the provisions of subsection
12 (8), crisis stabilization units may not exceed their licensed
13 capacity by more than 10 percent, nor may they exceed their
14 licensed capacity for more than 3 consecutive working days or
15 for more than 7 days in 1 month.

16 (12)(11) Notwithstanding the other provisions of this
17 section, any facility licensed under chapters 396 and 397 for
18 detoxification, residential level I care, and outpatient
19 treatment may elect to license concurrently all of the beds at
20 such facility both for that purpose and as a long-term
21 residential treatment facility pursuant to this section, if
22 all of the following conditions are met:

23 (a) The licensure application is received by the
24 department prior to January 1, 1993.

25 (b) On January 1, 1993, the facility was licensed
26 under chapters 396 and 397 as a facility for detoxification,
27 residential level I care, and outpatient treatment of
28 substance abuse.

29 (c) The facility restricted its practice to the
30 treatment of law enforcement personnel for a period of at
31 least 12 months beginning after January 1, 1992.

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1 (d) The number of beds to be licensed under chapter
2 394 is equal to or less than the number of beds licensed under
3 chapters 396 and 397 as of January 1, 1993.

4 (e) The licensee agrees in writing to a condition
5 placed upon the license that the facility will limit its
6 treatment exclusively to law enforcement personnel and their
7 immediate families who are seeking admission on a voluntary
8 basis and who are exhibiting symptoms of posttraumatic stress
9 disorder or other mental health problems, including drug or
10 alcohol abuse, which are directly related to law enforcement
11 work and which are amenable to verbal treatment therapies; the
12 licensee agrees to coordinate the provision of appropriate
13 postresidential care for discharged individuals; and the
14 licensee further agrees in writing that a failure to meet any
15 condition specified in this paragraph shall constitute grounds
16 for a revocation of the facility's license as a residential
17 treatment facility.

18 (f) The licensee agrees that the facility will meet
19 all licensure requirements for a residential treatment
20 facility, including minimum standards for compliance with
21 lifesafety requirements, except those licensure requirements
22 which are in express conflict with the conditions and other
23 provisions specified in this subsection.

24 (g) The licensee agrees that the conditions stated in
25 this subsection must be agreed to in writing by any person
26 acquiring the facility by any means.

27
28 Any facility licensed under this subsection is not required to
29 provide any services to any persons except those included in
30 the specified conditions of licensure, and is exempt from any
31 requirements related to the 60-day or greater average length

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1 of stay imposed on community-based residential treatment
2 facilities otherwise licensed under this chapter.

3 ~~(13)~~(12) Each applicant for licensure must comply with
4 the following requirements:

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

15 (b) The agency may require background screening of any
16 other individual who is an applicant if the agency has
17 probable cause to believe that he or she has been convicted of
18 a crime or has committed any other offense prohibited under
19 the level 2 standards for screening set forth in chapter 435.

20 (c) Proof of compliance with the level 2 background
21 screening requirements of chapter 435 which has been submitted
22 within the previous 5 years in compliance with any other
23 health care licensure requirements of this state is acceptable
24 in fulfillment of the requirements of paragraph (a).

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

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

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

24 (f) Each applicant must submit to the agency a
25 description and explanation of any conviction of an offense
26 prohibited under the level 2 standards of chapter 435 by a
27 member of the board of directors of the applicant, its
28 officers, or any individual owning 5 percent or more of the
29 applicant. This requirement does not apply to a director of a
30 not-for-profit corporation or organization if the director
31 serves solely in a voluntary capacity for the corporation or

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

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

18 (h) The agency may deny or revoke licensure if the
19 applicant:

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 (i) An application for license renewal must contain
28 the information required under paragraphs (e) and (f).

29 Section 155. Paragraph (j) of subsection (2) of
30 section 409.175, Florida Statutes, is amended to read:

31 409.175 Licensure of family foster homes, residential

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1 child-caring agencies, and child-placing agencies.--

2 (2) As used in this section, the term:

3 (j) "Residential child-caring agency" means any
4 person, corporation, or agency, public or private, other than
5 the child's parent or legal guardian, that provides staffed
6 24-hour care for children in facilities maintained for that
7 purpose, regardless of whether operated for profit or whether
8 a fee is charged. Such residential child-caring agencies
9 include, but are not limited to, maternity homes, runaway
10 shelters, group homes that are administered by an agency,
11 emergency shelters that are not in private residences, and
12 wilderness camps. Residential child-caring agencies do not
13 include hospitals, boarding schools, summer or recreation
14 camps, nursing homes, or facilities operated by a governmental
15 agency for the training, treatment, or secure care of
16 delinquent youth, or facilities licensed under s. 393.067 or
17 s. 394.875 or chapter 397.

18 Section 156. Nothing in this act excuses or relieves
19 the department of any other obligations to abused, neglected
20 or abandoned children in its custody.

21 Section 157. Except as otherwise provided herein, this
22 act shall take effect September 1, 2000.

23
24

25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 remove from the title of the bill: the entire title

28

29 and insert in lieu thereof:

30 A bill to be entitled

31 An act relating to long-term care; amending s.

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1 394.455, F.S.; redefining the term "mental
2 illness" for purposes of part I of ch. 394,
3 F.S.; amending s. 394.492, F.S.; redefining the
4 term "child or adolescent who is experiencing
5 an acute mental or emotional crisis" for
6 purposes of part III of ch. 394, F.S.; amending
7 s. 394.493, F.S.; revising the income standard
8 that is the basis for a sliding fee scale
9 adopted by the Department of Children and
10 Family Services for mental health services
11 provided to children and adolescents; amending
12 s. 394.65, F.S.; redesignating part IV of ch.
13 394, F.S., as "The Community Substance Abuse
14 and Mental Health Services Act"; amending s.
15 394.66, F.S.; providing legislative intent with
16 respect to substance abuse and mental health
17 services; amending s. 394.67, F.S.; revising
18 definitions; creating s. 394.674, F.S.;
19 providing clinical eligibility for substance
20 abuse and mental health services funded by the
21 Department of Children and Family Services;
22 providing fee collection requirements;
23 providing for availability of crisis services,
24 substance abuse services, and mental health
25 services; requiring that the Department of
26 Children and Family Services adopt rules;
27 requiring contracting service providers to
28 establish a sliding fee scale; providing for
29 copayments; amending s. 394.675, F.S.; revising
30 the types of services provided by the
31 department under the substance abuse and mental

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1 health service system; creating s. 394.676,
2 F.S.; authorizing the Department of Children
3 and Family Services to establish an indigent
4 psychiatric medication program; requiring the
5 department to adopt rules; providing for
6 certain continued treatment of persons
7 discharged from facilities; amending s. 394.74,
8 F.S.; conforming provisions relating to
9 contracts for substance abuse and mental health
10 programs to changes made by the act; amending
11 s. 394.75, F.S.; providing for a state master
12 plan for financing and delivery of
13 community-based substance abuse and mental
14 health services; providing plan requirements;
15 providing for annual update and submission to
16 the Legislature; requiring district health and
17 human services boards, rather than planning
18 councils, to prepare district substance abuse
19 and mental health plans; providing plan
20 requirements; revising the population groups to
21 be addressed in the plans to conform to changes
22 made by the act; amending ss. 394.4574, 394.76,
23 394.77, 394.78, 394.908, and 397.321, F.S.,
24 relating to department responsibilities for
25 mental health residents who reside in certain
26 assisted living facilities, the financing of
27 district programs and services, uniform
28 information and reporting systems, procedures
29 for audits and dispute resolution, distribution
30 of appropriations, and development of a
31 district plan for substance abuse services;

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1 conforming provisions to changes made by the
2 act; requiring the department to submit a
3 report to the Legislature which describes the
4 compliance of providers with performance
5 outcome standards; directing the Commission on
6 Mental Health and Substance Abuse to conduct a
7 study and make certain recommendations to the
8 Legislature; including certain older adults in
9 the target groups for substance abuse and
10 mental health services of the Department of
11 Children and Family Services; requiring the
12 department to track and report on providers of
13 such services to older adults; repealing s.
14 394.79, F.S., relating to a state alcohol, drug
15 abuse, and mental health plan; amending s.
16 400.6065, F.S.; providing employment screening
17 requirements for hospice personnel; providing
18 penalties; renumbering and amending s. 402.48,
19 F.S.; revising the definition of "health care
20 services pool"; providing background screening
21 requirements for applicants for registration,
22 managing employees, and financial officers of
23 such entities, and certain others; providing
24 penalties; requiring such entities to obtain a
25 certificate of registration from the Agency for
26 Health Care Administration; providing for
27 injunction; revising application procedures;
28 revising responsibilities regarding temporary
29 employees; increasing a penalty; transferring
30 powers, duties, functions, and appropriations
31 relating to health care services pools from the

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1 Department of Health to the Agency for Health
2 Care Administration; amending s. 415.102, F.S.;
3 revising definitions; amending s. 415.103,
4 F.S.; providing for a central abuse hotline to
5 receive reports of abuse, neglect, or
6 exploitation of vulnerable adults; amending s.
7 415.1034, F.S.; conforming provisions relating
8 to mandatory reporting; amending s. 415.1035,
9 F.S.; providing duty of the Department of
10 Children and Family Services to ensure that
11 facilities inform residents of their right to
12 report abuse, neglect, or exploitation;
13 amending s. 415.1036, F.S.; conforming
14 provisions relating to immunity of persons
15 making reports; amending ss. 415.104 and
16 415.1045, F.S.; revising provisions relating to
17 protective investigations; extending the time
18 limit for completion of the department's
19 investigation; providing for access to records
20 and documents; providing for working agreements
21 with law enforcement entities; amending s.
22 415.105, F.S.; authorizing the department to
23 petition the court to enjoin interference with
24 the provision of protective services; amending
25 s. 415.1051, F.S.; providing for enforcement of
26 court-ordered protective services when any
27 person interferes; amending s. 415.1052, F.S.,
28 relating to interference with investigations or
29 provision of services; amending s. 415.1055,
30 F.S.; deleting provisions relating to
31 notification to subjects, reporters, law

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1 enforcement, and state attorneys of a report
2 alleging abuse, neglect, or exploitation;
3 amending s. 415.106, F.S., relating to
4 cooperation by criminal justice and other
5 agencies; amending s. 415.107, F.S.; providing
6 certain access to confidential records and
7 reports; providing that information in the
8 central abuse hotline may not be used for
9 employment screening; amending s. 415.1102,
10 F.S.; revising provisions relating to adult
11 protection teams; amending s. 415.111, F.S.,
12 relating to criminal penalties; amending s.
13 415.1111, F.S.; revising provisions relating to
14 civil penalties; amending s. 415.1113, F.S.,
15 relating to administrative fines for false
16 reporting; amending s. 415.113, F.S., relating
17 to treatment by spiritual means; amending s.
18 435.03, F.S.; revising provisions relating to
19 level 1 and level 2 screening standards;
20 amending s. 435.05, F.S.; revising provisions
21 relating to screening requirements for covered
22 employees; amending s. 435.07, F.S., relating
23 to exemptions; amending s. 435.08, F.S.,
24 relating to payment for processing records
25 checks; amending s. 435.09, F.S., relating to
26 confidentiality of background check
27 information; amending ss. 20.43, 455.712, and
28 468.520, F.S.; deleting references to health
29 care services pools in provisions relating to
30 the Department of Health; correcting a cross
31 reference; amending ss. 39.202, 90.803,

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1 110.1127, 112.0455, 119.07, 232.50, 242.335,
2 320.0848, 381.0059, 381.60225, 383.305,
3 390.015, 393.067, 393.0674, 394.459, 394.875,
4 355.0055, 395.0199, 395.3025, 397.461, 400.022,
5 400.071, 400.215, 400.414, 400.4174, 400.426,
6 400.428, 400.462, 400.471, 400.495, 400.506,
7 400.509, 400.512, 400.5572, 400.628, 400.801,
8 400.805, 400.906, 400.931, 400.95, 400.953,
9 400.955, 400.962, 400.964, 402.3025, 402.3125,
10 402.313, 409.175, 409.912, 430.205, 447.208,
11 447.401, 464.018, 468.826, 468.828, 483.101,
12 483.30, 509.032, 744.309, 744.474, 744.7081,
13 775.21, 916.107, 943.0585, and 985.05, F.S.;
14 conforming to the act provisions relating to
15 protection of vulnerable adults and the central
16 abuse hotline; repealing s. 415.1065, F.S.,
17 relating to management of records of the
18 central abuse registry and tracking system;
19 repealing s. 415.1075, F.S., relating to
20 amendment of such records, and expunctions,
21 appeals, and exemptions with respect thereto;
22 repealing s. 415.1085, F.S., relating to
23 photographs and medical examinations pursuant
24 to investigations of abuse or neglect of an
25 elderly person or disabled adult; repealing s.
26 415.109, F.S., relating to abrogation of
27 privileged communication in cases involving
28 suspected adult abuse, neglect, or
29 exploitation; providing an appropriation;
30 amending s. 400.0065, F.S.; providing duty of
31 the State Long-Term Care Ombudsman to prepare

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1 and submit annual budget requests; providing
2 duty to enter into a cooperative agreement
3 relating to investigation of Medicaid fraud;
4 providing for consultation on rulemaking by the
5 Department of Elderly Affairs relating to
6 conflict of interest; deleting provisions
7 relating to governmental interference with
8 duties of the Office of State Long-Term Care
9 Ombudsman; creating s. 400.0066, F.S.;
10 providing relationship between the office and
11 departments of state government; providing
12 responsibility of the Department of Elderly
13 Affairs for administrative support and costs
14 for the program; amending ss. 400.0067 and
15 400.0069, F.S.; revising provisions relating to
16 appointment and terms of service of members of
17 the state and local ombudsman councils;
18 amending s. 400.0077, F.S.; providing authority
19 of the office to adopt rules relating to
20 disclosure of files maintained by the program;
21 deleting such rulemaking authority of the
22 department; amending ss. 20.41, 395.3025,
23 400.0063, 400.0071, 400.0073, 400.0075,
24 400.0079, 400.0081, 400.0083, 400.0087,
25 400.0089, 400.0091, 400.021, 400.022, 400.0255,
26 400.19, 400.191, 400.23, 400.419, 400.428,
27 400.434, 400.435, 400.4415, 400.619, and
28 400.628, F.S.; clarifying and conforming
29 references and cross references; providing
30 appropriations; amending s. 39.407, F.S.;
31 revising provisions governing the medical,

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1 psychiatric, and psychological examination and
2 treatment of children; prescribing procedures
3 for the admission of children or adolescents to
4 residential treatment centers for residential
5 mental health treatment; amending s. 394.4785,
6 F.S.; prohibiting children and adolescents from
7 admission to state mental health treatment
8 facilities; requiring residential treatment
9 centers for children and adolescents to adhere
10 to certain standards; amending s. 394.67, F.S.;
11 defining the term "residential treatment center
12 for children and adolescents"; amending s.
13 394.875, F.S.; requiring the licensure of
14 residential treatment centers for children and
15 adolescents; requiring the Department of
16 Children and Family Services to adopt rules;
17 amending s. 409.175, F.S.; specifying that
18 residential child-caring agencies do not
19 include residential treatment centers for
20 children and adolescents; providing effective
21 dates.

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