

1  
2 An act relating to mental health services for  
3 children and adolescents; amending s. 39.407,  
4 F.S.; revising provisions governing the  
5 medical, psychiatric, and psychological  
6 examination and treatment of children;  
7 prescribing procedures for the admission of  
8 children or adolescents to residential  
9 treatment centers for residential mental health  
10 treatment; amending s. 394.4785, F.S.;  
11 prohibiting children and adolescents from  
12 admission to state mental health treatment  
13 facilities; requiring residential treatment  
14 centers for children and adolescents to adhere  
15 to certain standards; amending s. 394.67, F.S.;  
16 defining the term "residential treatment center  
17 for children and adolescents"; amending s.  
18 394.875, F.S.; requiring the licensure of  
19 residential treatment centers for children and  
20 adolescents; requiring the Department of  
21 Children and Family Services to adopt rules;  
22 amending s. 409.175, F.S.; specifying that  
23 residential child-caring agencies do not  
24 include residential treatment centers for  
25 children and adolescents; providing an  
26 effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

29  
30 Section 1. Section 39.407, Florida Statutes, is  
31 amended to read:

1           39.407 Medical, psychiatric, and psychological  
2 examination and treatment of child; physical or mental  
3 examination of parent or person requesting custody of child.--

4           (1) When any child is removed from the home and  
5 maintained in an out-of-home placement, the department is  
6 authorized to have a medical screening performed on the child  
7 without authorization from the court and without consent from  
8 a parent or legal custodian. Such medical screening shall be  
9 performed by a licensed health care professional and shall be  
10 to examine the child for injury, illness, and communicable  
11 diseases and to determine the need for immunization. The  
12 department shall by rule establish the invasiveness of the  
13 medical procedures authorized to be performed under this  
14 subsection. In no case does this subsection authorize the  
15 department to consent to medical treatment for such children.

16           (2) When the department has performed the medical  
17 screening authorized by subsection (1), or when it is  
18 otherwise determined by a licensed health care professional  
19 that a child who is in an out-of-home placement, but who has  
20 not been committed to the department, is in need of medical  
21 treatment, including the need for immunization, consent for  
22 medical treatment shall be obtained in the following manner:

23           (a)1. Consent to medical treatment shall be obtained  
24 from a parent or legal custodian of the child; or

25           2. A court order for such treatment shall be obtained.

26           (b) If a parent or legal custodian of the child is  
27 unavailable and his or her whereabouts cannot be reasonably  
28 ascertained, and it is after normal working hours so that a  
29 court order cannot reasonably be obtained, an authorized agent  
30 of the department shall have the authority to consent to  
31 necessary medical treatment, including immunization, for the

1 child. The authority of the department to consent to medical  
2 treatment in this circumstance shall be limited to the time  
3 reasonably necessary to obtain court authorization.

4 (c) If a parent or legal custodian of the child is  
5 available but refuses to consent to the necessary treatment,  
6 including immunization, a court order shall be required unless  
7 the situation meets the definition of an emergency in s.  
8 743.064 or the treatment needed is related to suspected abuse,  
9 abandonment, or neglect of the child by a parent, caregiver,  
10 or legal custodian. In such case, the department shall have  
11 the authority to consent to necessary medical treatment. This  
12 authority is limited to the time reasonably necessary to  
13 obtain court authorization.

14

15 In no case shall the department consent to sterilization,  
16 abortion, or termination of life support.

17 (3)(a) A judge may order a child in an out-of-home  
18 placement to be examined by a licensed health care  
19 professional.

20 (b) The judge may also order such child to be  
21 evaluated by a psychiatrist or a psychologist, ~~by a district~~  
22 ~~school board educational needs assessment team~~, or, if a  
23 developmental disability is suspected or alleged, by the  
24 developmental disability diagnostic and evaluation team of the  
25 department. If it is necessary to place a child in a  
26 residential facility for such evaluation, ~~then~~ the criteria  
27 and procedure established in s. 394.463(2) or chapter 393  
28 shall be used, whichever is applicable.

29 (c) The judge may also order such child to be  
30 evaluated by a district school board educational needs  
31 assessment team. The educational needs assessment provided by

1 the district school board educational needs assessment team  
2 shall include, but not be limited to, reports of intelligence  
3 and achievement tests, screening for learning disabilities and  
4 other handicaps, and screening for the need for alternative  
5 education as defined in s. 230.23.

6 (4) A judge may order a child in an out-of-home  
7 placement to be treated by a licensed health care professional  
8 based on evidence that the child should receive treatment.  
9 The judge may also order such child to receive mental health  
10 or developmental disabilities ~~retardation~~ services from a  
11 psychiatrist, psychologist, or other appropriate service  
12 provider. Except as provided in subsection (5), if it is  
13 necessary to place the child in a residential facility for  
14 such services, ~~then~~ the procedures and criteria established in  
15 s. 394.467 or chapter 393 shall be used, whichever is  
16 applicable. A child may be provided developmental disabilities  
17 or mental health ~~or retardation~~ services in emergency  
18 situations, pursuant to the procedures and criteria contained  
19 in s. 394.463(1) or chapter 393, whichever is applicable.

20 (5) Children who are in the legal custody of the  
21 department may be placed by the department in a residential  
22 treatment center licensed under s. 394.875 or a hospital  
23 licensed under chapter 395 for residential mental health  
24 treatment only pursuant to this section or may be placed by  
25 the court in accordance with an order of involuntary  
26 examination or involuntary placement entered pursuant to s.  
27 394.463 or s. 394.467. All children placed in a residential  
28 treatment program under this subsection must have a guardian  
29 ad litem appointed.

30 (a) As used in this subsection, the term:  
31

1           1. "Residential treatment" means placement for  
2 observation, diagnosis, or treatment of an emotional  
3 disturbance in a residential treatment center licensed under  
4 s. 394.875 or a hospital licensed under chapter 395.

5           2. "Least-restrictive alternative" means the treatment  
6 and conditions of treatment that, separately and in  
7 combination, are no more intrusive or restrictive of freedom  
8 than reasonably necessary to achieve a substantial therapeutic  
9 benefit or to protect the child or adolescent or others from  
10 physical injury.

11           3. "Suitable for residential treatment" or  
12 "suitability" means a determination concerning a child or  
13 adolescent with an emotional disturbance as defined in s.  
14 394.492(5) or a serious emotional disturbance as defined in s.  
15 394.492(6) that each of the following criteria is met:

16           a. The child requires residential treatment.

17           b. The child is in need of a residential treatment  
18 program and is expected to benefit from mental health  
19 treatment.

20           c. An appropriate, less restrictive alternative to  
21 residential treatment is unavailable.

22           (b) Whenever the department believes that a child in  
23 its legal custody is emotionally disturbed and may need  
24 residential treatment, an examination and suitability  
25 assessment must be conducted by a qualified evaluator who is  
26 appointed by the Agency for Health Care Administration. This  
27 suitability assessment must be completed before the placement  
28 of the child in a residential treatment center for emotionally  
29 disturbed children and adolescents or a hospital. The  
30 qualified evaluator must be a psychiatrist or a psychologist  
31 licensed in Florida who has at least 3 years of experience in

1 the diagnosis and treatment of serious emotional disturbances  
2 in children and adolescents and who has no actual or perceived  
3 conflict of interest with any inpatient facility or  
4 residential treatment center or program.

5 (c) Before a child is admitted under this subsection,  
6 the child shall be assessed for suitability for residential  
7 treatment by a qualified evaluator who has conducted a  
8 personal examination and assessment of the child and has made  
9 written findings that:

10 1. The child appears to have an emotional disturbance  
11 serious enough to require residential treatment and is  
12 reasonably likely to benefit from the treatment.

13 2. The child has been provided with a clinically  
14 appropriate explanation of the nature and purpose of the  
15 treatment.

16 3. All available modalities of treatment less  
17 restrictive than residential treatment have been considered,  
18 and a less restrictive alternative that would offer comparable  
19 benefits to the child is unavailable.

20  
21 A copy of the written findings of the evaluation and  
22 suitability assessment must be provided to the department and  
23 to the guardian ad litem, who shall have the opportunity to  
24 discuss the findings with the evaluator.

25 (d) Immediately upon placing a child in a residential  
26 treatment program under this section, the department must  
27 notify the guardian ad litem and the court having jurisdiction  
28 over the child and must provide the guardian ad litem and the  
29 court with a copy of the assessment by the qualified  
30 evaluator.

31

1           (e)1. Within 10 days after the admission of a child to  
2 a residential treatment program, the director of the  
3 residential treatment program or the director's designee must  
4 ensure that an individualized plan of treatment has been  
5 prepared by the program and has been explained to the child,  
6 to the department and to the guardian ad litem, and submitted  
7 to the department. The child must be involved in the  
8 preparation of the plan to the maximum feasible extent  
9 consistent with his or her ability to understand and  
10 participate, and the guardian ad litem and the child's foster  
11 parents must be involved to the maximum extent consistent with  
12 the child's treatment needs. The plan must include a  
13 preliminary plan for residential treatment and aftercare upon  
14 completion of residential treatment. The plan must include  
15 specific behavioral and emotional goals against which the  
16 success of the residential treatment may be measured. A copy  
17 of the plan must be provided to the child, to the guardian ad  
18 litem, and to the department.

19           (f) Within 30 days after admission, the residential  
20 treatment program must review the appropriateness and  
21 suitability of the child's placement in the program. The  
22 residential treatment program must determine whether the child  
23 is receiving benefit towards the treatment goals and whether  
24 the child could be treated in a less restrictive treatment  
25 program. The residential treatment program shall prepare a  
26 written report of its findings and submit the report to the  
27 guardian ad litem and to the department. The department must  
28 submit the report to the court. The report must include a  
29 discharge plan for the child. The residential treatment  
30 program must continue to evaluate the child's treatment  
31 progress every 30 days thereafter and must include its

1 findings in a written report submitted to the department. The  
2 department may not reimburse a facility until the facility has  
3 submitted every written report that is due.

4 (g)1. The department must submit, at the beginning of  
5 each month, to the court having jurisdiction over the child a  
6 written report regarding the child's progress towards  
7 achieving the goals specified in the individualized plan of  
8 treatment.

9 2. The court must conduct a hearing to review the  
10 status of the child's residential treatment plan no later than  
11 3 months after the child's admission to the residential  
12 treatment program. An independent review of the child's  
13 progress towards achieving the goals and objectives of the  
14 treatment plan must be completed by a qualified evaluator and  
15 submitted to the court before its 3-month review.

16 3. For any child in residential treatment at the time  
17 a judicial review is held pursuant to s. 39.701, the child's  
18 continued placement in residential treatment must be a subject  
19 of the judicial review.

20 4. If at any time the court determines that the child  
21 is not suitable for continued residential treatment, the court  
22 shall order the department to place the child in the least  
23 restrictive setting that is best suited to meet his or her  
24 needs.

25 (h) After the initial 3-month review, the court must  
26 conduct a review of the child's residential treatment plan  
27 every 90 days.

28 (i) The department must adopt rules for implementing  
29 timeframes for the completion of suitability assessments by  
30 qualified evaluators and a procedure that includes timeframes  
31 for completing the 3-month independent review by the qualified



1 evaluators of the child's progress towards achieving the goals  
2 and objectives of the treatment plan which review must be  
3 submitted to the court. The Agency for Health Care  
4 Administration must adopt rules for the registration of  
5 qualified evaluators, the procedure for selecting the  
6 evaluators to conduct the reviews required under this section,  
7 and a reasonable, cost-efficient fee schedule for qualified  
8 evaluators.

9       ~~(6)(5)~~ When a child is in an out-of-home placement, a  
10 licensed health care professional shall be immediately called  
11 if there are indications of physical injury or illness, or the  
12 child shall be taken to the nearest available hospital for  
13 emergency care.

14       ~~(7)(6)~~ Except as otherwise provided herein, nothing in  
15 this section shall be deemed to eliminate the right of a  
16 parent, legal custodian, or the child to consent to  
17 examination or treatment for the child.

18       ~~(8)(7)~~ Except as otherwise provided herein, nothing in  
19 this section shall be deemed to alter the provisions of s.  
20 743.064.

21       ~~(9)(8)~~ A court shall not be precluded from ordering  
22 services or treatment to be provided to the child by a duly  
23 accredited practitioner who relies solely on spiritual means  
24 for healing in accordance with the tenets and practices of a  
25 church or religious organization, when required by the child's  
26 health and when requested by the child.

27       ~~(10)(9)~~ Nothing in this section shall be construed to  
28 authorize the permanent sterilization of the child unless such  
29 sterilization is the result of or incidental to medically  
30 necessary treatment to protect or preserve the life of the  
31 child.

1        (11)~~(10)~~ For the purpose of obtaining an evaluation or  
2 examination, or receiving treatment as authorized pursuant to  
3 this section, no child alleged to be or found to be dependent  
4 shall be placed in a detention home or other program used  
5 primarily for the care and custody of children alleged or  
6 found to have committed delinquent acts.

7        (12)~~(11)~~ The parents or legal custodian of a child in  
8 an out-of-home placement remain financially responsible for  
9 the cost of medical treatment provided to the child even if  
10 either one or both of the parents or if the legal custodian  
11 did not consent to the medical treatment. After a hearing, the  
12 court may order the parents or legal custodian, if found able  
13 to do so, to reimburse the department or other provider of  
14 medical services for treatment provided.

15        (13)~~(12)~~ Nothing in this section alters the authority  
16 of the department to consent to medical treatment for a  
17 dependent child when the child has been committed to the  
18 department and the department has become the legal custodian  
19 of the child.

20        (14)~~(13)~~ At any time after the filing of a shelter  
21 petition or petition for dependency, when the mental or  
22 physical condition, including the blood group, of a parent,  
23 caregiver, legal custodian, or other person requesting custody  
24 of a child is in controversy, the court may order the person  
25 to submit to a physical or mental examination by a qualified  
26 professional. The order may be made only upon good cause  
27 shown and pursuant to notice and procedures as set forth by  
28 the Florida Rules of Juvenile Procedure.

29        Section 2. Section 394.4785, Florida Statutes, is  
30 amended to read:

31

1           394.4785 Children and adolescents ~~Minors~~; admission  
2 and placement in mental facilities.--

3           (1) A child or adolescent as defined in s. 394.492 may  
4 not be admitted to a state-owned or state-operated mental  
5 health treatment facility. A child may be admitted pursuant to  
6 s. 394.4625 or s. 394.467 to a crisis stabilization unit or a  
7 residential treatment center licensed under chapter 394 or a  
8 hospital licensed under chapter 395. The treatment center,  
9 unit, or hospital must provide the least-restrictive available  
10 treatment that is appropriate to the individual needs of the  
11 child or adolescent and must adhere to the guiding principles,  
12 system of care, and service planning provisions contained in  
13 part III of chapter 394. ~~(a) A minor who is admitted to a~~  
14 ~~state mental hospital and placed in the general population or~~  
15 ~~in a specialized unit for children or adolescents shall reside~~  
16 ~~in living quarters separate from adult patients, and a minor~~  
17 ~~who has not attained the age of 14 shall reside in living~~  
18 ~~quarters separate from minors who are 14 years of age or~~  
19 ~~older.~~

20           ~~(2)(b)~~ A person ~~minor~~ under the age of 14 who is  
21 admitted to any hospital licensed pursuant to chapter 395 may  
22 ~~shall~~ not be admitted to a bed in a room or ward with an adult  
23 patient in a mental health unit or share common areas with an  
24 adult patient in a mental health unit. However, a person  
25 ~~minor~~ 14 years of age or older may be admitted to a bed in a  
26 room or ward in the mental health unit with an adult if the  
27 admitting physician documents in the case record that such  
28 placement is medically indicated or for reasons of safety.  
29 Such placement shall be reviewed by the attending physician or  
30 a designee or on-call physician each day and documented in the  
31 case record.

1           ~~(2) In all cases involving the admission of minors to~~  
2 ~~a state mental hospital, the case record shall document that a~~  
3 ~~good faith effort was made to place the minor in a less~~  
4 ~~restrictive form of treatment. Admission to a state mental~~  
5 ~~hospital shall be regarded as the last and only treatment~~  
6 ~~option available. Notwithstanding the provision of paragraph~~  
7 ~~(1)(a), an individual under the age of 18 may be housed in the~~  
8 ~~general population if the hospital multidisciplinary treatment~~  
9 ~~and rehabilitation team has reviewed the patient and has~~  
10 ~~documented in the case record that such placement is necessary~~  
11 ~~for reasons of safety. Such patients placed in the general~~  
12 ~~population must be reviewed by this team every 30 days and~~  
13 ~~recertified as appropriate for placement in the general~~  
14 ~~population.~~

15           Section 3. Present subsections (18), (19), and (20) of  
16 section 394.67, Florida Statutes, are redesignated as  
17 subsections (19), (20), and (21), respectively, and a new  
18 subsection (18) is added to that section to read:

19           394.67 Definitions.--As used in this part, the term:

20           (18) "Residential treatment center for children and  
21 adolescents" means a 24-hour residential program, including a  
22 therapeutic group home, which provides mental health services  
23 to emotionally disturbed children or adolescents as defined in  
24 s. 394.492(5) or (6) and which is a private for-profit or  
25 not-for-profit corporation under contract with the department  
26 which offers a variety of treatment modalities in a more  
27 restrictive setting.

28           Section 4. Section 394.875, Florida Statutes, is  
29 amended to read:

30           394.875 Crisis stabilization units, ~~and~~ residential  
31 treatment facilities, and residential treatment centers for

1 children and adolescents; authorized services; license  
2 required; penalties.--

3 (1)(a) The purpose of a crisis stabilization unit is  
4 to stabilize and redirect a client to the most appropriate and  
5 least restrictive community setting available, consistent with  
6 the client's needs. Crisis stabilization units may screen,  
7 assess, and admit for stabilization persons who present  
8 themselves to the unit and persons who are brought to the unit  
9 under s. 394.463. Clients may be provided 24-hour  
10 observation, medication prescribed by a physician or  
11 psychiatrist, and other appropriate services. Crisis  
12 stabilization units shall provide services regardless of the  
13 client's ability to pay and shall be limited in size to a  
14 maximum of 30 beds.

15 (b) The purpose of a residential treatment facility is  
16 to be a part of a comprehensive treatment program for mentally  
17 ill individuals in a community-based residential setting.

18 (c) The purpose of a residential treatment center for  
19 children and adolescents is to provide mental health  
20 assessment and treatment services pursuant to ss. 394.491,  
21 394.495, and 394.496 to children and adolescents who meet the  
22 target population criteria specified in s. 394.493(1)(a), (b),  
23 or (c).

24 (2) It is unlawful for any entity to hold itself out  
25 as a crisis stabilization unit, or a residential treatment  
26 facility, or a residential treatment center for children and  
27 adolescents, or to act as a crisis stabilization unit, or a  
28 residential treatment facility, or a residential treatment  
29 center for children and adolescents, unless it is licensed by  
30 the agency pursuant to this chapter.

31

1 (3) Any person who violates subsection (2) is guilty  
2 of a misdemeanor of the first degree, punishable as provided  
3 in s. 775.082 or s. 775.083.

4 (4) The agency may maintain an action in circuit court  
5 to enjoin the unlawful operation of a crisis stabilization  
6 unit, or a residential treatment facility, or a residential  
7 treatment center for children and adolescents if the agency  
8 first gives the violator 14 days' notice of its intention to  
9 maintain such action and if the violator fails to apply for  
10 licensure within such 14-day period.

11 (5) Subsection (2) does not apply to:

12 (a) Homes for special services licensed under chapter  
13 400; or

14 (b) Nursing homes licensed under chapter 400, ~~or~~

15 (c) Comprehensive transitional education programs  
16 ~~Residential child caring facilities~~ licensed under s. 393.067  
17 ~~s. 409.175.~~

18 (6) The department, in consultation with the agency,  
19 may establish multiple license classifications for residential  
20 treatment facilities.

21 (7) The agency may not issue a license to a crisis  
22 stabilization unit unless the unit receives state mental  
23 health funds and is affiliated with a designated public  
24 receiving facility.

25 (8) The agency may issue a license for a crisis  
26 stabilization unit or short-term residential treatment  
27 facility, certifying the number of authorized beds for such  
28 facility as indicated by existing need and available  
29 appropriations. The agency may disapprove an application for  
30 such a license if it determines that a facility should not be  
31 licensed pursuant to the provisions of this chapter. Any

1 facility operating beds in excess of those authorized by the  
2 agency shall, upon demand of the agency, reduce the number of  
3 beds to the authorized number, forfeit its license, or provide  
4 evidence of a license issued pursuant to chapter 395 for the  
5 excess beds.

6 (9) A children's crisis stabilization unit which does  
7 not exceed 20 licensed beds and which provides separate  
8 facilities or a distinct part of a facility, separate  
9 staffing, and treatment exclusively for minors may be located  
10 on the same premises as a crisis stabilization unit serving  
11 adults. The department, in consultation with the agency, shall  
12 adopt rules governing facility construction, staffing and  
13 licensure requirements, and the operation of such units for  
14 minors.

15 (10) The department, in consultation with the agency,  
16 must adopt rules governing a residential treatment center for  
17 children and adolescents which specify licensure standards  
18 for: admission; length of stay; program and staffing;  
19 discharge and discharge planning; treatment planning;  
20 seclusion, restraints, and time-out; rights of patients under  
21 s. 394.459; use of psychotropic medications; and standards for  
22 the operation of such centers.

23 ~~(11)~~(10) Notwithstanding the provisions of subsection  
24 (8), crisis stabilization units may not exceed their licensed  
25 capacity by more than 10 percent, nor may they exceed their  
26 licensed capacity for more than 3 consecutive working days or  
27 for more than 7 days in 1 month.

28 ~~(12)~~(11) Notwithstanding the other provisions of this  
29 section, any facility licensed under chapters 396 and 397 for  
30 detoxification, residential level I care, and outpatient  
31 treatment may elect to license concurrently all of the beds at

1 such facility both for that purpose and as a long-term  
2 residential treatment facility pursuant to this section, if  
3 all of the following conditions are met:

4 (a) The licensure application is received by the  
5 department prior to January 1, 1993.

6 (b) On January 1, 1993, the facility was licensed  
7 under chapters 396 and 397 as a facility for detoxification,  
8 residential level I care, and outpatient treatment of  
9 substance abuse.

10 (c) The facility restricted its practice to the  
11 treatment of law enforcement personnel for a period of at  
12 least 12 months beginning after January 1, 1992.

13 (d) The number of beds to be licensed under chapter  
14 394 is equal to or less than the number of beds licensed under  
15 chapters 396 and 397 as of January 1, 1993.

16 (e) The licensee agrees in writing to a condition  
17 placed upon the license that the facility will limit its  
18 treatment exclusively to law enforcement personnel and their  
19 immediate families who are seeking admission on a voluntary  
20 basis and who are exhibiting symptoms of posttraumatic stress  
21 disorder or other mental health problems, including drug or  
22 alcohol abuse, which are directly related to law enforcement  
23 work and which are amenable to verbal treatment therapies; the  
24 licensee agrees to coordinate the provision of appropriate  
25 postresidential care for discharged individuals; and the  
26 licensee further agrees in writing that a failure to meet any  
27 condition specified in this paragraph shall constitute grounds  
28 for a revocation of the facility's license as a residential  
29 treatment facility.

30 (f) The licensee agrees that the facility will meet  
31 all licensure requirements for a residential treatment



1 facility, including minimum standards for compliance with  
2 lifesafety requirements, except those licensure requirements  
3 which are in express conflict with the conditions and other  
4 provisions specified in this subsection.

5 (g) The licensee agrees that the conditions stated in  
6 this subsection must be agreed to in writing by any person  
7 acquiring the facility by any means.

8  
9 Any facility licensed under this subsection is not required to  
10 provide any services to any persons except those included in  
11 the specified conditions of licensure, and is exempt from any  
12 requirements related to the 60-day or greater average length  
13 of stay imposed on community-based residential treatment  
14 facilities otherwise licensed under this chapter.

15 (13)~~(12)~~ Each applicant for licensure must comply with  
16 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 and financial  
21 officer, or other similarly titled individual who is  
22 responsible for the financial operation of the facility,  
23 including billings for client care and services. The applicant  
24 must comply with the procedures for level 2 background  
25 screening as set forth in chapter 435, as well as the  
26 requirements of s. 435.03(3).

27 (b) The agency may require background screening of any  
28 other individual who is an applicant if the agency has  
29 probable cause to believe that he or she has been convicted of  
30 a crime or has committed any other offense prohibited under  
31 the level 2 standards for screening set forth in chapter 435.

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

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

29 (e) Each applicant must submit to the agency, with its  
30 application, a description and explanation of any exclusions,  
31 permanent suspensions, or terminations of the applicant from

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

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

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

30 (h) The agency may deny or revoke licensure if the  
31 applicant:

1           1. Has falsely represented a material fact in the  
2 application required by paragraph (e) or paragraph (f), or has  
3 omitted any material fact from the application required by  
4 paragraph (e) or paragraph (f); or

5           2. Has had prior action taken against the applicant  
6 under the Medicaid or Medicare program as set forth in  
7 paragraph (e).

8           (i) An application for license renewal must contain  
9 the information required under paragraphs (e) and (f).

10           Section 5. Paragraph (j) of subsection (2) of section  
11 409.175, Florida Statutes, is amended to read:

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

14           (2) As used in this section, the term:

15           (j) "Residential child-caring agency" means any  
16 person, corporation, or agency, public or private, other than  
17 the child's parent or legal guardian, that provides staffed  
18 24-hour care for children in facilities maintained for that  
19 purpose, regardless of whether operated for profit or whether  
20 a fee is charged. Such residential child-caring agencies  
21 include, but are not limited to, maternity homes, runaway  
22 shelters, group homes that are administered by an agency,  
23 emergency shelters that are not in private residences, and  
24 wilderness camps. Residential child-caring agencies do not  
25 include hospitals, boarding schools, summer or recreation  
26 camps, nursing homes, or facilities operated by a governmental  
27 agency for the training, treatment, or secure care of  
28 delinquent youth, or facilities licensed under s. 393.067 or  
29 s. 394.875 or chapter 397.

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Section 6. Nothing in this act excuses or relieves the department of any other obligations to abused, neglected or abandoned children in its custody.

Section 7. This act shall take effect October 1, 2000.