

1 facilities; deleting authorization to adopt
2 rules ensuring compliance with federal rules;
3 amending s. 393.0661, F.S.; deleting an
4 obsolete provision; modifying provisions
5 relating to an assessment instrument; adding
6 requirements for adoption of rate
7 methodologies; amending s. 393.068, F.S.;
8 making service provision subject to available
9 resources; updating list of services to be
10 provided; deleting provision referring to
11 5-year plans; amending s. 393.0695, F.S.;
12 requiring in-home subsidy amounts to be
13 reassessed annually; amending s. 393.11, F.S.;
14 deleting provisions referring to districts,
15 department programs, and the nonexistent
16 Department of Labor and Employment Security;
17 amending s. 393.13, F.S.; deleting obsolete
18 provisions; adding legislative intent relating
19 to reducing the use of sheltered workshops;
20 amending s. 393.17, F.S.; authorizing the
21 agency to contract for the certification of
22 behavioral analysts; deleting provisions
23 relating to a certification program and
24 provisions allowing fees; amending s. 393.22,
25 F.S.; deleting prohibition preventing transfer
26 of funds and ensuring financial commitment for
27 specified developmental conditions; amending s.
28 393.502, F.S.; removing reference to districts;
29 deleting a provision permitting appointment of
30 family care council members if the Governor
31 does not act; amending ss. 408.301, 408.302,

1 F.S.; amending legislative intent to add the
2 Agency for Persons with Disabilities and the
3 Department of Elderly Affairs as agencies that
4 the Agency for Health Care Administration must
5 enter into interagency agreement with regarding
6 persons with special needs; amending s.
7 409.906, F.S.; clarifying powers of the Agency
8 for Health Care Administration with respect to
9 limiting coverage for certain services;
10 repealing s. 393.14, F.S.; requiring a
11 multiyear plan; repealing s. 393.165, F.S.,
12 relating to ICF/DDs; repealing s. 393.166,
13 F.S., relating to homes for special services;
14 repealing s. 393.505, F.S., relating to
15 comprehensive day treatment service projects;
16 transferring programs and institutions relating
17 to developmental disabilities from the
18 Department of Children and Family Services to
19 the Agency for Persons with Disabilities;
20 providing duties of those agencies as well as
21 the Department of Management Services;
22 providing for substitution of parties in
23 administrative and judicial proceedings;
24 providing duties of the Office of Program
25 Policy Analysis and Government Accountability;
26 providing for a report; amending ss. 92.53,
27 397.405, 400.464, 409.906, 419.001, 914.16,
28 914.17, 918.16, F.S.; conforming
29 cross-references; amending s. 393.067, F.S.;
30 conforming to changes made by the act;
31 providing that a license issued to a

1 residential facility or a comprehensive
2 transitional education program does not create
3 a property right in the recipient; amending ss.
4 393.0641, 393.065, 393.0651, 393.0673,
5 393.0675, 393.0678, 393.071, 393.075, 393.115,
6 393.12, 393.125, 393.15, 393.501, 393.503,
7 393.506, F.S.; creating ss. 393.135, 394.4593,
8 and 916.1075, F.S.; defining the terms
9 "employee," "sexual activity," and "sexual
10 misconduct"; providing that it is a
11 second-degree felony for an employee to engage
12 in sexual misconduct with certain
13 developmentally disabled clients, certain
14 mental health patients, or certain forensic
15 clients; providing certain exceptions;
16 requiring certain employees to report sexual
17 misconduct to the central abuse hotline of the
18 department and to law enforcement; providing
19 for notification to the inspector general of
20 the department or agency; providing that it is
21 a first-degree misdemeanor to knowingly and
22 willfully fail to make a report as required, or
23 to prevent another from doing so, or to submit
24 inaccurate or untruthful information; providing
25 that it is a third-degree felony to coerce or
26 threaten another person to alter testimony or a
27 report with respect to an incident of sexual
28 misconduct; providing criminal penalties;
29 providing that the penalties are in addition to
30 other actions provided in law; amending s.
31 435.03, F.S.; expanding level 1 screening

1 standards to include criminal offenses related
2 to sexual misconduct with certain
3 developmentally disabled clients, mental health
4 patients, or forensic clients and the reporting
5 of such sexual misconduct; amending s. 435.04,
6 F.S.; expanding level 2 screening standards to
7 include the offenses related to sexual
8 misconduct with certain developmentally
9 disabled clients, mental health patients, or
10 forensic clients and the reporting of such
11 sexual misconduct; amending s. 943.0585, F.S.,
12 relating to court-ordered expunction of
13 criminal history records, for the purpose of
14 incorporating the amendment to s. 943.059,
15 F.S., in a reference thereto; providing that
16 certain criminal history records relating to
17 sexual misconduct with developmentally disabled
18 clients, mental health patients, or forensic
19 clients, or the reporting of such sexual
20 misconduct, shall not be expunged; providing
21 that the application for eligibility for
22 expunction certify that the criminal history
23 record does not relate to an offense involving
24 sexual misconduct with certain developmentally
25 disabled clients, mental health patients, or
26 forensic clients, or the reporting of such
27 sexual misconduct; conforming cross-references;
28 amending s. 943.059, F.S., relating to
29 court-ordered sealing of criminal history
30 records, for the purpose of incorporating the
31 amendment to s. 943.0585, F.S., in a reference

1 thereto; providing that certain criminal
2 history records relating to sexual misconduct
3 with developmentally disabled clients, mental
4 health patients, or forensic clients, or the
5 reporting of such sexual misconduct, shall not
6 be sealed; providing that the application for
7 eligibility for sealing certify that the
8 criminal history record does not relate to an
9 offense involving sexual misconduct with
10 certain developmentally disabled clients,
11 mental health patients, or forensic clients, or
12 the reporting of such sexual misconduct;
13 conforming cross-references; authorizing the
14 Department of Children and Family Services'
15 Economic Self-Sufficiency Services Program
16 Office to provide the eligibility determination
17 function through department staff or through
18 contract; providing restrictions; conforming to
19 the changes made by the act; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Paragraph (b) of subsection (4) of section
25 20.19, Florida Statutes, is amended to read:

26 20.19 Department of Children and Family
27 Services.--There is created a Department of Children and
28 Family Services.

29 (4) PROGRAM OFFICES AND SUPPORT OFFICES.--

30 (b) The following program offices are established:

31 1. Adult Services.

- 1 2. Child Care Services.
- 2 3. Domestic Violence ~~Developmental Disabilities~~.
- 3 4. Economic Self-Sufficiency Services.
- 4 5. Family Safety.
- 5 6. Mental Health.
- 6 7. Refugee Services.
- 7 8. Substance Abuse.

8 Section 2. Section 20.197, Florida Statutes, is
9 created to read:

10 20.197 Agency for Persons with Disabilities.--There is
11 created the Agency for Persons with Disabilities, housed
12 within the Department of Children and Family Services for
13 administrative purposes only. The agency shall be a separate
14 budget entity not subject to control, supervision, or
15 direction by the Department of Children and Family Services in
16 any manner, including, but not limited to, personnel,
17 purchasing, transactions involving real or personal property,
18 and budgetary matters.

19 (1) The director of the agency shall be the agency
20 head for all purposes and shall be appointed by the Governor
21 and serve at the pleasure of the Governor. The director shall
22 administer the affairs of the agency and establish
23 administrative units as needed and may, within available
24 resources, employ assistants, professional staff, and other
25 employees as necessary to discharge the powers and duties of
26 the agency.

27 (2) The agency shall be responsible for the provision
28 of all services provided to persons with developmental
29 disabilities pursuant to chapter 393, including the operation
30 of all state institutional programs and the programmatic
31

1 management of Medicaid waivers established to provide services
2 to persons with developmental disabilities.

3 (3) The agency shall engage in such other
4 administrative activities as are deemed necessary to
5 effectively and efficiently address the needs of the agency's
6 clients.

7 (4) The agency shall enter into an interagency
8 agreement that delineates the responsibilities of the Agency
9 for Health Care Administration for the following:

10 (a) The terms, and execution of contracts with
11 Medicaid providers for the provision of services provided
12 through Medicaid, including federally approved waiver
13 programs.

14 (b) Billing, payment, and reconciliation of claims for
15 Medicaid services reimbursed by the agency.

16 (c) The implementation of utilization management
17 measures, including the prior authorization of services plans
18 and the streamlining and consolidation of waivers services, to
19 ensure the cost-effective provision of needed Medicaid
20 services and to maximize the number of persons with access to
21 such services.

22 (d) A system of approving each client's plan of care
23 to ensure that the services on the plan of care are those that
24 without which the client would require the services of an
25 intermediate care facility for the developmentally disabled.

26 Section 3. Section 393.063, Florida Statutes, is
27 amended to read:

28 393.063 Definitions.--For the purposes of this
29 chapter:

30 ~~(1) "Active treatment" means the provision of services~~
31 ~~by an interdisciplinary team necessary to maximize a client's~~

1 ~~individual independence or prevent regression or loss of~~
2 ~~functional status.~~

3 (1)(2) "Agency" means the Agency for Persons with
4 Disabilities ~~Health Care Administration.~~

5 (2)(3) "Autism" means a pervasive, neurologically
6 based developmental disability of extended duration which
7 causes severe learning, communication, and behavior disorders
8 with age of onset during infancy or childhood. Individuals
9 with autism exhibit impairment in reciprocal social
10 interaction, impairment in verbal and nonverbal communication
11 and imaginative ability, and a markedly restricted repertoire
12 of activities and interests.

13 (3)(4) "Cerebral palsy" means a group of disabling
14 symptoms of extended duration which results from damage to the
15 developing brain that may occur before, during, or after birth
16 and that results in the loss or impairment of control over
17 voluntary muscles. For the purposes of this definition,
18 cerebral palsy does not include those symptoms or impairments
19 resulting solely from a stroke.

20 (4)(5) "Client" means any person determined eligible
21 by the agency department for ~~developmental~~ services under this
22 chapter.

23 (5)(6) "Client advocate" means a friend or relative of
24 the client, or of the client's immediate family, who advocates
25 for the best interests of the client in any proceedings under
26 this chapter in which the client or his or her family has the
27 right or duty to participate.

28 (6)(7) "Comprehensive assessment" means the process
29 ~~which is~~ used to determine eligibility for ~~developmental~~
30 services under this chapter ~~and develop the family or~~
31 ~~individual support plan. The term includes review and~~

1 ~~evaluation of information provided by the applicant, the~~
2 ~~individual receiving supports or services through~~
3 ~~developmental services, or the family, and others providing~~
4 ~~supports or services to the individual or family, as well as~~
5 ~~the use of formal assessment instruments.~~

6 (7)(8) "Comprehensive transitional education program"
7 means a group of jointly operating centers or units, the
8 collective purpose of which is to provide a sequential series
9 of educational care, training, treatment, habilitation, and
10 rehabilitation services to persons who have developmental
11 disabilities, ~~as defined in subsection (12)~~, and who have
12 severe or moderate maladaptive behaviors. However, nothing in
13 this subsection shall require such ~~comprehensive transitional~~
14 ~~education~~ programs to provide services only to persons with
15 developmental disabilities, ~~as defined in subsection (12)~~. All
16 such services shall be temporary in nature and delivered in a
17 structured residential setting with the primary goal of
18 incorporating the normalization principle to establish
19 permanent residence for persons with maladaptive behaviors in
20 facilities not associated with the comprehensive transitional
21 education program. The staff shall include psychologists and
22 teachers who, ~~and such staff personnel~~ shall be available to
23 provide services in each component center or unit of the
24 program. The psychologists shall be individuals who are
25 licensed in this state and certified as behavior analysts in
26 this state, or individuals who ~~meet the professional~~
27 ~~requirements established by the department for district~~
28 ~~behavior analysts~~ and are certified as behavior analysts
29 pursuant to s. 393.17 in this state.

30 (a) Comprehensive transitional education programs
31 shall include a minimum of two component centers or units, ~~as~~

1 ~~defined in this paragraph,~~ one of which shall be either an
2 intensive treatment and educational center or a transitional
3 training and educational center, which provide services to
4 persons with maladaptive behaviors in the following sequential
5 order:

6 1. Intensive treatment and educational center. This
7 component is a self-contained residential unit providing
8 intensive psychological and educational programming for
9 persons with severe maladaptive behaviors, whose behaviors
10 preclude placement in a less restrictive environment due to
11 the threat of danger or injury to themselves or others.

12 2. Transitional training and educational center. This
13 component is a residential unit for persons with moderate
14 maladaptive behaviors, providing concentrated psychological
15 and educational programming emphasizing a transition toward a
16 less restrictive environment.

17 3. Community transition residence. This component is
18 a residential center providing educational programs and such
19 support services, training, and care as are needed to assist
20 persons with maladaptive behaviors to avoid regression to more
21 restrictive environments while preparing them for more
22 independent living. Continuous-shift staff shall be required
23 for this component.

24 4. Alternative living center. This component is a
25 residential unit providing an educational and family living
26 environment for persons with maladaptive behaviors, in a
27 moderately unrestricted setting. Residential staff shall be
28 required for this component.

29 5. Independent living education center. This
30 component is a facility providing a family living environment
31 for persons with maladaptive behaviors, in a largely

1 | unrestricted setting which includes education and monitoring
2 | appropriate to support the development of independent living
3 | skills ~~by the students~~.

4 | (b) Centers or units that are components of a
5 | comprehensive transitional education program are subject to
6 | the license issued to the comprehensive transitional education
7 | program and may be located on either single or multiple sites.

8 | (c) Comprehensive transitional education programs
9 | shall develop individual education plans for each person with
10 | maladaptive behaviors who receives services therein. Such
11 | individual education plans shall be developed in accordance
12 | with the criteria specified ~~included~~ in ~~Pub. L. No. 94-142~~, 20
13 | U.S.C. ss. 401 et seq., and 34 C.F.R. part 300.

14 | (d) In no instance shall the total number of persons
15 | with maladaptive behaviors being provided services in a
16 | comprehensive transitional education program exceed 120.

17 | (e) This subsection shall authorize licensure for
18 | comprehensive transitional education programs which by July 1,
19 | 1989:

- 20 | 1. Are in actual operation; or
21 | 2. Own a fee simple interest in real property for
22 | which a county or city government has approved zoning allowing
23 | for the placement of the facilities described in this
24 | subsection, and have registered an intent with the department
25 | to operate a comprehensive transitional education program.
26 | However, nothing shall prohibit the assignment by such a
27 | registrant to another entity at a different site within the
28 | state, so long as there is compliance with all criteria of the
29 | comprehensive transitional education program and local zoning
30 | requirements and provided that each residential facility
31 | within the component centers or units of the program

1 authorized under this subparagraph shall not exceed a capacity
2 of 15 persons.

3 ~~(9) "Day service" means the care, protection, and~~
4 ~~supervision of a client for a period of less than 24 hours a~~
5 ~~day on a regular basis which supplements for the client, in~~
6 ~~accordance with his or her individual needs, daily care,~~
7 ~~enrichment opportunities, and health supervision.~~

8 ~~(8)(10)~~ "Day habilitation facility" means any
9 nonresidential facility which provides day habilitation
10 services.

11 (9) "Day habilitation service" means assistance with
12 the acquisition, retention, or improvement in self-help,
13 socialization, and adaptive skills which takes place in a
14 nonresidential setting, separate from the home or facility in
15 which the individual resides. Day habilitation services shall
16 focus on enabling the individual to attain or maintain his or
17 her maximum functional level and shall be coordinated with any
18 physical, occupational, or speech therapies listed in the plan
19 of care.

20 ~~(11) "Department" means the Department of Children and~~
21 ~~Family Services.~~

22 ~~(10)(12)~~ "Developmental disability" means a disorder
23 or syndrome that is attributable to retardation, cerebral
24 palsy, autism, spina bifida, or Prader-Willi syndrome and that
25 constitutes a substantial handicap that can reasonably be
26 expected to continue indefinitely.

27 ~~(11)(13)~~ "Developmental disabilities services
28 institution" means a state-owned and state-operated facility,
29 formerly known as a "Sunland Center," providing for the care,
30 habilitation, and rehabilitation of clients with developmental
31 disabilities.

1 ~~(14)~~ "Developmental training facility" means any
2 ~~nonresidential facility which provides basic training and~~
3 ~~habilitation to clients.~~

4 ~~(12)~~~~(15)~~ "Direct service provider," also known as
5 "caregiver" in chapters 39 and 415 or "caretaker" in
6 provisions relating to employment security checks, means a
7 person 18 years of age or older who has direct contact with
8 individuals with developmental disabilities, or has access to
9 a client's living areas or to a client's funds or personal
10 property, and is not a relative of such ~~unrelated to the~~
11 individuals ~~with developmental disabilities.~~

12 ~~(a)~~ The term "direct service provider" also includes
13 ~~any person, including members of the direct service provider's~~
14 ~~family, over 12 years of age who resides with the direct~~
15 ~~service provider when:~~

16 1. ~~The direct service provider provides supports or~~
17 ~~services in his or her residence;~~

18 2. ~~The direct service provider provides supports or~~
19 ~~services in a facility adjacent to his or her residence; or~~

20 3. ~~The person residing with the direct service~~
21 ~~provider has direct contact with the individual with~~
22 ~~developmental disabilities during the hours of provision of~~
23 ~~supports or services.~~

24 ~~(b)~~ Persons residing with the direct service provider,
25 including family members, who are between the ages of 12 years
26 and 18 years are not required to be fingerprinted, but shall
27 be screened for delinquency records.

28 ~~(c)~~ A volunteer who assists on an intermittent basis
29 for less than 40 hours per month is not a direct service
30 provider for the purposes of screening if the volunteer is
31

1 ~~under the direct and constant supervision of persons who meet~~
2 ~~the personnel requirements of s. 393.0655.~~

3 ~~(d) A physician, nurse, or other professional licensed~~
4 ~~and regulated by the Department of Business and Professional~~
5 ~~Regulation is not a direct service provider for the purposes~~
6 ~~of screening if the service he or she is providing to a client~~
7 ~~is within the scope of practice for which he or she is~~
8 ~~licensed.~~

9 ~~(e) A person selected by the family or the individual~~
10 ~~with developmental disabilities and paid by the family or the~~
11 ~~individual to provide supports or services is not a direct~~
12 ~~service provider for the purpose of screening.~~

13 ~~(16) "District" means a service district of the~~
14 ~~department.~~

15 ~~(13)~~(17) "Domicile" means the place where a client
16 legally resides, which place is his or her permanent home.
17 Domicile may be established as provided in s. 222.17.
18 Domicile may not be established in Florida by a minor who has
19 no parent domiciled in Florida, or by a minor who has no legal
20 guardian domiciled in Florida, or by any alien not classified
21 as a resident alien.

22 ~~(14)~~(18) "Enclave" means a work station in public or
23 private business or industry where a small group of persons
24 with developmental disabilities is employed and receives
25 training and support services or follow-along services among
26 nonhandicapped workers.

27 ~~(15)~~(19) "Epilepsy" means a chronic brain disorder of
28 various causes which is characterized by recurrent seizures
29 due to excessive discharge of cerebral neurons. When found
30 concurrently with retardation, autism, or cerebral palsy,
31 epilepsy is considered a secondary disability for which the

1 client is eligible to receive services to ameliorate this
2 condition pursuant ~~according to the provisions of this~~
3 chapter.

4 ~~(16)(20)~~ "Express and informed consent" means consent
5 voluntarily given in writing with sufficient knowledge and
6 comprehension of the subject matter involved to enable the
7 person giving consent to make an understanding and enlightened
8 decision without any element of force, fraud, deceit, duress,
9 or other form of constraint or coercion.

10 ~~(17)(21)~~ "Family care program" means the program
11 established in s. 393.068 ~~an alternative to residential~~
12 ~~placement, in which a direct service provider provides a home~~
13 ~~for a client and assists him or her to the extent necessary~~
14 ~~for the client to participate in normal activities and to meet~~
15 ~~the demands of daily living. The program provides the support~~
16 ~~needed by the client's family or caretaker to meet the~~
17 ~~individual needs of the client.~~

18 ~~(18)(22)~~ "Follow-along services" means those support
19 services ~~which shall be~~ provided to persons with developmental
20 disabilities in all supported employment programs and may
21 include, but are not limited to, family support, assistance in
22 meeting transportation and medical needs, employer
23 intervention, performance evaluation, advocacy, replacement,
24 retraining or promotional assistance, or other similar support
25 services.

26 ~~(19)(23)~~ "Foster care facility" means a residential
27 facility which provides a family living environment including
28 supervision and care necessary to meet the physical,
29 emotional, and social needs of its residents. The capacity of
30 such a facility shall not be more than three residents.

31

1 ~~(20)(24)~~ "Group home facility" means a residential
2 facility which provides a family living environment including
3 supervision and care necessary to meet the physical,
4 emotional, and social needs of its residents. The capacity of
5 such a facility shall be at least 4 ~~residents~~ but not more
6 than 15 residents. For the purposes of this chapter, group
7 home facilities shall not be considered commercial
8 enterprises.

9 ~~(21)(25)~~ "Guardian advocate" means a person appointed
10 by the circuit court to represent a person with developmental
11 disabilities in any proceedings brought pursuant to s. 393.12,
12 and excludes the use of the same term as applied to a guardian
13 advocate for mentally ill persons in chapter 394.

14 ~~(22)(26)~~ "Habilitation" means the process by which a
15 client is assisted to acquire and maintain those life skills
16 which enable the client to cope more effectively with the
17 demands of his or her condition and environment and to raise
18 the level of his or her physical, mental, and social
19 efficiency. It includes, but is not limited to, programs of
20 formal structured education and treatment.

21 ~~(23)(27)~~ "High-risk child" means, for the purposes of
22 this chapter, a child from birth to 5 years of age with one or
23 more of the following characteristics:

24 (a) A developmental delay in cognition, language, or
25 physical development.

26 (b) A child surviving a catastrophic infectious or
27 traumatic illness known to be associated with developmental
28 delay, when funds are specifically appropriated.

29 (c) A child with a parent or guardian with
30 developmental disabilities ~~who is developmentally disabled and~~
31

1 who requires assistance in meeting the child's developmental
2 needs.

3 (d) A child who has a physical or genetic anomaly
4 associated with developmental disability.

5 ~~(24)(28)~~ "Intermediate care facility for the
6 developmentally disabled" or "ICF/DD" means a residential
7 facility licensed and certified pursuant to part XI of chapter
8 400 in accordance with state law, and certified by the Federal
9 Government pursuant to the Social Security Act, as a provider
10 of Medicaid services to persons who are developmentally
11 disabled. The capacity of such a facility shall not be more
12 than 120 clients.

13 ~~(25)(29)~~ "Job coach" means a person who provides
14 employment-related training at a work site to individuals with
15 developmental disabilities.

16 ~~(26)(30)~~ "Medical/dental services" means medically
17 necessary ~~those~~ services which are provided or ordered for a
18 client by a ~~person~~ licensed physician or dentist and includes
19 pursuant to the provisions of chapter 458, chapter 459, or
20 chapter 466. Such services may include, but are not limited
21 ~~to,~~ prescription drugs, specialized therapies, nursing
22 supervision, hospitalization, dietary services, prosthetic
23 devices, surgery, specialized equipment and supplies, adaptive
24 equipment, and other services as required to prevent or
25 alleviate a medical or dental condition.

26 ~~(27)(31)~~ "Mobile work crew" means a group of workers
27 employed by an agency that provides services outside the
28 agency, usually under service contracts.

29 ~~(28)(32)~~ "Normalization principle" means the principle
30 of letting the client obtain an existence as close to the
31 normal as possible, making available to the client patterns

1 and conditions of everyday life which are as close as possible
2 to the norm and patterns of the mainstream of society.

3 ~~(29)(33)~~ "Personal services" include, but are not
4 limited to, such services as: individual assistance with or
5 supervision of essential activities of daily living for
6 self-care, including ambulation, bathing, dressing, eating,
7 grooming, and toileting, and other similar services that ~~which~~
8 the agency ~~department~~ may define by rule. "Personal services"
9 shall not be construed to mean the provision of medical,
10 nursing, dental, or mental health services by the staff of a
11 facility, except as provided in this chapter. In addition, an
12 emergency response device installed in the apartment or living
13 area of a resident shall not be classified as a personal
14 service.

15 ~~(30)(34)~~ "Prader-Willi syndrome" means an inherited
16 condition typified by neonatal hypotonia with failure to
17 thrive, hyperphagia or an excessive drive to eat which leads
18 to obesity usually at 18 to 36 months of age, mild to moderate
19 retardation, hypogonadism, short stature, mild facial
20 dysmorphism, and a characteristic neurobehavior.

21 ~~(31)(35)~~ "Reassessment" means a process which
22 periodically develops, through annual review and revision of a
23 client's family or individual support plan, a knowledgeable
24 statement of current needs and past development for each
25 client.

26 ~~(36)~~ ~~"Rehabilitation workshop facility" means a place~~
27 ~~operated by a for profit or nonprofit agency engaged in the~~
28 ~~manufacture or production of products or provision of~~
29 ~~services, which provides gainful rehabilitation to severely~~
30 ~~handicapped persons until such persons can become employed or~~
31

1 ~~which provides gainful work to persons who are developmentally~~
2 ~~disabled.~~

3 ~~(32)(37)~~ "Relative" means an individual who is
4 connected by affinity or consanguinity to the client and who
5 is 18 years of age or more.

6 ~~(33)(38)~~ "Resident" means any person who is
7 developmentally disabled residing at a residential facility in
8 the state, whether or not such person is a client of the
9 agency department.

10 ~~(34)(39)~~ "Residential facility" means a facility
11 providing room and board and personal care for persons with
12 developmental disabilities.

13 (35) "Residential habilitation" means assistance
14 provided in a residential habitation center with acquisition,
15 retention, or improvement in skills related to activities of
16 daily living, such as personal grooming and cleanliness,
17 bedmaking and household chores, eating and the preparation of
18 food, and the social and adaptive skills necessary to enable
19 the individual to reside in a noninstitutional setting.

20 ~~(36)(40)~~ "Residential habilitation center" means a
21 community residential facility that provides residential
22 habilitation. ~~operated primarily for the diagnosis, treatment,~~
23 ~~habilitation, or rehabilitation of its residents, which~~
24 ~~facility provides, in a structured residential setting,~~
25 ~~individualized continuing evaluation, planning, 24 hour~~
26 ~~supervision, and coordination and integration of health or~~
27 ~~rehabilitative services to help each resident reach his or her~~
28 ~~maximum functioning capabilities.~~ The capacity of such a
29 facility shall not be fewer less than nine residents. After
30 October 1, 1989, no new residential habilitation centers shall
31

1 be licensed and the licensed capacity shall not be increased
2 for any existing residential habilitation center.

3 ~~(37)(41)~~ "Respite service" means appropriate,
4 short-term, temporary care that is provided to a person with
5 developmental disabilities to meet the planned or emergency
6 needs of the person ~~with developmental disabilities~~ or the
7 family or other direct service provider.

8 ~~(38)(42)~~ "Retardation" means significantly subaverage
9 general intellectual functioning existing concurrently with
10 deficits in adaptive behavior and manifested during the period
11 from conception to age 18. "Significantly subaverage general
12 intellectual functioning," for the purpose of this definition,
13 means performance which is two or more standard deviations
14 from the mean score on a standardized intelligence test
15 specified in the rules of the agency ~~department~~. "Adaptive
16 behavior," for the purpose of this definition, means the
17 effectiveness or degree with which an individual meets the
18 standards of personal independence and social responsibility
19 expected of his or her age, cultural group, and community.

20 ~~(43)~~ ~~"Screening," for purposes of employment,~~
21 ~~contracting, or certification, means the act of assessing the~~
22 ~~background of direct service providers and independent support~~
23 ~~coordinators, who are not related to clients for whom they~~
24 ~~provide services, and includes, but is not limited to,~~
25 ~~employment history checks, local criminal records checks~~
26 ~~through local law enforcement agencies, fingerprinting for all~~
27 ~~purposes and checks in this subsection, statewide criminal~~
28 ~~records checks through the Department of Law Enforcement, and~~
29 ~~federal criminal records checks through the Federal Bureau of~~
30 ~~Investigation; except that screening for volunteers included~~
31 ~~under the definition of personnel includes only local criminal~~

1 ~~records checks through local law enforcement agencies for~~
2 ~~current residence and residence immediately prior to~~
3 ~~employment as a volunteer, if different; and statewide~~
4 ~~criminal records correspondence checks through the Department~~
5 ~~of Law Enforcement.~~

6 ~~(39)(44)~~ "Severe self-injurious behavior" means any
7 chronic behavior that results in injury to the person's own
8 body, which includes, but is not limited to, self-hitting,
9 head banging, self-biting, scratching, and the ingestion of
10 harmful or potentially harmful nutritive or nonnutritive
11 substances.

12 ~~(40)(45)~~ "Specialized therapies" means those
13 treatments or activities prescribed by and provided by an
14 appropriately trained, licensed, or certified professional or
15 staff person and may include, but are not limited to, physical
16 therapy, speech therapy, respiratory therapy, occupational
17 therapy, behavior therapy, physical management services, and
18 related specialized equipment and supplies.

19 ~~(41)(46)~~ "Spina bifida" means, for purposes of this
20 chapter, a person with a medical diagnosis of spina bifida
21 cystica or myelomeningocele.

22 ~~(42)(47)~~ "Support coordinator" means a person who is
23 designated by the agency ~~department~~ to assist individuals and
24 families in identifying their ~~desires~~, capacities, needs, and
25 resources, as well as finding and gaining access to necessary
26 supports and services; coordinating the delivery of supports
27 and services; advocating on behalf of the individual and
28 family; maintaining relevant records; and monitoring and
29 evaluating the delivery of supports and services to determine
30 the extent to which they meet the needs and expectations
31

1 identified by the individual, family, and others who
2 participated in the development of the support plan.

3 ~~(43)(48)~~ "Supported employee" means a person whose
4 ~~developmental disability has traditionally kept him or her~~
5 ~~from integrated, community based employment and~~ who requires
6 and receives supported employment ~~ongoing support or~~
7 ~~follow along~~ services in order to maintain community-based
8 employment.

9 ~~(44)(49)~~ "Supported employment" means employment
10 located or provided in a normal employment setting which
11 provides at least 20 hours employment per week in an
12 integrated work setting, with earnings paid on a commensurate
13 wage basis, and for which continued support ~~is or follow along~~
14 ~~services are~~ needed for ~~continuing~~ job maintenance.

15 ~~(45)(50)~~ "Supported living" means a category of
16 individually determined services designed and coordinated in
17 such a manner as to provide assistance to adult clients who
18 require ongoing supports to live as independently as possible
19 in their own homes, to be integrated into the community, and
20 to participate in community life to the fullest extent
21 possible.

22 ~~(46)(51)~~ "Training" means a planned approach to
23 assisting a client to attain or maintain his or her maximum
24 potential and includes services ranging from sensory
25 stimulation to instruction in skills for independent living
26 and employment.

27 ~~(47)(52)~~ "Treatment" means the prevention,
28 amelioration, or cure of a client's physical and mental
29 disabilities or illnesses.

30 Section 4. Subsections (1), (3), (4), and (5) of
31 section 393.064, Florida Statutes, are amended to read:

1 393.064 Prevention.--
2 (1) The agency ~~Department of Children and Family~~
3 ~~Services~~ shall give priority to the development, planning, and
4 implementation of programs which have the potential to
5 prevent, correct, cure, or reduce the severity of
6 developmental disabilities. The agency ~~department~~ shall
7 direct an interagency ~~interdepartmental~~ and interprogram
8 effort for the continued development of a prevention plan and
9 program. The agency ~~department~~ shall identify, through
10 demonstration projects, through ~~departmental~~ program
11 evaluation, and through monitoring of programs and projects
12 conducted outside of the agency ~~department~~, any medical,
13 social, economic, or educational methods, techniques, or
14 procedures that ~~which~~ have the potential to effectively
15 ameliorate, correct, or cure developmental disabilities. The
16 program ~~department~~ shall determine the costs and benefits that
17 would be associated with such prevention efforts and shall
18 implement, or recommend the implementation of, those methods,
19 techniques, or procedures which are found likely to be
20 cost-beneficial. ~~The department in its legislative budget~~
21 ~~request shall identify funding needs for such prevention~~
22 ~~programs.~~
23 (3) Other agencies of state government shall cooperate
24 with and assist the agency ~~department~~, within available
25 resources, in implementing programs which have the potential
26 to prevent, or reduce the severity of, developmental
27 disabilities and shall consider the findings and
28 recommendations of the agency ~~department~~ in developing and
29 implementing agency programs and formulating agency budget
30 requests.
31

1 (4) There is created at the developmental services
2 institution in Gainesville a research and education unit.
3 Such unit shall be named the Raymond C. Philips Research and
4 Education Unit. The functions of such unit shall include:

5 (a) Research into the etiology of developmental
6 disabilities.

7 (b) Ensuring that new knowledge is rapidly
8 disseminated throughout the developmental services program of
9 the agency ~~Department of Children and Family Services~~.

10 (c) Diagnosis of unusual conditions and syndromes
11 associated with developmental disabilities in clients
12 identified throughout the developmental services programs.

13 (d) Evaluation of families of clients with
14 developmental disabilities of genetic origin in order to
15 provide them with genetic counseling aimed at preventing the
16 recurrence of the disorder in other family members.

17 (e) Ensuring that health professionals in the
18 developmental services institution at Gainesville have access
19 to information systems that will allow them to remain updated
20 on newer knowledge and maintain their postgraduate education
21 standards.

22 (f) Enhancing staff training for professionals
23 throughout the agency ~~department~~ in the areas of genetics and
24 developmental disabilities.

25 (5) The agency ~~Department of Children and Family~~
26 ~~Services~~ shall have the authority, within available resources,
27 to contract for the supervision and management of the Raymond
28 C. Philips Research and Education Unit, and such contract
29 shall include specific program objectives.

30 Section 5. Section 393.0655, Florida Statutes, is
31 amended to read:

1 393.0655 Screening of direct service providers.--
2 (1) MINIMUM STANDARDS.--The ~~agency department~~ shall
3 require level 2 employment screening pursuant to chapter 435,
4 ~~using the level 2 standards for screening set forth in that~~
5 ~~chapter,~~ for direct service providers who are unrelated to
6 their clients, including support coordinators, and managers
7 and supervisors of residential facilities or comprehensive
8 transitional education programs licensed under s. 393.067 and
9 any other person, including volunteers, who provide care or
10 services, who have access to a client's living areas, or who
11 have access to a client's funds or personal property.
12 Background screening shall include employment history checks
13 as provided in s. 435.03(1) and local criminal records checks
14 through local law enforcement agencies.
15 (a) A volunteer who assists on an intermittent basis
16 for less than 40 hours per month does not have to be screened,
17 if the volunteer is under the direct and constant supervision
18 of persons who meet the screening requirements of this
19 section.
20 (b) Licensed physicians, nurses, or other
21 professionals licensed and regulated by the Department of
22 Health are not subject to background screening pursuant to
23 this section if they are providing a service that is within
24 their scope of licensed practice.
25 (c) A person selected by the family or the individual
26 with developmental disabilities and paid by the family or the
27 individual to provide supports or services is not required to
28 have a background screening under this section.
29 (d) Persons residing with the direct services
30 provider, including family members, are subject to background
31

1 screening; however, such persons who are 12 to 18 years of age
2 shall be screened for delinquency records only.

3 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency
4 ~~department~~ may grant exemptions from disqualification from
5 working with children or adults with developmental
6 disabilities ~~the developmentally disabled~~ as provided in s.
7 435.07.

8 (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE
9 CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints
10 and the state criminal records checks shall be borne by the
11 employer or by the employee or individual who is being
12 screened.

13 (4) EXCLUSION FROM OWNING, OPERATING, OR BEING
14 EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;
15 HEARINGS PROVIDED.--

16 (a) The agency ~~department~~ shall deny, suspend,
17 terminate, or revoke a license, certification, rate agreement,
18 purchase order, or contract, or pursue other remedies provided
19 in s. 393.0673, s. 393.0675, or s. 393.0678 in addition to or
20 in lieu of denial, suspension, termination, or revocation for
21 failure to comply with this section.

22 (b) When the agency ~~department~~ has reasonable cause to
23 believe that grounds for denial or termination of employment
24 exist, it shall notify, in writing, the employer and the
25 direct service provider affected, stating the specific record
26 which indicates noncompliance with the standards in this
27 section.

28 (c) The procedures established for hearing under
29 chapter 120 shall be available to the employer and the direct
30 service provider in order to present evidence relating either
31

1 to the accuracy of the basis of exclusion or to the denial of
2 an exemption from disqualification.

3 (d) Refusal on the part of an employer to dismiss a
4 direct service provider who has been found to be in
5 noncompliance with standards of this section shall result in
6 automatic denial, termination, or revocation of the license,
7 certification, rate agreement, purchase order, or contract, in
8 addition to any other remedies pursued by the agency
9 ~~department~~.

10 Section 6. Section 393.066, Florida Statutes, is
11 amended to read:

12 393.066 Community services and treatment for persons
13 who are developmentally disabled.--

14 (1) The agency ~~Department of Children and Family~~
15 ~~Services~~ shall plan, develop, organize, and implement its
16 programs of services and treatment for persons who are
17 developmentally disabled ~~along district lines. The goal of~~
18 ~~such programs shall be~~ to allow clients to live as
19 independently as possible in their own homes or communities
20 and to achieve productive lives as close to normal as
21 possible.

22 ~~(2) All programs of services and treatment for clients~~
23 ~~shall be administered through the districts and shall serve~~
24 ~~all clients regardless of the type of residential setting in~~
25 ~~which the client lives. All elements of community-based~~
26 services shall be made available, ~~in each service district~~ and
27 eligibility for these services shall be consistent across the
28 state districts. In addition, all purchased services shall be
29 approved by the agency district.

30 ~~(2)(3)~~ All services needed shall be purchased instead
31 of provided directly by the agency ~~department~~, when such

1 arrangement is more cost-efficient than having those services
2 provided ~~directly by the department~~.

3 ~~(3)(4)~~ Community-based services that are medically
4 necessary to prevent institutionalization shall, to the extent
5 of available resources, include:

6 (a) Day habilitation services, including developmental
7 training services.

8 (b) Family care services.

9 (c) Guardian advocate referral services.

10 (d) Medical/dental services, except that medical
11 services shall not be provided to clients with spina bifida
12 except as specifically appropriated by the Legislature.

13 (e) Parent training.

14 (f) Recreation.

15 (g) Residential services.

16 (h) Respite services.

17 (i) Social services.

18 (j) Specialized therapies.

19 (k) Supported employment, including enclave, job
20 coach, mobile work crew, and follow-along services.

21 (l) Supported living.

22 (m) Training, including behavioral programming.

23 (n) Transportation.

24 (o) Other habilitative and rehabilitative services as
25 needed.

26
27 ~~Services to clients with spina bifida shall not include~~
28 ~~medical services except as appropriated by the Legislature.~~

29 ~~(5) Provided it is consistent with the intent of the~~
30 ~~Legislature, the department shall prioritize increased~~
31 ~~appropriations provided for community based services for~~

1 ~~developmentally disabled individuals toward individualized,~~
2 ~~community based supports and services for consumers and their~~
3 ~~families. Further, the department's 5 year plan for~~
4 ~~Developmental Services shall reflect a priority toward~~
5 ~~individualized, community based supports and services for~~
6 ~~consumers and their families.~~

7 (4)(6) The agency ~~department~~ shall utilize the
8 services of private businesses, not-for-profit organizations,
9 and units of local government whenever such services are more
10 cost-efficient than such services provided directly by the
11 department, including arrangements for provision of
12 residential facilities.

13 (5)(7) In order to improve the potential for
14 utilization of more cost-effective, community-based
15 residential facilities, the agency ~~department~~ shall promote
16 the statewide development of day habilitation services for
17 clients who live with a direct service provider in a
18 community-based residential facility and who do not require
19 24-hour-a-day care in a hospital or other health care
20 institution, but who may, in the absence of day habilitation
21 services, require admission to a developmental disabilities
22 ~~services~~ institution. Each day service facility shall provide
23 a protective physical environment for clients, ensure that
24 direct service providers meet ~~the~~ minimum screening standards
25 ~~for good moral character as required contained~~ in s. 393.0655,
26 make available to all day habilitation service participants at
27 least one meal on each day of operation, provide facilities to
28 enable participants to obtain needed rest while attending the
29 program, as appropriate, and provide social and educational
30 activities designed to stimulate interest and provide
31 socialization skills.

1 (6) To promote independence and productivity, the
2 agency shall provide supports and services, within available
3 resources, to assist clients enrolled in Medicaid waivers who
4 choose to pursue gainful employment.

5 ~~(7)(8)~~ For the purpose of making needed
6 community-based residential facilities available at the least
7 possible cost to the state, the agency ~~department~~ is
8 authorized to lease privately owned residential facilities
9 under long-term rental agreements, if such rental agreements
10 are projected to be less costly to the state over the useful
11 life of the facility than state purchase or state construction
12 of such a facility. ~~In addition, the department is authorized~~
13 ~~to permit, on any public land to which the department holds~~
14 ~~the lease, construction of a residential facility for which~~
15 ~~the department has entered into a long term rental agreement~~
16 ~~as specified in this subsection.~~

17 ~~(8)(9)~~ The agency ~~department~~ may adopt rules to ensure
18 compliance with federal laws or regulations that apply to
19 services provided pursuant to this section.

20 Section 7. Section 393.0661, Florida Statutes, is
21 amended to read:

22 393.0661 Home and community-based services delivery
23 system; comprehensive redesign.--The Legislature finds that
24 the home and community-based services delivery system for
25 persons with developmental disabilities and the availability
26 of appropriated funds are two of the critical elements in
27 making services available. Therefore, it is the intent of the
28 Legislature that the Agency for Persons with Disabilities
29 ~~Department of Children and Family Services~~ shall develop and
30 implement a comprehensive redesign of the system. The redesign
31 of the home and community-based services system shall include,

1 | at a minimum, all actions necessary to achieve an appropriate
2 | rate structure, client choice within a specified service
3 | package, appropriate assessment strategies, an efficient
4 | billing process that contains reconciliation and monitoring
5 | components, a redefined role for support coordinators that
6 | avoids potential conflicts of interest, and family/client
7 | budgets linked to levels of need. ~~Prior to the release of~~
8 | ~~funds in the lump sum appropriation, the department shall~~
9 | ~~present a plan to the Executive Office of the Governor, the~~
10 | ~~House Fiscal Responsibility Council, and the Senate~~
11 | ~~Appropriations Committee. The plan must result in a full~~
12 | ~~implementation of the redesigned system no later than July 1,~~
13 | ~~2003. At a minimum, the plan must provide that the portions~~
14 | ~~related to direct provider enrollment and billing will be~~
15 | ~~operational no later than March 31, 2003. The plan must~~
16 | ~~further provide that a more effective needs assessment~~
17 | ~~instrument will be deployed by January 1, 2003, and that all~~
18 | ~~clients will be assessed with this device by June 30, 2003.~~

19 | (1) ~~In no event may~~ The agency shall use department
20 | ~~select an assessment instrument without appropriate evidence~~
21 | ~~that is it will be~~ reliable and valid for identifying the
22 | support needs of individuals. ~~Once such evidence has been~~
23 | ~~obtained, however, The agency may contract with department~~
24 | ~~shall determine the feasibility of contracting with an~~
25 | ~~external vendor to apply the new assessment device to all~~
26 | ~~clients receiving services through the Medicaid waiver. In~~
27 | ~~lieu of using an external vendor or, the department may use~~
28 | support coordinators to complete client for the assessments if
29 | it develops sufficient safeguards and training to ensure
30 | ongoing significantly improve the inter-rater reliability of
31 | ~~the support coordinators administering the assessment.~~

1 (2) The agency, with the concurrence of the Agency for
2 Health Care Administration, may contract for the determination
3 of medical necessity and establishment of individual budgets.

4 Section 8. Section 393.068, Florida Statutes, is
5 amended to read:

6 393.068 Family care program.--

7 (1) The family care program is established for the
8 purpose of providing services and support to families and
9 individuals with developmental disabilities in order to
10 maintain the individual in the home environment and avoid
11 costly out-of-home residential placement. ~~The Legislature~~
12 ~~recognizes the importance of family support in the long range~~
13 ~~success of deinstitutionalization.~~ Services and support
14 available to families and individuals with developmental
15 disabilities shall emphasize community living and enable
16 individuals with developmental disabilities to enjoy typical
17 lifestyles. ~~Support and flexibility in coordinating support~~
18 ~~and services are core elements in caring for the individual~~
19 ~~who is developmentally disabled.~~ One way to accomplish this is
20 to recognize that families are the greatest resource available
21 to individuals who have developmental disabilities and ~~that~~
22 ~~families~~ must be supported in their role as primary care
23 givers.

24 (2) Services and support authorized under this program
25 shall, to the extent of available resources, include the
26 services listed under s. 393.066 ~~s. 393.066(4)~~ and, in
27 addition, shall include, but not be limited to:

- 28 (a) Attendant care.
29 (b) Barrier-free modifications to the home.
30 (c) Home visitation by agency workers.
31 (d) In-home subsidies.

1 (e) Low-interest loans.
2 ~~(f) Parent training.~~
3 ~~(g) Respite care.~~
4 (f)(h) Modifications for vehicles used to transport
5 the individual with a developmental disability.
6 (g)(i) Facilitated communication.
7 (h)(j) Family counseling.
8 (i)(k) Equipment and supplies.
9 (j)(l) Self-advocacy training.
10 (k)(m) Roommate services.
11 (l)(n) Integrated community activities.
12 (m)(o) Emergency services.
13 (n)(p) Support coordination.
14 (o) Supported employment.
15 (p)(q) Other support services as identified by the
16 family or individual.
17 ~~(2) Provided it is consistent with the intent of the~~
18 ~~Legislature, the department shall prioritize increased~~
19 ~~appropriations provided for family based services for~~
20 ~~developmentally disabled individuals toward individualized,~~
21 ~~family based supports and services for consumers and their~~
22 ~~families. Further, the department's 5 year plan for~~
23 ~~developmental services shall reflect a priority toward~~
24 ~~individualized, family based supports and services for~~
25 ~~consumers and their families.~~
26 (3) When it is determined by the agency ~~department~~ to
27 be more cost-effective and in the best interest of the client
28 to maintain such client in the home of a direct service
29 provider, the parent or guardian of the client or, if
30 competent, the client may enroll the client in the family care
31 program. The direct service provider of a client enrolled in

1 the family care program shall be reimbursed according to a
2 rate schedule set by the agency ~~department~~. In-home subsidies
3 cited in paragraph (1)(d) shall be provided according to s.
4 393.0695 and are not subject to any other payment method or
5 rate schedule provided for in this section.

6 (4) All existing community resources available to the
7 client shall be utilized to support program objectives.
8 Additional services may be incorporated into the program as
9 appropriate and to the extent that resources are available.
10 The agency ~~department~~ is authorized to accept gifts and grants
11 in order to carry out the program.

12 (5) The agency ~~department~~ may contract for the
13 provision of any portion of the services required by the
14 program, except for in-home subsidies cited in paragraph
15 ~~(2)(d)(1)(d)~~, which shall be provided pursuant to s.
16 393.0695. Otherwise, purchase of service contracts shall be
17 used whenever the services so provided are more cost-efficient
18 than those provided by the agency ~~department~~.

19 (6) When possible, services shall be obtained under
20 the "Florida Comprehensive Annual Services Program Plan under
21 Title XX of the Social Security Act" and the "Florida Plan for
22 Medical Assistance under Title XIX of the Social Security
23 Act."

24 (7) To provide a range of personal services for the
25 client, the use of volunteers shall be maximized. The agency
26 ~~department~~ shall assure appropriate insurance coverage to
27 protect volunteers from personal liability while acting within
28 the scope of their volunteer assignments under the program.

29 ~~(8) The department shall submit to the President of~~
30 ~~the Senate and the Speaker of the House of Representatives, as~~
31 ~~part of the biennial plan required by s. 393.14, an evaluation~~

1 ~~report summarizing the progress of the family care program.~~
2 ~~The report shall include the information and data necessary~~
3 ~~for an accurate analysis of the costs and benefits associated~~
4 ~~with the establishment and operation of the programs that were~~
5 ~~established.~~

6 Section 9. Subsections (1) and (3) of section
7 393.0695, Florida Statutes, are amended to read:

8 393.0695 Provision of in-home subsidies.--

9 (1) The agency may pay ~~department shall develop by~~
10 ~~October 1, 1991, a plan for paying~~ in-home subsidies to
11 clients enrolled in the family care program or supported
12 living when it is determined to be more cost-effective and in
13 the best interest of the client to provide a cash supplement
14 to the client's income to enable the client to remain in the
15 family home or the client's own home. Payments may be made to
16 the parent or guardian of the client or, if the client is
17 competent, directly to the client.

18 (3) In-home subsidies must be based on an individual
19 determination of need and must not exceed maximum amounts set
20 by the agency ~~department~~ and reassessed by the agency annually
21 ~~department quarterly~~.

22 Section 10. Subsection (1), paragraph (a) of
23 subsection (2), paragraph (a) of subsection (4), paragraphs
24 (a), (d), and (h) of subsection (5), paragraph (a) of
25 subsection (6), paragraphs (d) and (e) of subsection (8), and
26 subsection (13) of section 393.11, Florida Statutes, are
27 amended to read:

28 393.11 Involuntary admission to residential
29 services.--

30 (1) JURISDICTION.--When a person is mentally retarded
31 and requires involuntary admission to residential services

1 provided by the agency ~~developmental services program of the~~
2 ~~Department of Children and Family Services~~, the circuit court
3 of the county in which the person resides shall have
4 jurisdiction to conduct a hearing and enter an order
5 involuntarily admitting the person in order that the person
6 may receive the care, treatment, habilitation, and
7 rehabilitation which the person needs. For the purpose of
8 identifying mental retardation, diagnostic capability shall be
9 established by ~~in every program function of the agency~~
10 ~~department in the districts, including, but not limited to,~~
11 ~~programs provided by children and families; delinquency~~
12 ~~services; alcohol, drug abuse, and mental health; and economic~~
13 ~~services, and by the Department of Labor and Employment~~
14 ~~Security~~. Except as otherwise specified, the proceedings under
15 this section shall be governed by the Florida Rules of Civil
16 Procedure.

17 (2) PETITION.--

18 (a) A petition for involuntary admission to
19 residential services may be executed by a petitioning
20 commission. For proposed involuntary admission to residential
21 services arising out of chapter 916, the petition may be filed
22 by a petitioning commission, the agency ~~department~~, the state
23 attorney of the circuit from which the defendant was
24 committed, or the defendant's attorney.

25 (4) DEVELOPMENTAL SERVICES PARTICIPATION.--

26 (a) Upon receiving the petition, the court shall
27 immediately order the developmental services program of the
28 agency ~~department~~ to examine the person being considered for
29 involuntary admission to residential services.

30 (5) EXAMINING COMMITTEE.--

31

1 (a) Upon receiving the petition, the court shall
2 immediately appoint an examining committee to examine the
3 person being considered for involuntary admission to
4 residential services of the developmental services program of
5 the agency ~~department~~.

6 (d) Members of the committee shall not be employees of
7 the agency ~~department~~ or be associated with each other in
8 practice or in employer-employee relationships. Members of
9 the committee shall not have served as members of the
10 petitioning commission. Members of the committee shall not be
11 employees of the members of the petitioning commission or be
12 associated in practice with members of the commission.

13 (h) The agency ~~department~~ shall develop and prescribe
14 by rule one or more standard forms to be used as a guide for
15 members of the examining committee.

16 (6) COUNSEL; GUARDIAN AD LITEM.--

17 (a) The person with mental retardation shall be
18 represented by counsel at all stages of the judicial
19 proceeding. In the event the person is indigent and cannot
20 afford counsel, the court shall appoint a public defender not
21 less than 20 working days before the scheduled hearing. The
22 person's counsel shall have full access to the records of the
23 service provider and the agency ~~department~~. In all cases, the
24 attorney shall represent the rights and legal interests of the
25 person with mental retardation, regardless of who may initiate
26 the proceedings or pay the attorney's fee.

27 (8) ORDER.--

28 (d) If an order of involuntary admission to
29 residential services provided by the developmental services
30 program of the agency ~~department~~ is entered by the court, a
31 copy of the written order shall be served upon the person, the

1 person's counsel, the agency ~~department~~, and the state
2 attorney and the person's defense counsel, if applicable. The
3 order of involuntary admission sent to the agency ~~department~~
4 shall also be accompanied by a copy of the examining
5 committee's report and other reports contained in the court
6 file.

7 (e) Upon receiving the order, the agency ~~department~~
8 shall, within 45 days, provide the court with a copy of the
9 person's family or individual support plan and copies of all
10 examinations and evaluations, outlining the treatment and
11 rehabilitative programs. The agency ~~department~~ shall document
12 that the person has been placed in the most appropriate, least
13 restrictive and cost-beneficial residential facility. A copy
14 of the family or individual support plan and other
15 examinations and evaluations shall be served upon the person
16 and the person's counsel at the same time the documents are
17 filed with the court.

18 (13) HABEAS CORPUS.--At any time and without notice,
19 any person involuntarily admitted to the developmental
20 services program of the agency ~~department~~, or the person's
21 parent or legal guardian in his or her behalf, is entitled to
22 a writ of habeas corpus to question the cause, legality, and
23 appropriateness of the person's involuntary admission. Each
24 person, or the person's parent or legal guardian, shall
25 receive specific written notice of the right to petition for a
26 writ of habeas corpus at the time of his or her involuntary
27 placement.

28 Section 11. Paragraphs (a), (b), and (d) of subsection
29 (2), subsection (3), paragraphs (b), (g), (i), and (j) of
30 subsection (4), and subsection (6) of section 393.13, Florida
31 Statutes, are amended to read:

1 393.13 Personal treatment of persons who are
2 developmentally disabled.--

3 (2) LEGISLATIVE INTENT.--

4 (a) The Legislature finds and declares that the system
5 of care provided ~~which the state provides~~ to individuals who
6 are developmentally disabled must be designed to meet the
7 needs of the clients as well as protect the integrity of their
8 legal and human rights. ~~Further, the current system of care~~
9 ~~for persons who are developmentally disabled is in need of~~
10 ~~substantial improvement in order to provide truly meaningful~~
11 ~~treatment and habilitation.~~

12 (b) The Legislature further finds and declares that
13 the design and delivery of treatment and services to persons
14 who are developmentally disabled should be directed by the
15 principles of normalization and therefore should:

16 1. Abate the use of large institutions.

17 2. Continue the development of community-based
18 services which provide reasonable alternatives to
19 institutionalization in settings that are least restrictive to
20 the client.

21 3. Provide training and education to individuals who
22 are developmentally disabled which will maximize their
23 potential to lead independent and productive lives and which
24 will afford opportunities for outward mobility from
25 institutions.

26 4. Reduce the use of sheltered workshops and other
27 noncompetitive employment day activities and promote
28 opportunities for gainful employment for persons with
29 developmental disabilities who choose to seek such employment.

30 (d) It is the intent of the Legislature:
31

1 1. To articulate the existing legal and human rights
2 of persons who are developmentally disabled so that they may
3 be exercised and protected. Persons with developmental
4 disabilities shall have all the rights enjoyed by citizens of
5 the state and the United States.

6 2. To provide a mechanism for the identification,
7 evaluation, and treatment of persons with developmental
8 disabilities.

9 3. To divert those individuals from institutional
10 commitment who, by virtue of comprehensive assessment, can be
11 placed in less costly, more effective community environments
12 and programs.

13 ~~4. To develop a plan which will indicate the most~~
14 ~~effective and efficient manner in which to implement treatment~~
15 ~~programs which are meaningful to individuals with~~
16 ~~developmental disabilities, while safeguarding and respecting~~
17 ~~the legal and human rights of such individuals.~~

18 ~~4.5. Once the plan developed under the provisions of~~
19 ~~subparagraph 4. is presented to the Legislature, To fund~~
20 improvements in the program in accordance with the
21 availability of state resources and yearly priorities
22 determined by the Legislature.

23 ~~5.6.~~ To ensure that persons with developmental
24 disabilities receive treatment and habilitation which fosters
25 the developmental potential of the individual.

26 ~~6.7.~~ To provide programs for the proper habilitation
27 and treatment of persons with developmental disabilities which
28 shall include, but not be limited to, comprehensive
29 medical/dental care, education, recreation, specialized
30 therapies, training, social services, transportation,
31 guardianship, family care programs, day habilitation services,

1 and habilitative and rehabilitative services suited to the
2 needs of the individual regardless of age, degree of
3 disability, or handicapping condition. No person with
4 developmental disabilities shall be deprived of these
5 enumerated services by reason of inability to pay.

6 ~~7.8.~~ To fully effectuate the normalization principle
7 through the establishment of community services for persons
8 with developmental disabilities as a viable and practical
9 alternative to institutional care at each stage of individual
10 life development. If care in a residential facility becomes
11 necessary, it shall be in the least restrictive setting.

12 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
13 DISABILITIES.--The rights described in this subsection shall
14 apply to all persons with developmental disabilities, whether
15 or not such persons are clients of the agency ~~department~~.

16 (a) Persons with developmental disabilities shall have
17 a right to dignity, privacy, and humane care, including the
18 right to be free from sexual abuse in residential facilities.

19 (b) Persons with developmental disabilities shall have
20 the right to religious freedom and practice. Nothing shall
21 restrict or infringe on a person's right to religious
22 preference and practice.

23 (c) Persons with developmental disabilities shall
24 receive services, within available sources, which protect the
25 personal liberty of the individual and which are provided in
26 the least restrictive conditions necessary to achieve the
27 purpose of treatment.

28 (d) Persons who are developmentally disabled shall
29 have a right to participate in an appropriate program of
30 quality education and training services, within available
31 resources, regardless of chronological age or degree of

1 disability. Such persons may be provided with instruction in
2 sex education, marriage, and family planning.

3 (e) Persons who are developmentally disabled shall
4 have a right to social interaction and to participate in
5 community activities.

6 (f) Persons who are developmentally disabled shall
7 have a right to physical exercise and recreational
8 opportunities.

9 (g) Persons who are developmentally disabled shall
10 have a right to be free from harm, including unnecessary
11 physical, chemical, or mechanical restraint, isolation,
12 excessive medication, abuse, or neglect.

13 (h) Persons who are developmentally disabled shall
14 have a right to consent to or refuse treatment, subject to the
15 provisions of s. 393.12(2)(a) or chapter 744.

16 (i) No otherwise qualified person shall, by reason of
17 having a developmental disability, be excluded from
18 participation in, or be denied the benefits of, or be subject
19 to discrimination under, any program or activity which
20 receives public funds, and all prohibitions set forth under
21 any other statute shall be actionable under this statute.

22 (j) No otherwise qualified person shall, by reason of
23 having a developmental disability, be denied the right to vote
24 in public elections.

25 (4) CLIENT RIGHTS.--For purposes of this subsection,
26 the term "client," as defined in s. 393.063, shall also
27 include any person served in a facility licensed pursuant to
28 s. 393.067.

29 (b) Each client has the right to the possession and
30 use of his or her own clothing and personal effects, except in
31 those specific instances where the use of some of these items

1 as reinforcers is essential for training the client as part of
2 an appropriately approved behavioral program. The chief
3 administrator of the facility may take temporary custody of
4 such effects when it is essential to do so for medical or
5 safety reasons. Custody of such personal effects shall be
6 promptly recorded in the client's record, and a receipt for
7 such effects shall be immediately given to the client, if
8 competent, or the client's parent or legal guardian.

9 1. All money belonging to a client held by the agency
10 ~~department~~ shall be held in compliance with s. 402.17(2).

11 2. All interest on money received and held for the
12 personal use and benefit of a client shall be the property of
13 that client and shall not accrue to the general welfare of all
14 clients or be used to defray the cost of residential care.
15 Interest so accrued shall be used or conserved for the
16 personal use or benefit of the individual client as provided
17 in s. 402.17(2).

18 3. Upon the discharge or death of a client, a final
19 accounting shall be made of all personal effects and money
20 belonging to the client held by the agency ~~department~~. All
21 such personal effects and money, including interest, shall be
22 promptly turned over to the client or his or her heirs.

23 (g) No client shall be subjected to a treatment
24 program to eliminate bizarre or unusual behaviors without
25 first being examined by a physician who in his or her best
26 judgment determines that such behaviors are not organically
27 caused.

28 1. Treatment programs involving the use of noxious or
29 painful stimuli shall be prohibited.

30 2. All alleged violations of this paragraph shall be
31 reported immediately to the chief administrative officer of

1 | the facility or the district administrator, the agency
2 | ~~department~~ head, and the Florida local advocacy council. A
3 | thorough investigation of each incident shall be conducted and
4 | a written report of the finding and results of such
5 | investigation shall be submitted to the chief administrative
6 | officer of the facility or the district administrator and to
7 | the agency ~~department~~ head within 24 hours of the occurrence
8 | or discovery of the incident.

9 | 3. The agency ~~department~~ shall adopt ~~promulgate~~ by
10 | rule a system for the oversight of behavioral programs. Such
11 | system shall establish guidelines and procedures governing the
12 | design, approval, implementation, and monitoring of all
13 | behavioral programs involving clients. The system shall
14 | ensure statewide and local review by committees of
15 | professionals certified as behavior analysts pursuant to s.
16 | 393.17. No behavioral program shall be implemented unless
17 | reviewed according to the rules established by the agency
18 | ~~department~~ under this section. Nothing stated in this section
19 | shall prohibit the review of programs by the Florida statewide
20 | or local advocacy councils.

21 | (i) Clients shall have the right to be free from
22 | unnecessary physical, chemical, or mechanical restraint.
23 | Restraints shall be employed only in emergencies or to protect
24 | the client from imminent injury to himself or herself or
25 | others. Restraints shall not be employed as punishment, for
26 | the convenience of staff, or as a substitute for a
27 | habilitative plan. Restraints shall impose the least possible
28 | restrictions consistent with their purpose and shall be
29 | removed when the emergency ends. Restraints shall not cause
30 | physical injury to the client and shall be designed to allow
31 | the greatest possible comfort.

1 1. Mechanical supports used in normative situations to
2 achieve proper body position and balance shall not be
3 considered restraints, but shall be prescriptively designed
4 and applied under the supervision of a qualified professional
5 with concern for principles of good body alignment,
6 circulation, and allowance for change of position.

7 2. Totally enclosed cribs and barred enclosures shall
8 be considered restraints.

9 3. Daily reports on the employment of physical,
10 chemical, or mechanical restraints by those specialists
11 authorized in the use of such restraints shall be made to the
12 appropriate chief administrator of the facility, and a monthly
13 summary of such reports shall be relayed to the district
14 administrator and the Florida local advocacy council. The
15 reports shall summarize all such cases of restraints, the type
16 used, the duration of usage, and the reasons therefor.
17 Districts shall submit districtwide quarterly reports of these
18 summaries to the state Developmental Disabilities Program
19 Office.

20 4. The ~~agency department~~ shall post a copy of the
21 rules ~~adopted promulgated~~ under this section in each living
22 unit of residential facilities. A copy of the rules adopted
23 ~~promulgated~~ under this section shall be given to all staff
24 members of licensed facilities and made a part of all
25 preservice and inservice training programs.

26 (j)1. Each client shall have a central record. The
27 record shall include data pertaining to admission and such
28 other information as may be required under rules of the agency
29 ~~department~~.

30 2. Unless waived by the client, if competent, or the
31 client's parent or legal guardian if the client is

1 incompetent, the client's central record shall be confidential
2 and exempt from the provisions of s. 119.07(1), and no part of
3 it shall be released except:

4 a. The record may be released to physicians,
5 attorneys, and government agencies having need of the record
6 to aid the client, as designated by the client, if competent,
7 or the client's parent or legal guardian, if the client is
8 incompetent.

9 b. The record shall be produced in response to a
10 subpoena or released to persons authorized by order of court,
11 excluding matters privileged by other provisions of law.

12 c. The record or any part thereof may be disclosed to
13 a qualified researcher, a staff member of the facility, or an
14 employee of the agency ~~department~~ when the administrator of
15 the facility or the director ~~secretary~~ of the agency
16 ~~department~~ deems it necessary for the treatment of the client,
17 maintenance of adequate records, compilation of treatment
18 data, or evaluation of programs.

19 d. Information from the records may be used for
20 statistical and research purposes if the information is
21 abstracted in such a way to protect the identity of
22 individuals.

23 3. All central records for each client in residential
24 facilities shall be kept on uniform forms distributed by the
25 agency ~~department~~. The central record shall accurately
26 summarize each client's history and present condition.

27 4. The client, if competent, or the client's parent or
28 legal guardian if the client is incompetent, shall be supplied
29 with a copy of the client's central record upon request.

30 (6) NOTICE OF RIGHTS.--Each person with developmental
31 disabilities, if competent, or parent or legal guardian of

1 such person if the person is incompetent, shall promptly
2 receive from the agency ~~Department of Children and Family~~
3 ~~Services~~ or the Department of Education a written copy of this
4 act. Each person with developmental disabilities able to
5 comprehend shall be promptly informed, in the language or
6 other mode of communication which such person understands, of
7 the above legal rights of persons with developmental
8 disabilities.

9 Section 12. Section 393.17, Florida Statutes, is
10 amended to read:

11 393.17 Behavioral programs; certification of behavior
12 analysts; ~~fees.~~ --The agency may recognize the certification of
13 behavior analysts awarded by a nonprofit corporation whose
14 mission is to meet professional credentialing needs identified
15 by behavior analysts, state governments, and consumers of
16 behavior analysis services and whose work has the support of
17 the Association for Behavior Analysis International. The
18 ~~department shall by rule implement a certification program to~~
19 ~~ensure that qualified persons oversee the design and~~
20 ~~implementation of behavioral programs for persons who are~~
21 ~~developmentally disabled. Certification and recertification~~
22 ~~minimum standards must comply with departmental rules and must~~
23 ~~include, for initial certification, examination of~~
24 ~~competencies in applying behavior analysis with persons who~~
25 ~~are developmentally disabled within established competency~~
26 ~~clusters. These competency clusters shall include, but not be~~
27 ~~limited to, behavioral assessments, observation and recording,~~
28 ~~behavioral program development and monitoring, and other areas~~
29 ~~as determined by professional practitioners of behavior~~
30 ~~analysis. Fees shall be charged for certification not to~~
31 ~~exceed the cost of development and administration of the~~

1 ~~examination and periodic renewal of certification. The~~
2 ~~department shall establish by rule the procedures for~~
3 ~~certification and certification renewal.~~

4 Section 13. Section 393.22, Florida Statutes, is
5 amended to read:

6 393.22 ~~Transfer of appropriations; barriers to~~
7 ~~services;~~ Financial commitment to community services
8 programs.--

9 ~~(1) No funds appropriated for developmental services~~
10 ~~programs shall be transferred pursuant to s. 216.292, unless~~
11 ~~there is a finding by the secretary that treatment programs~~
12 ~~for developmental disabilities will not be adversely affected~~
13 ~~by the transfer.~~

14 ~~(2) Development of programs for other disabilities~~
15 ~~shall not effectuate a reduction or dilution of the ongoing~~
16 ~~financial commitment of the state through appropriations for~~
17 ~~programs and services for persons with mental retardation,~~
18 ~~cerebral palsy, autism, or spina bifida.~~

19 ~~(3) In order to The Department of Children and Family~~
20 ~~Services and the Agency for Health Care Administration jointly~~
21 ~~shall~~ ensure that whenever a number of persons move from an
22 institution serving persons with developmental disabilities
23 which is sufficient to allow an entire residential unit within
24 that institution to be closed, no less than 80 percent of the
25 direct costs of providing services to persons who had resided
26 in that unit shall be reallocated for community services.

27 Section 14. Section 393.502, Florida Statutes, is
28 amended to read:

29 393.502 Family care councils.--
30
31

1 (1) CREATION.--There shall be established and located
2 within each service area of the agency ~~district of the~~
3 ~~department~~ a ~~district~~ family care council.

4 (2) MEMBERSHIP.--

5 (a) Each local ~~district~~ family care council shall
6 consist of at least 10 and no more than 15 members recommended
7 by a majority vote of the local ~~district~~ family care council
8 and appointed by the Governor.

9 (b) At least three of the members of the council must
10 be consumers. One such member shall be a consumer who received
11 ~~developmental~~ services within the 4 years prior to the date of
12 recommendation, or the legal guardian of such a consumer. The
13 remainder of the council members shall be parents, guardians,
14 or siblings of persons with developmental disabilities who
15 qualify for ~~developmental~~ services pursuant to this chapter.

16 (c) A person who is currently serving on another board
17 or council of the agency ~~department~~ may not be appointed to a
18 local ~~district~~ family care council.

19 (d) Employees of the agency ~~department~~ are not
20 eligible to serve on a local ~~district~~ family care council.

21 (e) Persons related by consanguinity or affinity
22 within the third degree shall not serve on the same local
23 ~~district~~ family care council at the same time.

24 (f) A chair for the council shall be chosen by the
25 council members to serve for 1 year. A person may serve no
26 more than four 1-year terms as chair.

27 (3) TERMS; VACANCIES.--

28 (a) Council members shall be appointed for a 3-year
29 term, except as provided in subsection (8), and may be
30 reappointed to one additional term.

31

1 (b) A member who has served two consecutive terms
2 shall not be eligible to serve again until 12 months have
3 elapsed since ending his or her service on the local ~~district~~
4 council.

5 (c) Upon expiration of a term or in the case of any
6 other vacancy, the local ~~district~~ council shall, by majority
7 vote, recommend to the Governor for appointment a person for
8 each vacancy. ~~If the Governor does not act on the council's~~
9 ~~recommendations within 45 days after receiving them, the~~
10 ~~persons recommended shall be considered to be appointed.~~

11 (4) COMMITTEE APPOINTMENTS.--The chair of the local
12 ~~district~~ family care council may appoint persons to serve on
13 council committees. Such persons may include former members of
14 the council and persons not eligible to serve on the council.

15 (5) TRAINING.--

16 (a) The agency ~~department~~, in consultation with the
17 local ~~district~~ councils, shall establish a training program
18 for local ~~district~~ family care council members. Each local
19 area ~~district~~ shall provide the training program when new
20 persons are appointed to the local ~~district~~ council and at
21 other times as the secretary deems necessary.

22 (b) The training shall assist the council members to
23 understand the laws, rules, and policies applicable to their
24 duties and responsibilities.

25 (c) All persons appointed to a local ~~district~~ council
26 must complete this training within 90 days after their
27 appointment. A person who fails to meet this requirement shall
28 be considered to have resigned from the council.

29 (6) MEETINGS.--Council members shall serve on a
30 voluntary basis without payment for their services but shall
31 be reimbursed for per diem and travel expenses as provided for

1 in s. 112.061. The council shall meet at least six times per
2 year.

3 (7) PURPOSE.--The purpose of the local ~~district~~ family
4 care councils shall be to advise the agency ~~department and its~~
5 ~~district advisory boards~~, to develop a plan for the delivery
6 of ~~developmental services~~ family support services within the
7 local area ~~district~~, and to monitor the implementation and
8 effectiveness of services and support provided under the plan.

9 The primary functions of the local ~~district~~ family care
10 councils shall be to:

11 (a) Assist in providing information and outreach to
12 families.

13 (b) Review the effectiveness of service ~~developmental~~
14 ~~services~~ programs and make recommendations with respect to
15 program implementation.

16 (c) Advise the agency ~~district developmental services~~
17 ~~administrators~~ with respect to policy issues relevant to the
18 community and family support system in the local area
19 ~~district~~.

20 (d) Meet and share information with other local
21 ~~district~~ family care councils.

22 (8) NEW COUNCILS.--When a local ~~district~~ family care
23 council is established for the first time in a local area
24 ~~district~~, the Governor shall appoint the first four council
25 members, who shall serve 3-year terms. These members shall
26 submit to the Governor, within 90 days after their
27 appointment, recommendations for at least six additional
28 members, selected by majority vote. ~~If the Governor does not~~
29 ~~act on the recommendations within 45 days after receiving~~
30 ~~them, the persons recommended shall be considered to be~~

31

1 ~~appointed. Those members recommended for appointment by the~~
2 ~~Governor shall serve for 2 years.~~

3 (9) FUNDING; FINANCIAL REVIEW.--The local district
4 family care council may apply for, receive, and accept grants,
5 gifts, donations, bequests, and other payments from any public
6 or private entity or person. Each local district council is
7 ~~shall be~~ subject to an annual financial review by ~~district~~
8 staff assigned by the agency district administrator. Each
9 local district council shall exercise care and prudence in the
10 expenditure of funds. The local district family care councils
11 shall comply with state expenditure requirements.

12 Section 15. Section 408.301, Florida Statutes, is
13 amended to read:

14 408.301 Legislative findings.--The Legislature has
15 found that access to quality, affordable, health care for all
16 Floridians is an important goal for the state. The Legislature
17 recognizes that there are Floridians with special health care
18 and social needs which require particular attention. The
19 people served by the Department of Children and Family
20 Services, the Agency for Persons with Disabilities, and the
21 Department of Health, and the Department of Elderly Affairs
22 are examples of citizens with special needs. The Legislature
23 further recognizes that the Medicaid program is an intricate
24 part of the service delivery system for the special needs
25 citizens ~~served by or through the Department of Children and~~
26 ~~Family Services and the Department of Health. However, the~~
27 Agency for Health Care Administration is not a service
28 provider and does not develop or direct programs for the
29 special needs citizens ~~served by or through the Department of~~
30 ~~Children and Family Services and the Department of Health.~~
31 Therefore, it is the intent of the Legislature that the Agency

1 for Health Care Administration work closely with the
2 Department of Children and Family Services, the Agency for
3 Persons with Disabilities, ~~and~~ the Department of Health, and
4 the Department of Elderly Affairs in developing plans for
5 assuring access to all Floridians in order to assure that the
6 needs of special citizens are met.

7 Section 16. Section 408.302, Florida Statutes, is
8 amended to read:

9 408.302 Interagency agreement.--

10 (1) The Agency for Health Care Administration shall
11 enter into an interagency agreement with the Department of
12 Children and Family Services, the Agency for Persons with
13 Disabilities, ~~and~~ the Department of Health, and the Department
14 of Elderly Affairs to assure coordination and cooperation in
15 serving special needs citizens. The agreement shall include
16 the requirement that the secretaries or directors ~~secretary~~ of
17 the Department of Children and Family Services, the Agency for
18 Persons with Disabilities, ~~and the secretary of~~ the Department
19 of Health, and the Department of Elderly Affairs approve,
20 prior to adoption, any rule developed by the Agency for Health
21 Care Administration where such rule has a direct impact on the
22 mission of the respective state agencies ~~Department of~~
23 ~~Children and Family Services and the Department of Health,~~
24 their programs, or their budgets.

25 (2) For rules which indirectly impact on the mission
26 of the Department of Children and Family Services, the Agency
27 for Persons with Disabilities, ~~and~~ the Department of Health,
28 and the Department of Elderly Affairs, their programs, or
29 their budgets, the concurrence of the respective secretaries
30 or directors ~~secretary of the Department of Children and~~
31

1 ~~Family Services and the secretary of the Department of Health~~
2 on the rule is required.

3 (3) For all other rules developed by the Agency for
4 Health Care Administration, coordination with the Department
5 of Children and Family Services, the Agency for Persons with
6 Disabilities, and the Department of Health, and the Department
7 of Elderly Affairs is encouraged.

8 (4) The interagency agreement shall also include any
9 other provisions necessary to ensure a continued cooperative
10 working relationship between the Agency for Health Care
11 Administration and the Department of Children and Family
12 Services, the Agency for Persons with Disabilities, and the
13 Department of Health, and the Department of Elderly Affairs as
14 each strives to meet the needs of the citizens of Florida.

15 Section 17. Subsection (13) of section 409.906,
16 Florida Statutes, is amended to read:

17 409.906 Optional Medicaid services.--Subject to
18 specific appropriations, the agency may make payments for
19 services which are optional to the state under Title XIX of
20 the Social Security Act and are furnished by Medicaid
21 providers to recipients who are determined to be eligible on
22 the dates on which the services were provided. Any optional
23 service that is provided shall be provided only when medically
24 necessary and in accordance with state and federal law.
25 Optional services rendered by providers in mobile units to
26 Medicaid recipients may be restricted or prohibited by the
27 agency. Nothing in this section shall be construed to prevent
28 or limit the agency from adjusting fees, reimbursement rates,
29 lengths of stay, number of visits, or number of services, or
30 making any other adjustments necessary to comply with the
31 availability of moneys and any limitations or directions

1 provided for in the General Appropriations Act or chapter 216.
2 If necessary to safeguard the state's systems of providing
3 services to elderly and disabled persons and subject to the
4 notice and review provisions of s. 216.177, the Governor may
5 direct the Agency for Health Care Administration to amend the
6 Medicaid state plan to delete the optional Medicaid service
7 known as "Intermediate Care Facilities for the Developmentally
8 Disabled." Optional services may include:

9 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency
10 may pay for home-based or community-based services that are
11 rendered to a recipient in accordance with a federally
12 approved waiver program. The agency may limit or eliminate
13 coverage for certain ~~Project AIDS Care Waiver~~ services,
14 preauthorize high-cost or highly utilized services, or make
15 any other adjustments necessary to comply with any limitations
16 or directions provided for in the General Appropriations Act.

17 Section 18. Sections 393.14, 393.165, 393.166, and
18 393.505, Florida Statutes, are repealed.

19 Section 19. (1) Effective October 1, 2004, the
20 developmental disabilities program and the developmental
21 services institutions in the Department of Children and Family
22 Services shall be transferred to the Agency for Persons with
23 Disabilities by a type two transfer pursuant to section 20.06,
24 Florida Statutes. Prior to that date:

25 (a) The Agency for Persons with Disabilities and the
26 Department of Children and Family Services, in consultation
27 with the Department of Management Services, shall determine
28 the number of positions and resources within the department
29 dedicated to the developmental disabilities program which
30 shall be transferred to the agency and will develop an
31

1 agreement that delineates who within the department will
2 provide administrative support to the agency.

3 (b) The Director of the Agency for Persons with
4 Disabilities, in consultation with the Secretaries of the
5 Department of Children and Family Services and the Agency for
6 Health Care Administration or their designees, shall prepare a
7 transition plan that must address, at a minimum, building
8 leases, information support systems, cash ownership and
9 transfer, administrative support functions, inventory and
10 transfers of equipment and structures, expenditure transfers,
11 budget authority and positions, and certifications forward.
12 This plan shall be submitted by September 1, 2004, to the
13 Executive Office of the Governor, the President of the Senate,
14 and the Speaker of the House of Representatives.

15 (c) The Agency for Persons with Disabilities and the
16 Department of Children and Family Services shall work with the
17 Agency for Health Care Administration to develop a plan that
18 ensures that all of the necessary electronic and paper-based
19 data of the Developmental Disabilities program is accessible
20 to the Medicaid program and that all electronic records will
21 be migrated to a new data system that is compatible with the
22 Florida Medicaid Management Information System.

23 (d) The Agency for Persons with Disabilities and the
24 Agency for Health Care Administration shall develop a plan for
25 the orderly relocation of the noncentral-office staff of the
26 Agency for Persons with Disabilities to the area offices of
27 the Agency for Health Care Administration. Such plan shall
28 include a schedule that takes into consideration the
29 availability of space, the expiration of current leases, and
30 the initiation of new leases that can accommodate the
31 relocated staff, as well as appropriate reimbursement for

1 collocation costs, including office space and other operating
2 expenses.

3 (2) Effective October 1, 2004, the agency shall enter
4 into an interagency agreement with the Department of Children
5 and Family Services for the provision of the necessary
6 day-to-day administrative and operational needs of the agency,
7 including, but not limited to, personnel, purchasing,
8 information technology support, legal support, and other
9 related services. This interagency agreement shall continue
10 until the agency no longer requires the provision of services
11 through such agreement.

12 (3) This act does not affect the validity of any
13 judicial or administrative proceeding pending on October 30,
14 2004, and the Agency for Persons with Disabilities is
15 substituted as a real party in interest with respect to any
16 proceeding pending on that date which involves the
17 developmental services programs of the Department of Children
18 and Family Services.

19 Section 20. The Office of Program Policy Analysis and
20 Government Accountability shall identify and evaluate
21 statewide entities receiving state funding for the purpose of
22 addressing the interests of, but not directly providing
23 services for, persons with disabilities.

24 (1) The purpose of the analysis shall be to provide
25 information with respect to:

26 (a) The extent to which activities of these entities
27 are coordinated;

28 (b) The similarities and differences in the
29 organizational missions of these entities; and

30 (c) The amount of state funds provided to these
31 entities for the purpose of addressing the interests of

1 persons with disabilities, the uses of these funds, and
2 whether they duplicate the efforts of other private or
3 federally funded entities.

4 (2) The report shall be completed and provided to the
5 Governor and Legislature by December 2005.

6 Section 21. Subsection (1) of section 92.53, Florida
7 Statutes, is amended to read:

8 92.53 Videotaping of testimony of victim or witness
9 under age 16 or person with mental retardation.--

10 (1) On motion and hearing in camera and a finding that
11 there is a substantial likelihood that a victim or witness who
12 is under the age of 16 or who is a person with mental
13 retardation as defined in s. 393.063 ~~s. 393.063(42)~~ would
14 suffer at least moderate emotional or mental harm due to the
15 presence of the defendant if the child or person with mental
16 retardation is required to testify in open court, or that such
17 victim or witness is otherwise unavailable as defined in s.
18 90.804(1), the trial court may order the videotaping of the
19 testimony of the victim or witness in a case, whether civil or
20 criminal in nature, in which videotaped testimony is to be
21 utilized at trial in lieu of trial testimony in open court.

22 Section 22. Subsections (1), (2), and (3), paragraph
23 (i) of subsection (4), subsection (5), paragraphs (a), (b),
24 (c), (d), (f), and (g) of subsection (6), and subsections (8),
25 (9), (10), (11), (12), (13), (14), and (17) of section
26 393.067, Florida Statutes, are amended to read:

27 393.067 Licensure of residential facilities and
28 comprehensive transitional education programs.--

29 (1) The agency ~~department~~ shall provide through its
30 licensing authority a system of provider qualifications,
31 standards, training criteria for meeting standards, and

1 monitoring for residential facilities and comprehensive
2 transitional education programs.

3 (2) The ~~agency department~~ shall conduct inspections
4 and reviews of residential facilities and comprehensive
5 transitional education programs annually.

6 (3) An application for a license for a residential
7 facility or a comprehensive transitional education program
8 shall be made to the ~~agency Department of Children and Family~~
9 ~~Services~~ on a form furnished by it and shall be accompanied by
10 the appropriate license fee. A license issued to a residential
11 facility or a comprehensive transitional education program as
12 described in this section is not a professional license of any
13 individual. Receipt of a license under this section does not
14 create a property right in the recipient. A license is a
15 public trust and a privilege and is not an entitlement. This
16 privilege must guide the finder of fact or trier of law during
17 any administrative or court proceeding initiated by the
18 agency.

19 (4) The application shall be under oath and shall
20 contain the following:

21 (i) Such other information as the ~~agency department~~
22 determines is necessary to carry out the provisions of this
23 chapter.

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

1 (a)1. A licensed residential facility or comprehensive
2 transitional education program which applies for renewal of
3 its license shall submit to the agency ~~department~~ a list of
4 direct service providers who have worked on a continuous basis
5 at the applicant facility or program since submitting
6 fingerprints to the agency or the Department of Children and
7 Family Services, identifying those direct service providers
8 for whom a written assurance of compliance was provided by the
9 agency or department and identifying those direct service
10 providers who have recently begun working at the facility or
11 program and are awaiting the results of the required
12 fingerprint check along with the date of the submission of
13 those fingerprints for processing. The agency ~~department~~ shall
14 by rule determine the frequency of requests to the Department
15 of Law Enforcement to run state criminal records checks for
16 such direct service providers except for those direct service
17 providers awaiting the results of initial fingerprint checks
18 for employment at the applicant facility or program. The
19 agency ~~department~~ shall review the records of the direct
20 service providers at the applicant facility or program with
21 respect to the crimes specified in s. 393.0655 and shall
22 notify the facility or program of its findings. When
23 disposition information is missing on a criminal record, it is
24 ~~shall be~~ the responsibility of the person being screened, upon
25 request of the agency ~~department~~, to obtain and supply within
26 30 days the missing disposition information to the agency
27 ~~department~~. Failure to supply the missing information within
28 30 days or to show reasonable efforts to obtain such
29 information shall result in automatic disqualification.
30 2. The applicant shall sign an affidavit under penalty
31 of perjury stating that all new direct service providers have

1 | been fingerprinted and that the facility's or program's
2 | remaining direct service providers have worked at the
3 | applicant facility or program on a continuous basis since
4 | being initially screened at that facility or program or have a
5 | written assurance of compliance from the agency or department.

6 | (b) As a prerequisite for issuance of the initial
7 | license to a residential facility or comprehensive
8 | transitional education program:

9 | 1. The applicant shall submit to the agency department
10 | a complete set of fingerprints, taken by an authorized law
11 | enforcement agency or an employee of the agency department who
12 | is trained to take fingerprints, for the manager, supervisor,
13 | or direct service providers of the facility or program;

14 | 2. The agency department shall submit the fingerprints
15 | to the Department of Law Enforcement for state processing and
16 | for federal processing by the Federal Bureau of Investigation;
17 | and

18 | 3. The agency department shall review the record of
19 | the manager or supervisor with respect to the crimes specified
20 | in s. 393.0655(1) and shall notify the applicant of its
21 | findings. When disposition information is missing on a
22 | criminal record, it ~~is shall be~~ the responsibility of the
23 | manager or supervisor, upon request of the agency department,
24 | to obtain and supply within 30 days the missing disposition
25 | information to the agency department. Failure to supply the
26 | missing information within 30 days or to show reasonable
27 | efforts to obtain such information shall result in automatic
28 | disqualification.

29 | (c) The agency department or a residential facility or
30 | comprehensive transitional education program may not use the
31 | criminal records or juvenile records of a person obtained

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

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

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

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

29 | (c) Proof of compliance with the level 2 background
30 | screening requirements of chapter 435 which has been submitted
31 | within the previous 5 years in compliance with any other

1 health care licensure requirements of this state is acceptable
2 in fulfillment of the requirements of paragraph (a).

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

25 (f) Each applicant must submit to the agency a
26 description and explanation of any conviction of an offense
27 prohibited under the level 2 standards of chapter 435 by a
28 member of the board of directors of the applicant, its
29 officers, or any individual owning 5 percent or more of the
30 applicant. This requirement does not apply to a director of a
31 not-for-profit corporation or organization if the director

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

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

19 (8) The agency ~~department~~ shall adopt ~~promulgate~~ rules
20 establishing minimum standards for licensure of residential
21 facilities and comprehensive transitional education programs,
22 including rules requiring facilities and programs to train
23 staff to detect and prevent sexual abuse of residents and
24 clients, minimum standards of quality and adequacy of care,
25 and uniform firesafety standards established by the State Fire
26 Marshal which are appropriate to the size of the facility or
27 of the component centers or units of the program.

28 (9) The agency ~~department~~ and the Agency for Health
29 Care Administration, after consultation with the Department of
30 Community Affairs, shall adopt rules for residential
31 facilities under the respective regulatory jurisdiction of

1 each establishing minimum standards for the preparation and
2 annual update of a comprehensive emergency management plan. At
3 a minimum, the rules must provide for plan components that
4 address emergency evacuation transportation; adequate
5 sheltering arrangements; postdisaster activities, including
6 emergency power, food, and water; postdisaster transportation;
7 supplies; staffing; emergency equipment; individual
8 identification of residents and transfer of records; and
9 responding to family inquiries. The comprehensive emergency
10 management plan for all comprehensive transitional education
11 programs and for homes serving individuals who have complex
12 medical conditions is subject to review and approval by the
13 local emergency management agency. During its review, the
14 local emergency management agency shall ensure that the
15 following agencies, at a minimum, are given the opportunity to
16 review the plan: the Agency for Health Care Administration,
17 the Agency for Persons with Disabilities ~~Department of~~
18 ~~Children and Family Services~~, and the Department of Community
19 Affairs. Also, appropriate volunteer organizations must be
20 given the opportunity to review the plan. The local emergency
21 management agency shall complete its review within 60 days and
22 either approve the plan or advise the facility of necessary
23 revisions.

24 (10) The agency ~~department~~ may conduct unannounced
25 inspections to determine compliance by residential facilities
26 and comprehensive transitional education programs with the
27 applicable provisions of this chapter and the rules adopted
28 pursuant hereto, including the rules adopted for training
29 staff of a facility or a program to detect and prevent sexual
30 abuse of residents and clients. The facility or program shall
31

1 make copies of inspection reports available to the public upon
2 request.

3 (11) An alternative living center and an independent
4 living education center, as defined in s. 393.063 ~~s.~~
5 ~~393.063(8)~~, shall be subject to the provisions of s. 419.001,
6 except that such centers shall be exempt from the
7 1,000-foot-radius requirement of s. 419.001(2) if:

8 (a) Such centers are located on a site zoned in a
9 manner so that all the component centers of a comprehensive
10 transition education center may be located thereon; or

11 (b) There are no more than three such centers within
12 said radius of 1,000 feet.

13 (12) Each residential facility or comprehensive
14 transitional education program licensed by the agency
15 ~~department~~ shall forward annually to the agency department a
16 true and accurate sworn statement of its costs of providing
17 care to clients funded by the agency department.

18 (13) The agency department may audit the records of
19 any residential facility or comprehensive transitional
20 education program ~~that~~ which it has reason to believe may not
21 be in full compliance with the provisions of this section;
22 provided that, any financial audit of such facility or program
23 shall be limited to the records of clients funded by the
24 agency department.

25 (14) The agency department shall establish, for the
26 purpose of control of licensure costs, a uniform management
27 information system and a uniform reporting system with uniform
28 definitions and reporting categories.

29 (17) The agency department shall not be required to
30 contract with new facilities licensed after October 1, 1989,
31 pursuant to this chapter. Pursuant to chapter 287, the agency

1 | ~~department~~ shall continue to contract within available
2 | resources for residential services with facilities licensed
3 | prior to October 1, 1989, if such facilities comply with the
4 | provisions of this chapter and all other applicable laws and
5 | regulations.

6 | Section 23. Subsection (9) of section 397.405, Florida
7 | Statutes, is amended to read:

8 | 397.405 Exemptions from licensure.--The following are
9 | exempt from the licensing provisions of this chapter:

10 | (9) Facilities licensed under s. 393.063 ~~s. 393.063(8)~~
11 | that, in addition to providing services to persons who are
12 | developmentally disabled as defined therein, also provide
13 | services to persons developmentally at risk as a consequence
14 | of exposure to alcohol or other legal or illegal drugs while
15 | in utero.

16 |
17 | The exemptions from licensure in this section do not apply to
18 | any service provider that receives an appropriation, grant, or
19 | contract from the state to operate as a service provider as
20 | defined in this chapter or to any substance abuse program
21 | regulated pursuant to s. 397.406. Furthermore, this chapter
22 | may not be construed to limit the practice of a physician
23 | licensed under chapter 458 or chapter 459, a psychologist
24 | licensed under chapter 490, or a psychotherapist licensed
25 | under chapter 491 who provides substance abuse treatment, so
26 | long as the physician, psychologist, or psychotherapist does
27 | not represent to the public that he or she is a licensed
28 | service provider and does not provide services to clients
29 | pursuant to part V of this chapter. Failure to comply with any
30 | requirement necessary to maintain an exempt status under this
31 |

1 section is a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 Section 24. Paragraph (b) of subsection (5) of section
4 400.464, Florida Statutes, is amended to read:

5 400.464 Home health agencies to be licensed;
6 expiration of license; exemptions; unlawful acts; penalties.--

7 (5) The following are exempt from the licensure
8 requirements of this part:

9 (b) Home health services provided by a state agency,
10 either directly or through a contractor with:

11 1. The Department of Elderly Affairs.

12 2. The Department of Health, a community health
13 center, or a rural health network that furnishes home visits
14 for the purpose of providing environmental assessments, case
15 management, health education, personal care services, family
16 planning, or followup treatment, or for the purpose of
17 monitoring and tracking disease.

18 3. Services provided to persons who have developmental
19 disabilities, as defined in s. 393.063 ~~s. 393.063(12)~~.

20 4. Companion and sitter organizations that were
21 registered under s. 400.509(1) on January 1, 1999, and were
22 authorized to provide personal services under s. 393.063(33)
23 under a developmental services provider certificate on January
24 1, 1999, may continue to provide such services to past,
25 present, and future clients of the organization who need such
26 services, notwithstanding the provisions of this act.

27 5. The Department of Children and Family Services.

28 Section 25. Paragraph (d) of subsection (1) of section
29 419.001, Florida Statutes, is amended to read:

30 419.001 Site selection of community residential
31 homes.--

1 (1) For the purposes of this section, the following
2 definitions shall apply:

3 (d) "Resident" means any of the following: a frail
4 elder as defined in s. 400.618; a physically disabled or
5 handicapped person as defined in s. 760.22(7)(a); a
6 developmentally disabled person as defined in s. 393.063 ~~s.~~
7 ~~393.063(12)~~; a nondangerous mentally ill person as defined in
8 s. 394.455(18); or a child as defined in s. 39.01(14), s.
9 984.03(9) or (12), or s. 985.03(8).

10 Section 26. Section 914.16, Florida Statutes, is
11 amended to read:

12 914.16 Child abuse and sexual abuse of victims under
13 age 16 or persons with mental retardation; limits on
14 interviews.--The chief judge of each judicial circuit, after
15 consultation with the state attorney and the public defender
16 for the judicial circuit, the appropriate chief law
17 enforcement officer, and any other person deemed appropriate
18 by the chief judge, shall provide by order reasonable limits
19 on the number of interviews that a victim of a violation of s.
20 794.011, s. 800.04, or s. 827.03 who is under 16 years of age
21 or a victim of a violation of s. 794.011, s. 800.02, s.
22 800.03, or s. 825.102 who is a person with mental retardation
23 as defined in s. 393.063 ~~s. 393.063(42)~~ must submit to for law
24 enforcement or discovery purposes. The order shall, to the
25 extent possible, protect the victim from the psychological
26 damage of repeated interrogations while preserving the rights
27 of the public, the victim, and the person charged with the
28 violation.

29 Section 27. Subsection (2) of section 914.17, Florida
30 Statutes, is amended to read:

31

1 914.17 Appointment of advocate for victims or
2 witnesses who are minors or persons with mental retardation.--

3 (2) An advocate shall be appointed by the court to
4 represent a person with mental retardation as defined in s.
5 393.063 ~~s. 393.063(42)~~ in any criminal proceeding if the
6 person with mental retardation is a victim of or witness to
7 abuse or neglect, or if the person with mental retardation is
8 a victim of a sexual offense or a witness to a sexual offense
9 committed against a minor or person with mental retardation.
10 The court may appoint an advocate in any other criminal
11 proceeding in which a person with mental retardation is
12 involved as either a victim or a witness. The advocate shall
13 have full access to all evidence and reports introduced during
14 the proceedings, may interview witnesses, may make
15 recommendations to the court, shall be noticed and have the
16 right to appear on behalf of the person with mental
17 retardation at all proceedings, and may request additional
18 examinations by medical doctors, psychiatrists, or
19 psychologists. It is the duty of the advocate to perform the
20 following services:

21 (a) To explain, in language understandable to the
22 person with mental retardation, all legal proceedings in which
23 the person shall be involved;

24 (b) To act, as a friend of the court, to advise the
25 judge, whenever appropriate, of the person with mental
26 retardation's ability to understand and cooperate with any
27 court proceedings; and

28 (c) To assist the person with mental retardation and
29 the person's family in coping with the emotional effects of
30 the crime and subsequent criminal proceedings in which the
31 person with mental retardation is involved.

1 Section 28. Subsection (1) of section 918.16, Florida
2 Statutes, is amended to read:

3 918.16 Sex offenses; testimony of person under age 16
4 or person with mental retardation; testimony of victim;
5 courtroom cleared; exceptions.--

6 (1) Except as provided in subsection (2), in the trial
7 of any case, civil or criminal, when any person under the age
8 of 16 or any person with mental retardation as defined in s.
9 393.063 ~~s. 393.063(42)~~ is testifying concerning any sex
10 offense, the court shall clear the courtroom of all persons
11 except parties to the cause and their immediate families or
12 guardians, attorneys and their secretaries, officers of the
13 court, jurors, newspaper reporters or broadcasters, court
14 reporters, and, at the request of the victim, victim or
15 witness advocates designated by the state attorney's office.

16 Section 29. Subsections (3) and (4) of section
17 393.0641, Florida Statutes, are amended to read:

18 393.0641 Program for the prevention and treatment of
19 severe self-injurious behavior.--

20 (3) The agency ~~department~~ may contract for the
21 provision of any portion or all of the services required by
22 the program.

23 (4) The agency has ~~department shall have~~ the authority
24 to license this program and shall adopt ~~promulgate~~ rules to
25 implement the program.

26 Section 30. Section 393.065, Florida Statutes, is
27 amended to read:

28 393.065 Application and eligibility determination.--

29 (1) Application for services shall be made in writing
30 to the agency ~~Department of Children and Family Services~~, in
31 the district in which the applicant resides. Employees of the

1 ~~agency's department's~~ developmental services program shall
2 review each applicant for eligibility within 45 days after the
3 date the application is signed for children under 6 years of
4 age and within 60 days after the date the application is
5 signed for all other applicants. When necessary to
6 definitively identify individual conditions or needs, the
7 ~~agency department~~ shall provide a comprehensive assessment.
8 Only individuals whose domicile is in Florida are ~~shall be~~
9 eligible for services. Information accumulated by other
10 agencies, including professional reports and collateral data,
11 shall be considered in this process when available.

12 (2) In order to provide immediate services or crisis
13 intervention to applicants, the ~~agency department~~ shall
14 arrange for emergency eligibility determination, with a full
15 eligibility review to be accomplished within 45 days of the
16 emergency eligibility determination.

17 (3) The ~~agency department~~ shall notify each applicant,
18 in writing, of its eligibility decision. Any applicant
19 determined by the ~~agency department~~ to be ineligible for
20 developmental services has ~~shall have~~ the right to appeal this
21 decision pursuant to ss. 120.569 and 120.57.

22 (4) The ~~agency department~~ shall assess the level of
23 need and medical necessity for prospective residents of
24 intermediate-care facilities for the developmentally disabled
25 after October 1, 1999. The ~~agency department~~ may enter into an
26 agreement with the Department of Elderly Affairs for its
27 Comprehensive Assessment and Review for Long-Term-Care
28 Services (CARES) program to conduct assessments to determine
29 the level of need and medical necessity for long-term-care
30 services under this chapter. To the extent permissible under
31

1 federal law, the assessments must be funded under Title XIX of
2 the Social Security Act.

3 Section 31. Section 393.0651, Florida Statutes, is
4 amended to read:

5 393.0651 Family or individual support plan.--The
6 agency ~~department~~ shall provide for an appropriate family
7 support plan for children ages birth to 18 years of age and an
8 individual support plan for each client. The parent or
9 guardian of the client or, if competent, the client, or, when
10 appropriate, the client advocate, shall be consulted in the
11 development of the plan and shall receive a copy of the plan.
12 Each plan shall include the most appropriate, least
13 restrictive, and most cost-beneficial environment for
14 accomplishment of the objectives for client progress and a
15 specification of all services authorized. The plan shall
16 include provisions for the most appropriate level of care for
17 the client. Within the specification of needs and services for
18 each client, when residential care is necessary, the agency
19 ~~department~~ shall move toward placement of clients in
20 residential facilities based within the client's community.
21 The ultimate goal of each plan, whenever possible, shall be to
22 enable the client to live a dignified life in the least
23 restrictive setting, be that in the home or in the community.
24 For children under 6 years of age, the family support plan
25 shall be developed within the 45-day application period as
26 specified in s. 393.065(1); for all applicants 6 years of age
27 or older, the family or individual support plan shall be
28 developed within the 60-day period as specified in that
29 subsection.

30
31

1 (1) The agency ~~department~~ shall develop and specify by
2 rule the core components of support plans to be used by each
3 district.

4 (2)(a) The family or individual support plan shall be
5 integrated with the individual education plan (IEP) for all
6 clients who are public school students entitled to a free
7 appropriate public education under the Individuals with
8 Disabilities Education Act, I.D.E.A., as amended. The family
9 or individual support plan and IEP shall be implemented to
10 maximize the attainment of educational and habilitation goals.
11 If the IEP for a student enrolled in a public school program
12 indicates placement in a public or private residential program
13 is necessary to provide special education and related services
14 to a client, the local education agency shall provide for the
15 costs of that service in accordance with the requirements of
16 the Individuals with Disabilities Education Act, I.D.E.A., as
17 amended. This shall not preclude local education agencies and
18 the agency ~~department~~ from sharing the residential service
19 costs of students who are clients and require residential
20 placement. Under no circumstances shall clients entitled to a
21 public education or their parents be assessed a fee by the
22 agency ~~department~~ under s. 402.33 for placement in a
23 residential program.

24 (b) For clients who are entering or exiting the school
25 system, an interdepartmental staffing team composed of
26 representatives of the agency ~~department~~ and the local school
27 system shall develop a written transitional living and
28 training plan with the participation of the client or with the
29 parent or guardian of the client, or the client advocate, as
30 appropriate.

31

1 (3) Each family or individual support plan shall be
2 facilitated through case management designed solely to advance
3 the individual needs of the client.

4 (4) In the development of the family or individual
5 support plan, a client advocate may be appointed by the
6 support planning team for a client who is a minor or for a
7 client who is not capable of express and informed consent
8 when:

9 (a) The parent or guardian cannot be identified;

10 (b) The whereabouts of the parent or guardian cannot
11 be discovered; or

12 (c) The state is the only legal representative of the
13 client.

14
15 Such appointment shall not be construed to extend the powers
16 of the client advocate to include any of those powers
17 delegated by law to a legal guardian.

18 (5) The agency ~~department~~ shall place a client in the
19 most appropriate and least restrictive, and cost-beneficial,
20 residential facility according to his or her individual
21 habilitation plan. The parent or guardian of the client or, if
22 competent, the client, or, when appropriate, the client
23 advocate, and the administrator of the residential facility to
24 which placement is proposed shall be consulted in determining
25 the appropriate placement for the client. Considerations for
26 placement shall be made in the following order:

27 (a) Client's own home or the home of a family member
28 or direct service provider.

29 (b) Foster care facility.

30 (c) Group home facility.

31

1 (d) Intermediate care facility for the developmentally
2 disabled.

3 (e) Other facilities licensed by the agency ~~department~~
4 which offer special programs for people with developmental
5 disabilities.

6 (f) Developmental services institution.

7 (6) In developing a client's annual family or
8 individual support plan, the individual or family with the
9 assistance of the support planning team shall identify
10 measurable objectives for client progress and shall specify a
11 time period expected for achievement of each objective.

12 (7) The individual, family, and support coordinator
13 shall review progress in achieving the objectives specified in
14 each client's family or individual support plan, and shall
15 revise the plan annually, following consultation with the
16 client, if competent, or with the parent or guardian of the
17 client, or, when appropriate, the client advocate. The agency
18 ~~department~~ shall annually report in writing to the client, if
19 competent, or to the parent or guardian of the client, or to
20 the client advocate, when appropriate, with respect to the
21 client's habilitative and medical progress.

22 (8) Any client, or any parent of a minor client, or
23 guardian, authorized guardian advocate, or client advocate for
24 a client, who is substantially affected by the client's
25 initial family or individual support plan, or the annual
26 review thereof, shall have the right to file a notice to
27 challenge the decision pursuant to ss. 120.569 and 120.57.
28 Notice of such right to appeal shall be included in all
29 support plans provided by the agency ~~department~~.

30 Section 32. Section 393.0673, Florida Statutes, is
31 amended to read:

1 393.0673 Denial, suspension, revocation of license;
2 moratorium on admissions; administrative fines; procedures.--

3 (1) The agency ~~Department of Children and Family~~
4 ~~Services~~ may deny, revoke, or suspend a license or impose an
5 administrative fine, not to exceed \$1,000 per violation per
6 day, for a violation of any provision of s. 393.0655 or s.
7 393.067 or rules adopted pursuant thereto. All hearings shall
8 be held within the county in which the licensee or applicant
9 operates or applies for a license to operate a facility as
10 defined herein.

11 (2) The agency ~~department~~, as a part of any final
12 order issued by it under the provisions of this chapter, may
13 impose such fine as it deems proper, except that such fine may
14 not exceed \$1,000 for each violation. Each day a violation of
15 this chapter occurs constitutes a separate violation and is
16 subject to a separate fine, but in no event may the aggregate
17 amount of any fine exceed \$10,000. Fines paid by any facility
18 licensee under the provisions of this subsection shall be
19 deposited in the Resident Protection Trust Fund and expended
20 as provided in s. 400.063.

21 (3) The agency ~~department~~ may issue an order
22 immediately suspending or revoking a license when it
23 determines that any condition in the facility presents a
24 danger to the health, safety, or welfare of the residents in
25 the facility.

26 (4) The agency ~~department~~ may impose an immediate
27 moratorium on admissions to any facility when the department
28 determines that any condition in the facility presents a
29 threat to the health, safety, or welfare of the residents in
30 the facility.

31

1 Section 33. Subsections (1) and (3) of section
2 393.0675, Florida Statutes, are amended to read:

3 393.0675 Injunctive proceedings authorized.--

4 (1) The agency ~~Department of Children and Family~~
5 ~~Services~~ may institute injunctive proceedings in a court of
6 competent jurisdiction to:

7 (a) Enforce the provisions of this chapter or any
8 minimum standard, rule, regulation, or order issued or entered
9 pursuant thereto; or

10 (b) Terminate the operation of facilities licensed
11 pursuant to this chapter when any of the following conditions
12 exist:

13 1. Failure by the facility to take preventive or
14 corrective measures in accordance with any order of the agency
15 ~~department~~.

16 2. Failure by the facility to abide by any final order
17 of the agency ~~department~~ once it has become effective and
18 binding.

19 3. Any violation by the facility constituting an
20 emergency requiring immediate action as provided in s.
21 393.0673.

22 (3) The agency ~~department~~ may institute proceedings
23 for an injunction in a court of competent jurisdiction to
24 terminate the operation of a provider of supports or services
25 if such provider has willfully and knowingly refused to comply
26 with the screening requirement for direct service providers or
27 has refused to terminate direct service providers found not to
28 be in compliance with the requirements for good moral
29 character.

30
31

1 Section 34. Subsection (1), paragraphs (b), (c), and
2 (d) of subsection (2), and paragraph (e) of subsection (3) of
3 section 393.0678, Florida Statutes, are amended to read:

4 393.0678 Receivership proceedings.--

5 (1) The agency ~~department~~ may petition a court of
6 competent jurisdiction for the appointment of a receiver for
7 an intermediate care facility for the developmentally
8 disabled, a residential habilitation center, or a group home
9 facility owned and operated by a corporation or partnership
10 when any of the following conditions exist:

11 (a) Any person is operating a facility without a
12 license and refuses to make application for a license as
13 required by s. 393.067 or, in the case of an intermediate care
14 facility for the developmentally disabled, as required by ss.
15 393.067 and 400.062.

16 (b) The licensee is closing the facility or has
17 informed the department that it intends to close the facility;
18 and adequate arrangements have not been made for relocation of
19 the residents within 7 days, exclusive of weekends and
20 holidays, of the closing of the facility.

21 (c) The agency ~~department~~ determines that conditions
22 exist in the facility which present an imminent danger to the
23 health, safety, or welfare of the residents of the facility or
24 which present a substantial probability that death or serious
25 physical harm would result therefrom. Whenever possible, the
26 agency ~~department~~ shall facilitate the continued operation of
27 the program.

28 (d) The licensee cannot meet its financial obligations
29 to provide food, shelter, care, and utilities. Evidence such
30 as the issuance of bad checks or the accumulation of
31 delinquent bills for such items as personnel salaries, food,

1 | drugs, or utilities constitutes prima facie evidence that the
2 | ownership of the facility lacks the financial ability to
3 | operate the home in accordance with the requirements of this
4 | chapter and all rules promulgated thereunder.

5 | (2)

6 | (b) A hearing shall be conducted within 5 days of the
7 | filing of the petition, at which time all interested parties
8 | shall have the opportunity to present evidence pertaining to
9 | the petition. The agency ~~department~~ shall notify the owner or
10 | operator of the facility named in the petition of its filing
11 | and the date set for the hearing.

12 | (c) The court shall grant the petition only upon
13 | finding that the health, safety, or welfare of residents of
14 | the facility would be threatened if a condition existing at
15 | the time the petition was filed is permitted to continue. A
16 | receiver may not be appointed ex parte unless the court
17 | determines that one or more of the conditions in subsection
18 | (1) exist; that the facility owner or operator cannot be
19 | found; that all reasonable means of locating the owner or
20 | operator and notifying him or her of the petition and hearing
21 | have been exhausted; or that the owner or operator after
22 | notification of the hearing chooses not to attend. After such
23 | findings, the court may appoint any person qualified by
24 | education, training, or experience to carry out the
25 | responsibilities of receiver pursuant to this section, except
26 | that the court may not appoint any owner or affiliate of the
27 | facility which is in receivership. Before the appointment as
28 | receiver of a person who is the operator, manager, or
29 | supervisor of another facility, the court shall determine that
30 | the person can reasonably operate, manage, or supervise more
31 | than one facility. The receiver may be appointed for up to 90

1 days with the option of petitioning the court for 30-day
2 extensions. The receiver may be selected from a list of
3 persons qualified to act as receivers developed by the agency
4 ~~department~~ and presented to the court with each petition for
5 receivership. Under no circumstances may the agency ~~department~~
6 or designated agency ~~departmental~~ employee be appointed as a
7 receiver for more than 60 days; however, the agency
8 ~~departmental~~ receiver may petition the court for 30-day
9 extensions. The court shall grant an extension upon a showing
10 of good cause. The agency ~~department~~ may petition the court
11 to appoint a substitute receiver.

12 (d) During the first 60 days of the receivership, the
13 agency ~~department~~ may not take action to decertify or revoke
14 the license of a facility unless conditions causing imminent
15 danger to the health and welfare of the residents exist and a
16 receiver has been unable to remove those conditions. After
17 the first 60 days of receivership, and every 60 days
18 thereafter until the receivership is terminated, the agency
19 ~~department~~ shall submit to the court the results of an
20 assessment of the ability of the facility to assure the safety
21 and care of the residents. If the conditions at the facility
22 or the intentions of the owner indicate that the purpose of
23 the receivership is to close the facility rather than to
24 facilitate its continued operation, the agency ~~department~~
25 shall place the residents in appropriate alternate residential
26 settings as quickly as possible. If, in the opinion of the
27 court, the agency ~~department~~ has not been diligent in its
28 efforts to make adequate arrangements for placement, the court
29 shall find the agency ~~department~~ to be in contempt and shall
30 order the agency ~~department~~ to submit its plans for moving the
31 residents.

1 (3) The receiver shall make provisions for the
2 continued health, safety, and welfare of all residents of the
3 facility and:

4 (e) May use the building, fixtures, furnishings, and
5 any accompanying consumable goods in the provision of care and
6 services to residents and to any other persons receiving
7 services from the facility at the time the petition for
8 receivership was filed. The receiver shall collect payments
9 for all goods and services provided to residents or others
10 during the period of the receivership at the same rate of
11 payment charged by the owner at the time the petition for
12 receivership was filed, or at a fair and reasonable rate
13 otherwise approved by the court for private, paying residents.

14 The receiver may apply to the agency ~~department~~ for a rate
15 increase for residents under Title XIX of the Social Security
16 Act if the facility is not receiving the state reimbursement
17 cap and if expenditures justify an increase in the rate.

18 Section 35. Section 393.071, Florida Statutes, is
19 amended to read:

20 393.071 Client fees.--The agency ~~Department of~~
21 ~~Children and Family Services~~ shall charge fees for services
22 provided to clients in accordance with s. 402.33.

23 Section 36. Subsection (2) of section 393.075, Florida
24 Statutes, is amended to read:

25 393.075 General liability coverage.--

26 (2) The Division of Risk Management of the Department
27 of Financial Services shall provide coverage through the
28 agency ~~Department of Children and Family Services~~ to any
29 person who owns or operates a foster care facility or group
30 home facility solely for the agency ~~Department of Children and~~
31 ~~Family Services~~, who cares for children placed by

1 developmental services staff of the agency ~~department~~, and who
2 is licensed pursuant to s. 393.067 to provide such supervision
3 and care in his or her place of residence. The coverage shall
4 be provided from the general liability account of the State
5 Risk Management Trust Fund. The coverage is limited to
6 general liability claims arising from the provision of
7 supervision and care of children in a foster care facility or
8 group home facility pursuant to an agreement with the agency
9 ~~department~~ and pursuant to guidelines established through
10 policy, rule, or statute. Coverage shall be subject to the
11 limits provided in ss. 284.38 and 284.385, and the exclusions
12 set forth therein, together with other exclusions as may be
13 set forth in the certificate of coverage issued by the trust
14 fund. A person covered under the general liability account
15 pursuant to this subsection shall immediately notify the
16 Division of Risk Management of the Department of Financial
17 Services of any potential or actual claim.

18 Section 37. Section 393.115, Florida Statutes, is
19 amended to read:

20 393.115 Discharge.--

21 (1) DISCHARGE AT THE AGE OF MAJORITY.--

22 (a) When any residential client reaches his or her
23 18th birthday, the agency ~~department~~ shall give the resident
24 or legal guardian the option to continue residential services
25 or to be discharged from residential services.

26 (b) If the resident appears to meet the criteria for
27 involuntary admission to residential services, as defined in
28 s. 393.11, the agency ~~department~~ shall file a petition to
29 determine the appropriateness of continued residential
30 placement on an involuntary basis. The agency ~~department~~ shall
31 file the petition for involuntary admission in the county in

1 | which the client resides. If the resident was originally
2 | involuntarily admitted to residential services pursuant to s.
3 | 393.11, then the agency ~~department~~ shall file the petition in
4 | the court having continuing jurisdiction over the case.

5 | (c) Nothing in this section shall in any way limit or
6 | restrict the resident's right to a writ of habeas corpus or
7 | the right of the agency ~~department~~ to transfer a resident
8 | receiving residential care to a program of appropriate
9 | services provided by the agency ~~department~~ when such program
10 | is the appropriate habilitative setting for the resident.

11 | (2) DISCHARGE AFTER CRIMINAL OR JUVENILE
12 | COMMITMENT.--Any person with developmental disabilities
13 | committed to the custody of the agency ~~department~~ pursuant to
14 | the provisions of the applicable criminal or juvenile court
15 | law shall be discharged in accordance with the requirements of
16 | the applicable criminal or juvenile court law.

17 | Section 38. Subsection (3) of section 393.12, Florida
18 | Statutes, is amended to read:

19 | 393.12 Capacity; appointment of guardian advocate.--

20 | (3) COURT COSTS.--In all proceedings under this
21 | section, no court costs shall be charged against the agency
22 | ~~department~~.

23 | Section 39. Section 393.125, Florida Statutes, is
24 | amended to read:

25 | 393.125 Hearing rights.--

26 | (1) REVIEW OF AGENCY ~~DEPARTMENT~~ DECISIONS.--

27 | (a) Any developmental services applicant or client, or
28 | his or her parent, guardian, guardian advocate, or authorized
29 | representative, who has any substantial interest determined by
30 | the agency ~~department~~, has ~~shall have~~ the right to request an
31 | administrative hearing pursuant to ss. 120.569 and 120.57.

1 (b) Notice of the right to an administrative hearing
2 shall be given, both verbally and in writing, to the applicant
3 or client, and his or her parent, guardian, guardian advocate,
4 or authorized representative, at the same time that the agency
5 ~~department~~ gives the applicant or client notice of the
6 agency's ~~department's~~ action. The notice shall be given, both
7 verbally and in writing, in the language of the client or
8 applicant and in English.

9 (c) A request for a hearing under this section shall
10 be made to the agency ~~department~~, in writing, within 30 days
11 of the applicant's or client's receipt of the notice.

12 (2) REVIEW OF PROVIDER DECISIONS.--The agency
13 ~~department~~ shall adopt ~~promulgate~~ rules to establish uniform
14 guidelines for the agency ~~department~~ and service providers
15 relevant to termination, suspension, or reduction of client
16 services by the service provider. The rules shall ensure the
17 due process rights of service providers and clients.

18 Section 40. Subsections (3), (4), (5), and (6) of
19 section 393.15, Florida Statutes, are amended to read:

20 393.15 Legislative intent; Community Resources
21 Development Trust Fund.--

22 (3) There is created a Community Resources Development
23 Trust Fund in the State Treasury to be used by the agency
24 ~~Department of Children and Family Services~~ for the purpose of
25 granting loans to eligible programs for the initial costs of
26 development of the programs. Loans shall be made only to
27 those facilities which are in compliance with the zoning
28 regulations of the local community. Costs of development may
29 include structural modification, the purchase of equipment and
30 fire and safety devices, preoperational staff training, and
31

1 the purchase of insurance. Such costs shall not include the
2 actual construction of a facility.

3 (4) The agency department may grant to an eligible
4 program a lump-sum loan in one payment not to exceed the cost
5 to the program of providing 2 months' services, care, or
6 maintenance to each person who is developmentally disabled to
7 be placed in the program by the agency department, or the
8 actual cost of firesafety renovations to a facility required
9 by the state, whichever is greater. Loans granted to programs
10 shall not be in lieu of payment for maintenance, services, or
11 care provided, but shall stand separate and distinct. The
12 agency department shall adopt ~~promulgate~~ rules, as provided in
13 chapter 120, to determine the standards under which a program
14 shall be eligible to receive a loan as provided in this
15 section and criteria for the equitable allocation of loan
16 trust funds when eligible applications exceed the funds
17 available.

18 (5) Any loan granted by the agency department under
19 this section shall be repaid by the program within 5 years. A
20 program that ~~which~~ operates as a nonprofit corporation meeting
21 the requirements of s. 501(c)(3) of the Internal Revenue Code,
22 and that ~~which~~ seeks forgiveness of its loan shall submit to
23 the agency department a statement setting forth the service it
24 has provided during the year together with such other
25 information as the agency department by rule shall require,
26 and, upon approval of each such annual statement, the agency
27 ~~department~~ shall forgive 20 percent of the principal of any
28 such loan granted after June 30, 1975.

29 (6) If any program that ~~which~~ has received a loan
30 under this section ceases to accept, or provide care,
31 services, or maintenance to persons placed in the program by

1 | the department, or if such program files ~~shall file~~ papers of
2 | bankruptcy, at that point in time the loan shall become an
3 | interest-bearing loan at the rate of 5 percent per annum on
4 | the entire amount of the initial loan which shall be repaid
5 | within a 1-year period from the date on which the program
6 | ceases to provide care, services, or maintenance, or files
7 | papers in bankruptcy, and the amount of the loan due plus
8 | interest shall constitute a lien in favor of the state against
9 | all real and personal property of the program. The lien shall
10 | be perfected by the appropriate officer of the agency
11 | ~~department~~ by executing and acknowledging a statement of the
12 | name of the program and the amount due on the loan and a copy
13 | of the promissory note, which shall be recorded by the agency
14 | ~~department~~ with the clerk of the circuit court in the county
15 | wherein the program is located. If the program has filed a
16 | petition for bankruptcy, the agency ~~department~~ shall file and
17 | enforce the lien in the bankruptcy proceedings. Otherwise,
18 | the lien shall be enforced in the manner provided in s.
19 | 85.011. All funds received by the agency ~~department~~ from the
20 | enforcement of the lien shall be deposited in the Community
21 | Resources Development Trust Fund.

22 | Section 41. Subsection (1) of section 393.501, Florida
23 | Statutes, is amended to read:

24 | 393.501 Rulemaking.--

25 | (1) The agency ~~department~~ shall adopt rules to carry
26 | out the provisions of this chapter.

27 | Section 42. Section 393.503, Florida Statutes, is
28 | amended to read:

29 | 393.503 Respite and family care subsidy expenditures;
30 | funding.--The agency ~~Department of Children and Family~~
31 | ~~Services~~ shall determine the amount of expenditures per fiscal

1 year for the respite and family care subsidy to families and
2 individuals with developmental disabilities living in their
3 own homes. This information shall be made available to the
4 family care councils and to others requesting the information.
5 The family care councils shall review the expenditures and
6 make recommendations to the ~~agency department~~ with respect to
7 any new funds that are made available for family care.

8 Section 43. Subsection (2) of section 393.506, Florida
9 Statutes, is amended to read:

10 393.506 Administration of medication.--

11 (2) Each facility, institution, or program must
12 include in its policies and procedures a plan for training
13 designated staff to ensure the safe handling, storage, and
14 administration of prescription medication. These policies and
15 procedures must be approved by the ~~agency department~~ before
16 unlicensed direct care services staff assist with medication.

17 Section 44. Section 393.135, Florida Statutes, is
18 created to read:

19 393.135 Sexual misconduct prohibited; reporting
20 required; penalties.--

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

22 (a) "Employee" includes any paid staff member,
23 volunteer, or intern of the agency or the Agency for Health
24 Care Administration or any person under contract with the
25 agency or the Agency for Health Care Administration or any
26 person providing care or support to a client on behalf of the
27 agency or the Agency for Health Care Administration or their
28 providers.

29 (b) "Sexual activity" means:

30 1. Fondling the genital area, groin, inner thighs,
31 buttocks, or breasts of a person;

1 2. The oral, anal, or vaginal penetration by, or union
2 with, the sexual organ of another or the anal or vaginal
3 penetration of another by any other object;

4 3. Intentionally touching in a lewd or lascivious
5 manner the breasts, genitals, the genital area, or buttocks,
6 or the clothing covering them, of a person, or forcing or
7 enticing a person to touch the perpetrator;

8 4. Intentionally masturbating in the presence of
9 another person;

10 5. Intentionally exposing the genitals in a lewd or
11 lascivious manner in the presence of another person; or

12 6. Intentionally committing any other sexual act that
13 does not involve actual physical or sexual contact with the
14 victim, including, but not limited to, sadomasochistic abuse,
15 sexual bestiality, or the simulation of any act involving
16 sexual activity in the presence of a victim.

17 (c) "Sexual misconduct" means any sexual activity
18 between an employee and a client, regardless of the consent of
19 the client. The term does not include an act done for a bona
20 fide medical purpose or an internal search conducted in the
21 lawful performance of duty by an employee.

22 (2) An employee who engages in sexual misconduct with
23 an individual with a developmental disability who:

24 (a) Is in the custody of the agency;

25 (b) Resides in a residential facility, including any
26 comprehensive transitional education program, developmental
27 disabilities institution, foster care facility, group home
28 facility, intermediate care facility for the developmentally
29 disabled, or residential habilitation center; or

30 (c) Receives services from a family care program
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1 commits a felony of the second degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
3 found guilty of violating this subsection without having
4 committed the crime of sexual battery.

5 (3) The consent of the client to sexual activity is
6 not a defense to prosecution under this section.

7 (4) This section does not apply to an employee who:

8 (a) Is legally married to the client; or

9 (b) Had no reason to believe that the person with whom
10 the employee engaged in sexual misconduct is a client
11 receiving services as described in subsection (2).

12 (5) An employee who witnesses sexual misconduct, or
13 who otherwise knows or has reasonable cause to suspect that a
14 person has engaged in sexual misconduct, shall immediately
15 report the incident to the Department of Children and Family
16 Services' central abuse hotline and to law enforcement. Such
17 employee shall also prepare, date, and sign an independent
18 report that specifically describes the nature of the sexual
19 misconduct, the location and time of the incident, and the
20 persons involved. The employee shall deliver the report to the
21 supervisor or program director, who is responsible for
22 providing copies to the agency's inspector general. The
23 inspector general shall immediately conduct an appropriate
24 administrative investigation, and, if there is probable cause
25 to believe that sexual misconduct has occurred, the inspector
26 general shall notify the state attorney in the circuit in
27 which the incident occurred.

28 (6)(a) Any person who is required to make a report
29 under this section and who knowingly or willfully fails to do
30 so, or who knowingly or willfully prevents another person from
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1 doing so, commits a misdemeanor of the first degree,
2 punishable as provided in s. 775.082 or s. 775.083.

3 (b) Any person who knowingly or willfully submits
4 inaccurate, incomplete, or untruthful information with respect
5 to a report required under this section commits a misdemeanor
6 of the first degree, punishable as provided in s. 775.082 or
7 s. 775.083.

8 (c) Any person who knowingly or willfully coerces or
9 threatens any other person with the intent to alter testimony
10 or a written report regarding an incident of sexual misconduct
11 commits a felony of the third degree, punishable as provided
12 in s. 775.082, s. 775.083, or s. 775.084.

13 (7) The provisions and penalties set forth in this
14 section are in addition to any other civil, administrative, or
15 criminal action provided by law which may be applied against
16 an employee.

17 Section 45. Section 394.4593, Florida Statutes, is
18 created to read:

19 394.4593 Sexual misconduct prohibited; reporting
20 required; penalties.--

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

22 (a) "Employee" includes any paid staff member,
23 volunteer, or intern of the department or any person under
24 contract with the department or any person providing care or
25 support to a patient on behalf of the department or its
26 providers.

27 (b) "Sexual activity" means:

28 1. Fondling the genital area, groin, inner thighs,
29 buttocks, or breasts of a person;

1 2. The oral, anal, or vaginal penetration by, or union
2 with, the sexual organ of another or the anal or vaginal
3 penetration of another by any other object;

4 3. Intentionally touching in a lewd or lascivious
5 manner the breasts, genitals, the genital area, or buttocks,
6 or the clothing covering them, of a person, or forcing or
7 enticing a person to touch the perpetrator;

8 4. Intentionally masturbating in the presence of
9 another person;

10 5. Intentionally exposing the genitals in a lewd or
11 lascivious manner in the presence of another person; or

12 6. Intentionally committing any other sexual act that
13 does not involve actual physical or sexual contact with the
14 victim, including, but not limited to, sadomasochistic abuse,
15 sexual bestiality, or the simulation of any act involving
16 sexual activity in the presence of a victim.

17 (c) "Sexual misconduct" means any sexual activity
18 between an employee and a patient, regardless of the consent
19 of the patient. The term does not include an act done for a
20 bona fide medical purpose or an internal search conducted in
21 the lawful performance of duty by an employee.

22 (2) An employee who engages in sexual misconduct with
23 a patient who:

24 (a) Is in the custody of the department; or

25 (b) Resides in a receiving facility as defined in s.
26 394.455(26) or a treatment facility as defined in s.
27 394.455(30),

28
29 commits a felony of the second degree, punishable as provided
30 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
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1 found guilty of violating this subsection without having
2 committed the crime of sexual battery.

3 (3) The consent of the patient to sexual activity is
4 not a defense to prosecution under this section.

5 (4) This section does not apply to an employee who:

6 (a) Is legally married to the patient; or

7 (b) Had no reason to believe that the person with whom
8 the employee engaged in sexual misconduct is a patient
9 receiving services as described in subsection (2).

10 (5) An employee who witnesses sexual misconduct, or
11 who otherwise knows or has reasonable cause to suspect that a
12 person has engaged in sexual misconduct, shall immediately
13 report the incident to the department's central abuse hotline
14 and to law enforcement. Such employee shall also prepare,
15 date, and sign an independent report that specifically
16 describes the nature of the sexual misconduct, the location
17 and time of the incident, and the persons involved. The
18 employee shall deliver the report to the supervisor or program
19 director, who is responsible for providing copies to the
20 department's inspector general. The inspector general shall
21 immediately conduct an appropriate administrative
22 investigation, and, if there is probable cause to believe that
23 sexual misconduct has occurred, the inspector general shall
24 notify the state attorney in the circuit in which the incident
25 occurred.

26 (6)(a) Any person who is required to make a report
27 under this section and who knowingly or willfully fails to do
28 so, or who knowingly or willfully prevents another person from
29 doing so, commits a misdemeanor of the first degree,
30 punishable as provided in s. 775.082 or s. 775.083.

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1 **(b) Any person who knowingly or willfully submits**
2 **inaccurate, incomplete, or untruthful information with respect**
3 **to a report required under this section commits a misdemeanor**
4 **of the first degree, punishable as provided in s. 775.082 or**
5 **s. 775.083.**

6 **(c) Any person who knowingly or willfully coerces or**
7 **threatens any other person with the intent to alter testimony**
8 **or a written report regarding an incident of sexual misconduct**
9 **commits a felony of the third degree, punishable as provided**
10 **in s. 775.082, s. 775.083, or s. 775.084.**

11 **(7) The provisions and penalties set forth in this**
12 **section are in addition to any other civil, administrative, or**
13 **criminal action provided by law which may be applied against**
14 **an employee.**

15 Section 46. Section 916.1075, Florida Statutes, is
16 created to read:

17 **916.1075 Sexual misconduct prohibited; reporting**
18 **required; penalties.--**

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

20 **(a) "Employee" includes any paid staff member,**
21 **volunteer, or intern of the department or the Agency for**
22 **Persons with Disabilities or any person under contract with**
23 **the department or the Agency for Persons with Disabilities or**
24 **any person providing care or support to a client on behalf of**
25 **the department or the Agency for Persons with Disabilities or**
26 **their providers.**

27 **(b) "Sexual activity" means:**

28 **1. Fondling the genital area, groin, inner thighs,**
29 **buttocks, or breasts of a person;**

1 2. The oral, anal, or vaginal penetration by, or union
2 with, the sexual organ of another or the anal or vaginal
3 penetration of another by any other object;

4 3. Intentionally touching in a lewd or lascivious
5 manner the breasts, genitals, the genital area, or buttocks,
6 or the clothing covering them, of a person, or forcing or
7 enticing a person to touch the perpetrator;

8 4. Intentionally masturbating in the presence of
9 another person;

10 5. Intentionally exposing the genitals in a lewd or
11 lascivious manner in the presence of another person; or

12 6. Intentionally committing any other sexual act that
13 does not involve actual physical or sexual contact with the
14 victim, including, but not limited to, sadomasochistic abuse,
15 sexual bestiality, or the simulation of any act involving
16 sexual activity in the presence of a victim.

17 (c) "Sexual misconduct" means any sexual activity
18 between an employee and a client, regardless of the consent of
19 the client. The term does not include an act done for a bona
20 fide medical purpose or an internal search conducted in the
21 lawful performance of duty by an employee.

22 (2) An employee who engages in sexual misconduct with
23 a client who resides in a civil or forensic state mental
24 health treatment facility commits a felony of the second
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084. An employee may be found guilty of violating this
27 subsection without having committed the crime of sexual
28 battery.

29 (3) The consent of the client to sexual activity is
30 not a defense to prosecution under this section.

31 (4) This section does not apply to an employee who:

1 (a) Is legally married to the client; or

2 (b) Had no reason to believe that the person with whom
3 the employee engaged in sexual misconduct is a client
4 receiving services as described in subsection (2).

5 (5) An employee who witnesses sexual misconduct, or
6 who otherwise knows or has reasonable cause to suspect that a
7 person has engaged in sexual misconduct, shall immediately
8 report the incident to the department's central abuse hotline
9 or law enforcement. Such employee shall also prepare, date,
10 and sign an independent report that specifically describes the
11 nature of the sexual misconduct, the location and time of the
12 incident, and the persons involved. The employee shall deliver
13 the report to the supervisor or program director, who is
14 responsible for providing copies to either the department's or
15 Agency for Persons with Disabilities' inspector general as
16 appropriate. The inspector general shall immediately conduct
17 an appropriate administrative investigation, and, if there is
18 probable cause to believe that sexual misconduct has occurred,
19 the inspector general shall notify the state attorney in the
20 circuit in which the incident occurred.

21 (6)(a) Any person who is required to make a report
22 under this section and who knowingly or willfully fails to do
23 so, or who knowingly or willfully prevents another person from
24 doing so, commits a misdemeanor of the first degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 (b) Any person who knowingly or willfully submits
27 inaccurate, incomplete, or untruthful information with respect
28 to a report required under this section commits a misdemeanor
29 of the first degree, punishable as provided in s. 775.082 or
30 s. 775.083.

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1 (c) Any person who knowingly or willfully coerces or
2 threatens any other person with the intent to alter testimony
3 or a written report regarding an incident of sexual misconduct
4 commits a felony of the third degree, punishable as provided
5 in s. 775.082, s. 775.083, or s. 775.084.

6 (7) The provisions and penalties set forth in this
7 section are in addition to any other civil, administrative, or
8 criminal action provided by law which may be applied against
9 an employee.

10 Section 47. Subsection (2) of section 435.03, Florida
11 Statutes, is amended to read:

12 435.03 Level 1 screening standards.--

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

19 (a) Section 393.135, relating to sexual misconduct
20 with certain developmentally disabled clients and reporting of
21 such sexual misconduct.

22 (b) Section 394.4593, relating to sexual misconduct
23 with certain mental health patients and reporting of such
24 sexual misconduct.

25 ~~(c)(a)~~ Section 415.111, relating to abuse, neglect, or
26 exploitation of a vulnerable adult.

27 ~~(d)(b)~~ Section 782.04, relating to murder.

28 ~~(e)(c)~~ Section 782.07, relating to manslaughter,
29 aggravated manslaughter of an elderly person or disabled
30 adult, or aggravated manslaughter of a child.

31

1 ~~(f)~~~~(d)~~ Section 782.071, relating to vehicular
2 homicide.
3 ~~(g)~~~~(e)~~ Section 782.09, relating to killing of an
4 unborn child by injury to the mother.
5 ~~(h)~~~~(f)~~ Section 784.011, relating to assault, if the
6 victim of the offense was a minor.
7 ~~(i)~~~~(g)~~ Section 784.021, relating to aggravated
8 assault.
9 ~~(j)~~~~(h)~~ Section 784.03, relating to battery, if the
10 victim of the offense was a minor.
11 ~~(k)~~~~(i)~~ Section 784.045, relating to aggravated
12 battery.
13 ~~(l)~~~~(j)~~ Section 787.01, relating to kidnapping.
14 ~~(m)~~~~(k)~~ Section 787.02, relating to false imprisonment.
15 ~~(n)~~~~(l)~~ Section 794.011, relating to sexual battery.
16 ~~(o)~~~~(m)~~ Former s. 794.041, relating to prohibited acts
17 of persons in familial or custodial authority.
18 ~~(p)~~~~(n)~~ Chapter 796, relating to prostitution.
19 ~~(q)~~~~(o)~~ Section 798.02, relating to lewd and lascivious
20 behavior.
21 ~~(r)~~~~(p)~~ Chapter 800, relating to lewdness and indecent
22 exposure.
23 ~~(s)~~~~(q)~~ Section 806.01, relating to arson.
24 ~~(t)~~~~(r)~~ Chapter 812, relating to theft, robbery, and
25 related crimes, if the offense was a felony.
26 ~~(u)~~~~(s)~~ Section 817.563, relating to fraudulent sale of
27 controlled substances, only if the offense was a felony.
28 ~~(v)~~~~(t)~~ Section 825.102, relating to abuse, aggravated
29 abuse, or neglect of an elderly person or disabled adult.
30
31

1 ~~(w)(u)~~ Section 825.1025, relating to lewd or
2 lascivious offenses committed upon or in the presence of an
3 elderly person or disabled adult.

4 ~~(x)(v)~~ Section 825.103, relating to exploitation of an
5 elderly person or disabled adult, if the offense was a felony.

6 ~~(y)(w)~~ Section 826.04, relating to incest.

7 ~~(z)(x)~~ Section 827.03, relating to child abuse,
8 aggravated child abuse, or neglect of a child.

9 ~~(aa)(y)~~ Section 827.04, relating to contributing to
10 the delinquency or dependency of a child.

11 ~~(bb)(z)~~ Former s. 827.05, relating to negligent
12 treatment of children.

13 ~~(cc)(aa)~~ Section 827.071, relating to sexual
14 performance by a child.

15 ~~(dd)(bb)~~ Chapter 847, relating to obscene literature.

16 ~~(ee)(cc)~~ Chapter 893, relating to drug abuse
17 prevention and control, only if the offense was a felony or if
18 any other person involved in the offense was a minor.

19 ~~(ff)~~ Section 916.0175, relating to sexual misconduct
20 with certain forensic clients and reporting of such sexual
21 misconduct.

22 Section 48. Subsection (2) of section 435.04, Florida
23 Statutes, is amended to read:

24 435.04 Level 2 screening standards.--

25 (2) The security background investigations under this
26 section must ensure that no persons subject to the provisions
27 of this section have been found guilty of, regardless of
28 adjudication, or entered a plea of nolo contendere or guilty
29 to, any offense prohibited under any of the following
30 provisions of the Florida Statutes or under any similar
31 statute of another jurisdiction:

1 (a) Section 393.135, relating to sexual misconduct
2 with certain developmentally disabled clients and reporting of
3 such sexual misconduct.

4 (b) Section 394.4593, relating to sexual misconduct
5 with certain mental health patients and reporting of such
6 sexual misconduct.

7 ~~(c)(a)~~ Section 415.111, relating to adult abuse,
8 neglect, or exploitation of aged persons or disabled adults.

9 ~~(d)(b)~~ Section 782.04, relating to murder.

10 ~~(e)(c)~~ Section 782.07, relating to manslaughter,
11 aggravated manslaughter of an elderly person or disabled
12 adult, or aggravated manslaughter of a child.

13 ~~(f)(d)~~ Section 782.071, relating to vehicular
14 homicide.

15 ~~(g)(e)~~ Section 782.09, relating to killing of an
16 unborn child by injury to the mother.

17 ~~(h)(f)~~ Section 784.011, relating to assault, if the
18 victim of the offense was a minor.

19 ~~(i)(g)~~ Section 784.021, relating to aggravated
20 assault.

21 ~~(j)(h)~~ Section 784.03, relating to battery, if the
22 victim of the offense was a minor.

23 ~~(k)(i)~~ Section 784.045, relating to aggravated
24 battery.

25 ~~(l)(j)~~ Section 784.075, relating to battery on a
26 detention or commitment facility staff.

27 ~~(m)(k)~~ Section 787.01, relating to kidnapping.

28 ~~(n)(l)~~ Section 787.02, relating to false imprisonment.

29 ~~(o)(m)~~ Section 787.04(2), relating to taking,
30 enticing, or removing a child beyond the state limits with
31 criminal intent pending custody proceedings.

1 ~~(p)~~~~(n)~~ Section 787.04(3), relating to carrying a child
2 beyond the state lines with criminal intent to avoid producing
3 a child at a custody hearing or delivering the child to the
4 designated person.

5 ~~(q)~~~~(o)~~ Section 790.115(1), relating to exhibiting
6 firearms or weapons within 1,000 feet of a school.

7 ~~(r)~~~~(p)~~ Section 790.115(2)(b), relating to possessing
8 an electric weapon or device, destructive device, or other
9 weapon on school property.

10 ~~(s)~~~~(q)~~ Section 794.011, relating to sexual battery.

11 ~~(t)~~~~(r)~~ Former s. 794.041, relating to prohibited acts
12 of persons in familial or custodial authority.

13 ~~(u)~~~~(s)~~ Chapter 796, relating to prostitution.

14 ~~(v)~~~~(t)~~ Section 798.02, relating to lewd and lascivious
15 behavior.

16 ~~(w)~~~~(u)~~ Chapter 800, relating to lewdness and indecent
17 exposure.

18 ~~(x)~~~~(v)~~ Section 806.01, relating to arson.

19 ~~(y)~~~~(w)~~ Chapter 812, relating to theft, robbery, and
20 related crimes, if the offense is a felony.

21 ~~(z)~~~~(x)~~ Section 817.563, relating to fraudulent sale of
22 controlled substances, only if the offense was a felony.

23 ~~(aa)~~~~(y)~~ Section 825.102, relating to abuse, aggravated
24 abuse, or neglect of an elderly person or disabled adult.

25 ~~(bb)~~~~(z)~~ Section 825.1025, relating to lewd or
26 lascivious offenses committed upon or in the presence of an
27 elderly person or disabled adult.

28 ~~(cc)~~~~(aa)~~ Section 825.103, relating to exploitation of
29 an elderly person or disabled adult, if the offense was a
30 felony.

31 ~~(dd)~~~~(bb)~~ Section 826.04, relating to incest.

1 ~~(ee)~~~~(cc)~~ Section 827.03, relating to child abuse,
2 aggravated child abuse, or neglect of a child.
3 ~~(ff)~~~~(dd)~~ Section 827.04, relating to contributing to
4 the delinquency or dependency of a child.
5 ~~(gg)~~~~(ee)~~ Former s. 827.05, relating to negligent
6 treatment of children.
7 ~~(hh)~~~~(ff)~~ Section 827.071, relating to sexual
8 performance by a child.
9 ~~(ii)~~~~(gg)~~ Section 843.01, relating to resisting arrest
10 with violence.
11 ~~(jj)~~~~(hh)~~ Section 843.025, relating to depriving a law
12 enforcement, correctional, or correctional probation officer
13 means of protection or communication.
14 ~~(kk)~~~~(ii)~~ Section 843.12, relating to aiding in an
15 escape.
16 ~~(ll)~~~~(jj)~~ Section 843.13, relating to aiding in the
17 escape of juvenile inmates in correctional institutions.
18 ~~(mm)~~~~(kk)~~ Chapter 847, relating to obscene literature.
19 ~~(nn)~~~~(ll)~~ Section 874.05(1), relating to encouraging or
20 recruiting another to join a criminal gang.
21 ~~(oo)~~~~(mm)~~ Chapter 893, relating to drug abuse
22 prevention and control, only if the offense was a felony or if
23 any other person involved in the offense was a minor.
24 ~~(pp)~~ Section 916.0175, relating to sexual misconduct
25 with certain forensic clients and reporting of such sexual
26 misconduct.
27 ~~(qq)~~~~(nn)~~ Section 944.35(3), relating to inflicting
28 cruel or inhuman treatment on an inmate resulting in great
29 bodily harm.
30 ~~(rr)~~~~(oo)~~ Section 944.46, relating to harboring,
31 concealing, or aiding an escaped prisoner.

1 ~~(ss)~~~~(pp)~~ Section 944.47, relating to introduction of
2 contraband into a correctional facility.

3 ~~(tt)~~~~(qq)~~ Section 985.4045, relating to sexual
4 misconduct in juvenile justice programs.

5 ~~(uu)~~~~(rr)~~ Section 985.4046, relating to contraband
6 introduced into detention facilities.

7 Section 49. Section 943.0585, Florida Statutes, is
8 amended to read:

9 943.0585 Court-ordered expunction of criminal history
10 records.--The courts of this state have jurisdiction over
11 their own procedures, including the maintenance, expunction,
12 and correction of judicial records containing criminal history
13 information to the extent such procedures are not inconsistent
14 with the conditions, responsibilities, and duties established
15 by this section. Any court of competent jurisdiction may order
16 a criminal justice agency to expunge the criminal history
17 record of a minor or an adult who complies with the
18 requirements of this section. The court shall not order a
19 criminal justice agency to expunge a criminal history record
20 until the person seeking to expunge a criminal history record
21 has applied for and received a certificate of eligibility for
22 expunction pursuant to subsection (2). A criminal history
23 record that relates to a violation of s. 393.135, s. 394.4593,
24 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
25 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
26 s. 847.0145, s. 893.135, s. 916.1075, or a violation
27 enumerated in s. 907.041 may not be expunged, without regard
28 to whether adjudication was withheld, if the defendant was
29 found guilty of or pled guilty or nolo contendere to the
30 offense, or if the defendant, as a minor, was found to have
31 committed, or pled guilty or nolo contendere to committing,

1 | the offense as a delinquent act. The court may only order
2 | expunction of a criminal history record pertaining to one
3 | arrest or one incident of alleged criminal activity, except as
4 | provided in this section. The court may, at its sole
5 | discretion, order the expunction of a criminal history record
6 | pertaining to more than one arrest if the additional arrests
7 | directly relate to the original arrest. If the court intends
8 | to order the expunction of records pertaining to such
9 | additional arrests, such intent must be specified in the
10 | order. A criminal justice agency may not expunge any record
11 | pertaining to such additional arrests if the order to expunge
12 | does not articulate the intention of the court to expunge a
13 | record pertaining to more than one arrest. This section does
14 | not prevent the court from ordering the expunction of only a
15 | portion of a criminal history record pertaining to one arrest
16 | or one incident of alleged criminal activity. Notwithstanding
17 | any law to the contrary, a criminal justice agency may comply
18 | with laws, court orders, and official requests of other
19 | jurisdictions relating to expunction, correction, or
20 | confidential handling of criminal history records or
21 | information derived therefrom. This section does not confer
22 | any right to the expunction of any criminal history record,
23 | and any request for expunction of a criminal history record
24 | may be denied at the sole discretion of the court.

25 | (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
26 | RECORD.--Each petition to a court to expunge a criminal
27 | history record is complete only when accompanied by:

28 | (a) A certificate of eligibility for expunction issued
29 | by the department pursuant to subsection (2).

30 | (b) The petitioner's sworn statement attesting that
31 | the petitioner:

1 1. Has never, prior to the date on which the petition
2 is filed, been adjudicated guilty of a criminal offense or
3 comparable ordinance violation or adjudicated delinquent for
4 committing a felony or a misdemeanor specified in s.
5 943.051(3)(b).

6 2. Has not been adjudicated guilty of, or adjudicated
7 delinquent for committing, any of the acts stemming from the
8 arrest or alleged criminal activity to which the petition
9 pertains.

10 3. Has never secured a prior sealing or expunction of
11 a criminal history record under this section, former s.
12 893.14, former s. 901.33, or former s. 943.058, or from any
13 jurisdiction outside the state.

14 4. Is eligible for such an expunction to the best of
15 his or her knowledge or belief and does not have any other
16 petition to expunge or any petition to seal pending before any
17 court.

18
19 Any person who knowingly provides false information on such
20 sworn statement to the court commits a felony of the third
21 degree, punishable as provided in s. 775.082, s. 775.083, or
22 s. 775.084.

23 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
24 to petitioning the court to expunge a criminal history record,
25 a person seeking to expunge a criminal history record shall
26 apply to the department for a certificate of eligibility for
27 expunction. The department shall, by rule adopted pursuant to
28 chapter 120, establish procedures pertaining to the
29 application for and issuance of certificates of eligibility
30 for expunction. The department shall issue a certificate of
31

1 eligibility for expunction to a person who is the subject of a
2 criminal history record if that person:

3 (a) Has obtained, and submitted to the department, a
4 written, certified statement from the appropriate state
5 attorney or statewide prosecutor which indicates:

6 1. That an indictment, information, or other charging
7 document was not filed or issued in the case.

8 2. That an indictment, information, or other charging
9 document, if filed or issued in the case, was dismissed or
10 nolle prosequi by the state attorney or statewide prosecutor,
11 or was dismissed by a court of competent jurisdiction.

12 3. That the criminal history record does not relate to
13 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
14 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.
15 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
16 s. 893.135, s. 916.1075, or a violation enumerated in s.
17 907.041, where the defendant was found guilty of, or pled
18 guilty or nolo contendere to any such offense, or that the
19 defendant, as a minor, was found to have committed, or pled
20 guilty or nolo contendere to committing, such an offense as a
21 delinquent act, without regard to whether adjudication was
22 withheld.

23 (b) Remits a \$75 processing fee to the department for
24 placement in the Department of Law Enforcement Operating Trust
25 Fund, unless such fee is waived by the executive director.

26 (c) Has submitted to the department a certified copy
27 of the disposition of the charge to which the petition to
28 expunge pertains.

29 (d) Has never, prior to the date on which the
30 application for a certificate of eligibility is filed, been
31 adjudicated guilty of a criminal offense or comparable

1 ordinance violation or adjudicated delinquent for committing a
2 felony or a misdemeanor specified in s. 943.051(3)(b).

3 (e) Has not been adjudicated guilty of, or adjudicated
4 delinquent for committing, any of the acts stemming from the
5 arrest or alleged criminal activity to which the petition to
6 expunge pertains.

7 (f) Has never secured a prior sealing or expunction of
8 a criminal history record under this section, former s.
9 893.14, former s. 901.33, or former s. 943.058.

10 (g) Is no longer under court supervision applicable to
11 the disposition of the arrest or alleged criminal activity to
12 which the petition to expunge pertains.

13 (h) Is not required to wait a minimum of 10 years
14 prior to being eligible for an expunction of such records
15 because all charges related to the arrest or criminal activity
16 to which the petition to expunge pertains were dismissed prior
17 to trial, adjudication, or the withholding of adjudication.
18 Otherwise, such criminal history record must be sealed under
19 this section, former s. 893.14, former s. 901.33, or former s.
20 943.058 for at least 10 years before such record is eligible
21 for expunction.

22 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

23 (a) In judicial proceedings under this section, a copy
24 of the completed petition to expunge shall be served upon the
25 appropriate state attorney or the statewide prosecutor and
26 upon the arresting agency; however, it is not necessary to
27 make any agency other than the state a party. The appropriate
28 state attorney or the statewide prosecutor and the arresting
29 agency may respond to the court regarding the completed
30 petition to expunge.

31

1 (b) If relief is granted by the court, the clerk of
2 the court shall certify copies of the order to the appropriate
3 state attorney or the statewide prosecutor and the arresting
4 agency. The arresting agency is responsible for forwarding the
5 order to any other agency to which the arresting agency
6 disseminated the criminal history record information to which
7 the order pertains. The department shall forward the order to
8 expunge to the Federal Bureau of Investigation. The clerk of
9 the court shall certify a copy of the order to any other
10 agency which the records of the court reflect has received the
11 criminal history record from the court.

12 (c) For an order to expunge entered by a court prior
13 to July 1, 1992, the department shall notify the appropriate
14 state attorney or statewide prosecutor of an order to expunge
15 which is contrary to law because the person who is the subject
16 of the record has previously been convicted of a crime or
17 comparable ordinance violation or has had a prior criminal
18 history record sealed or expunged. Upon receipt of such
19 notice, the appropriate state attorney or statewide prosecutor
20 shall take action, within 60 days, to correct the record and
21 petition the court to void the order to expunge. The
22 department shall seal the record until such time as the order
23 is voided by the court.

24 (d) On or after July 1, 1992, the department or any
25 other criminal justice agency is not required to act on an
26 order to expunge entered by a court when such order does not
27 comply with the requirements of this section. Upon receipt of
28 such an order, the department must notify the issuing court,
29 the appropriate state attorney or statewide prosecutor, the
30 petitioner or the petitioner's attorney, and the arresting
31 agency of the reason for noncompliance. The appropriate state

1 attorney or statewide prosecutor shall take action within 60
2 days to correct the record and petition the court to void the
3 order. No cause of action, including contempt of court, shall
4 arise against any criminal justice agency for failure to
5 comply with an order to expunge when the petitioner for such
6 order failed to obtain the certificate of eligibility as
7 required by this section or such order does not otherwise
8 comply with the requirements of this section.

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

23 (a) The person who is the subject of a criminal
24 history record that is expunged under this section or under
25 other provisions of law, including former s. 893.14, former s.
26 901.33, and former s. 943.058, may lawfully deny or fail to
27 acknowledge the arrests covered by the expunged record, except
28 when the subject of the record:

- 29 1. Is a candidate for employment with a criminal
30 justice agency;
31 2. Is a defendant in a criminal prosecution;

1 3. Concurrently or subsequently petitions for relief
2 under this section or s. 943.059;

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

4 5. Is seeking to be employed or licensed by or to
5 contract with the Department of Children and Family Services
6 or the Department of Juvenile Justice or to be employed or
7 used by such contractor or licensee in a sensitive position
8 having direct contact with children, the developmentally
9 disabled, the aged, or the elderly as provided in s.

10 110.1127(3), s. 393.063 ~~s. 393.063(15)~~, s. 394.4572(1), s.
11 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
12 415.102(4), s. 916.106(10) and (13), s. 985.407, or chapter
13 400; or

14 6. Is seeking to be employed or licensed by the Office
15 of Teacher Education, Certification, Staff Development, and
16 Professional Practices of the Department of Education, any
17 district school board, or any local governmental entity that
18 licenses child care facilities.

19 (b) Subject to the exceptions in paragraph (a), a
20 person who has been granted an expunction under this section,
21 former s. 893.14, former s. 901.33, or former s. 943.058 may
22 not be held under any provision of law of this state to commit
23 perjury or to be otherwise liable for giving a false statement
24 by reason of such person's failure to recite or acknowledge an
25 expunged criminal history record.

26 (c) Information relating to the existence of an
27 expunged criminal history record which is provided in
28 accordance with paragraph (a) is confidential and exempt from
29 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
30 State Constitution, except that the department shall disclose
31 the existence of a criminal history record ordered expunged to

1 | the entities set forth in subparagraphs (a)1., 4., 5., and 6.
2 | for their respective licensing and employment purposes, and to
3 | criminal justice agencies for their respective criminal
4 | justice purposes. It is unlawful for any employee of an entity
5 | set forth in subparagraph (a)1., subparagraph (a)4.,
6 | subparagraph (a)5., or subparagraph (a)6. to disclose
7 | information relating to the existence of an expunged criminal
8 | history record of a person seeking employment or licensure
9 | with such entity or contractor, except to the person to whom
10 | the criminal history record relates or to persons having
11 | direct responsibility for employment or licensure decisions.
12 | Any person who violates this paragraph commits a misdemeanor
13 | of the first degree, punishable as provided in s. 775.082 or
14 | s. 775.083.

15 | (5) STATUTORY REFERENCES.--Any reference to any other
16 | chapter, section, or subdivision of the Florida Statutes in
17 | this section constitutes a general reference under the
18 | doctrine of incorporation by reference.

19 | Section 50. Section 943.059, Florida Statutes, is
20 | amended to read:

21 | 943.059 Court-ordered sealing of criminal history
22 | records.--The courts of this state shall continue to have
23 | jurisdiction over their own procedures, including the
24 | maintenance, sealing, and correction of judicial records
25 | containing criminal history information to the extent such
26 | procedures are not inconsistent with the conditions,
27 | responsibilities, and duties established by this section. Any
28 | court of competent jurisdiction may order a criminal justice
29 | agency to seal the criminal history record of a minor or an
30 | adult who complies with the requirements of this section. The
31 | court shall not order a criminal justice agency to seal a

1 | criminal history record until the person seeking to seal a
2 | criminal history record has applied for and received a
3 | certificate of eligibility for sealing pursuant to subsection
4 | (2). A criminal history record that relates to a violation of
5 | s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
6 | s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
7 | s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
8 | 916.1075, or a violation enumerated in s. 907.041 may not be
9 | sealed, without regard to whether adjudication was withheld,
10 | if the defendant was found guilty of or pled guilty or nolo
11 | contendere to the offense, or if the defendant, as a minor,
12 | was found to have committed or pled guilty or nolo contendere
13 | to committing the offense as a delinquent act. The court may
14 | only order sealing of a criminal history record pertaining to
15 | one arrest or one incident of alleged criminal activity,
16 | except as provided in this section. The court may, at its sole
17 | discretion, order the sealing of a criminal history record
18 | pertaining to more than one arrest if the additional arrests
19 | directly relate to the original arrest. If the court intends
20 | to order the sealing of records pertaining to such additional
21 | arrests, such intent must be specified in the order. A
22 | criminal justice agency may not seal any record pertaining to
23 | such additional arrests if the order to seal does not
24 | articulate the intention of the court to seal records
25 | pertaining to more than one arrest. This section does not
26 | prevent the court from ordering the sealing of only a portion
27 | of a criminal history record pertaining to one arrest or one
28 | incident of alleged criminal activity. Notwithstanding any law
29 | to the contrary, a criminal justice agency may comply with
30 | laws, court orders, and official requests of other
31 | jurisdictions relating to sealing, correction, or confidential

1 | handling of criminal history records or information derived
2 | therefrom. This section does not confer any right to the
3 | sealing of any criminal history record, and any request for
4 | sealing a criminal history record may be denied at the sole
5 | discretion of the court.

6 | (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
7 | petition to a court to seal a criminal history record is
8 | complete only when accompanied by:

9 | (a) A certificate of eligibility for sealing issued by
10 | the department pursuant to subsection (2).

11 | (b) The petitioner's sworn statement attesting that
12 | the petitioner:

13 | 1. Has never, prior to the date on which the petition
14 | is filed, been adjudicated guilty of a criminal offense or
15 | comparable ordinance violation or adjudicated delinquent for
16 | committing a felony or a misdemeanor specified in s.
17 | 943.051(3)(b).

18 | 2. Has not been adjudicated guilty of or adjudicated
19 | delinquent for committing any of the acts stemming from the
20 | arrest or alleged criminal activity to which the petition to
21 | seal pertains.

22 | 3. Has never secured a prior sealing or expunction of
23 | a criminal history record under this section, former s.
24 | 893.14, former s. 901.33, former s. 943.058, or from any
25 | jurisdiction outside the state.

26 | 4. Is eligible for such a sealing to the best of his
27 | or her knowledge or belief and does not have any other
28 | petition to seal or any petition to expunge pending before any
29 | court.

30 |
31 |

1 Any person who knowingly provides false information on such
2 sworn statement to the court commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
6 petitioning the court to seal a criminal history record, a
7 person seeking to seal a criminal history record shall apply
8 to the department for a certificate of eligibility for
9 sealing. The department shall, by rule adopted pursuant to
10 chapter 120, establish procedures pertaining to the
11 application for and issuance of certificates of eligibility
12 for sealing. The department shall issue a certificate of
13 eligibility for sealing to a person who is the subject of a
14 criminal history record provided that such person:

15 (a) Has submitted to the department a certified copy
16 of the disposition of the charge to which the petition to seal
17 pertains.

18 (b) Remits a \$75 processing fee to the department for
19 placement in the Department of Law Enforcement Operating Trust
20 Fund, unless such fee is waived by the executive director.

21 (c) Has never, prior to the date on which the
22 application for a certificate of eligibility is filed, been
23 adjudicated guilty of a criminal offense or comparable
24 ordinance violation or adjudicated delinquent for committing a
25 felony or a misdemeanor specified in s. 943.051(3)(b).

26 (d) Has not been adjudicated guilty of or adjudicated
27 delinquent for committing any of the acts stemming from the
28 arrest or alleged criminal activity to which the petition to
29 seal pertains.

30
31

1 (e) Has never secured a prior sealing or expunction of
2 a criminal history record under this section, former s.
3 893.14, former s. 901.33, or former s. 943.058.

4 (f) Is no longer under court supervision applicable to
5 the disposition of the arrest or alleged criminal activity to
6 which the petition to seal pertains.

7 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

8 (a) In judicial proceedings under this section, a copy
9 of the completed petition to seal shall be served upon the
10 appropriate state attorney or the statewide prosecutor and
11 upon the arresting agency; however, it is not necessary to
12 make any agency other than the state a party. The appropriate
13 state attorney or the statewide prosecutor and the arresting
14 agency may respond to the court regarding the completed
15 petition to seal.

16 (b) If relief is granted by the court, the clerk of
17 the court shall certify copies of the order to the appropriate
18 state attorney or the statewide prosecutor and to the
19 arresting agency. The arresting agency is responsible for
20 forwarding the order to any other agency to which the
21 arresting agency disseminated the criminal history record
22 information to which the order pertains. The department shall
23 forward the order to seal to the Federal Bureau of
24 Investigation. The clerk of the court shall certify a copy of
25 the order to any other agency which the records of the court
26 reflect has received the criminal history record from the
27 court.

28 (c) For an order to seal entered by a court prior to
29 July 1, 1992, the department shall notify the appropriate
30 state attorney or statewide prosecutor of any order to seal
31 which is contrary to law because the person who is the subject

1 of the record has previously been convicted of a crime or
2 comparable ordinance violation or has had a prior criminal
3 history record sealed or expunged. Upon receipt of such
4 notice, the appropriate state attorney or statewide prosecutor
5 shall take action, within 60 days, to correct the record and
6 petition the court to void the order to seal. The department
7 shall seal the record until such time as the order is voided
8 by the court.

9 (d) On or after July 1, 1992, the department or any
10 other criminal justice agency is not required to act on an
11 order to seal entered by a court when such order does not
12 comply with the requirements of this section. Upon receipt of
13 such an order, the department must notify the issuing court,
14 the appropriate state attorney or statewide prosecutor, the
15 petitioner or the petitioner's attorney, and the arresting
16 agency of the reason for noncompliance. The appropriate state
17 attorney or statewide prosecutor shall take action within 60
18 days to correct the record and petition the court to void the
19 order. No cause of action, including contempt of court, shall
20 arise against any criminal justice agency for failure to
21 comply with an order to seal when the petitioner for such
22 order failed to obtain the certificate of eligibility as
23 required by this section or when such order does not comply
24 with the requirements of this section.

25 (e) An order sealing a criminal history record
26 pursuant to this section does not require that such record be
27 surrendered to the court, and such record shall continue to be
28 maintained by the department and other criminal justice
29 agencies.

30 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
31 criminal history record of a minor or an adult which is

1 ordered sealed by a court of competent jurisdiction pursuant
2 to this section is confidential and exempt from the provisions
3 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
4 and is available only to the person who is the subject of the
5 record, to the subject's attorney, to criminal justice
6 agencies for their respective criminal justice purposes, or to
7 those entities set forth in subparagraphs (a)1., 4., 5., and
8 6. for their respective licensing and employment purposes.

9 (a) The subject of a criminal history record sealed
10 under this section or under other provisions of law, including
11 former s. 893.14, former s. 901.33, and former s. 943.058, may
12 lawfully deny or fail to acknowledge the arrests covered by
13 the sealed record, except when the subject of the record:

14 1. Is a candidate for employment with a criminal
15 justice agency;

16 2. Is a defendant in a criminal prosecution;

17 3. Concurrently or subsequently petitions for relief
18 under this section or s. 943.0585;

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

20 5. Is seeking to be employed or licensed by or to
21 contract with the Department of Children and Family Services
22 or the Department of Juvenile Justice or to be employed or
23 used by such contractor or licensee in a sensitive position
24 having direct contact with children, the developmentally
25 disabled, the aged, or the elderly as provided in s.

26 110.1127(3), s. 393.063 ~~s. 393.063(15)~~, s. 394.4572(1), s.
27 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
28 415.102(4), s. 415.103, s. 916.106(10) and (13), s. 985.407,
29 or chapter 400; or

30 6. Is seeking to be employed or licensed by the Office
31 of Teacher Education, Certification, Staff Development, and

1 Professional Practices of the Department of Education, any
2 district school board, or any local governmental entity which
3 licenses child care facilities.

4 (b) Subject to the exceptions in paragraph (a), a
5 person who has been granted a sealing under this section,
6 former s. 893.14, former s. 901.33, or former s. 943.058 may
7 not be held under any provision of law of this state to commit
8 perjury or to be otherwise liable for giving a false statement
9 by reason of such person's failure to recite or acknowledge a
10 sealed criminal history record.

11 (c) Information relating to the existence of a sealed
12 criminal record provided in accordance with the provisions of
13 paragraph (a) is confidential and exempt from the provisions
14 of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution, except that the department shall disclose the
16 sealed criminal history record to the entities set forth in
17 subparagraphs (a)1., 4., 5., and 6. for their respective
18 licensing and employment purposes. It is unlawful for any
19 employee of an entity set forth in subparagraph (a)1.,
20 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
21 to disclose information relating to the existence of a sealed
22 criminal history record of a person seeking employment or
23 licensure with such entity or contractor, except to the person
24 to whom the criminal history record relates or to persons
25 having direct responsibility for employment or licensure
26 decisions. Any person who violates the provisions of this
27 paragraph commits a misdemeanor of the first degree,
28 punishable as provided in s. 775.082 or s. 775.083.

29 (5) STATUTORY REFERENCES.--Any reference to any other
30 chapter, section, or subdivision of the Florida Statutes in
31

1 | this section constitutes a general reference under the
2 | doctrine of incorporation by reference.

3 | Section 51. (1) In the Department of Children and
4 | Family Services' Economic Self-Sufficiency Services program,
5 | the department may provide its eligibility determination
6 | functions either with department staff or through contract
7 | with at least two private vendors, or with a combination of at
8 | least one private vendor and department employees with the
9 | following restrictions:

10 | (a) With the exception of information technology, a
11 | contract with a private vendor may not be for a geographic
12 | area larger than a combined seven districts or combined three
13 | zones without the prior approval of the Legislative Budget
14 | Commission; and

15 | (b) Department employees must provide the functions in
16 | at least one area of the state if their proposed cost is
17 | competitive with private vendors.

18 | (2) This section shall take effect upon this act
19 | becoming a law.

20 | Section 52. Except as otherwise expressly provided in
21 | this act, this act shall take effect July 1, 2004.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS SB 1280

- Creates the domestic violence program office within the Department of Children and Family Services.
- Makes it a crime for an employee of the department, the Agency for Persons with Disabilities, or the Agency for Healthcare Administration to engage in sexual misconduct with a client or patient.
- Requires employees to report sexual misconduct. If an employee fails to make a report, prevents another person from doing so, or knowingly submits an inaccurate, incomplete, or untruthful report, the employee will be guilty of a first degree misdemeanor. A person who threatens or coerces another person to alter testimony or a written report will be guilty of a third degree felony.
- A defendant will be prohibited from using consent as a defense for the charge of sexual misconduct.
- Sexual misconduct is added to the list of offenses prohibiting employment if identified through a Level 1 or 2 background screening. The sealing or the expunction of criminal records when sexual misconduct has been committed is prohibited. Provisions and penalties in this bill are in addition to other civil, administrative, or criminal sanctions.
- Authorizes the department to provide eligibility determination functions with either department staff or through a contractual agreement with private vendors with certain restrictions.