

CHAMBER ACTION

1 The Committee on Appropriations recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to developmental services and mental
7 health; creating ss. 393.135, 394.4593, and 916.1075,
8 F.S.; defining the terms "employee," "sexual activity,"
9 and "sexual misconduct"; providing that it is a second
10 degree felony for an employee to engage in sexual
11 misconduct with certain developmentally disabled clients,
12 certain mental health patients, or certain forensic
13 clients; providing certain exceptions; requiring certain
14 employees to report sexual misconduct to the central abuse
15 hotline of the Department of Children and Family Services
16 and to the appropriate local law enforcement agency;
17 providing for notification to the inspector general of the
18 Department of Children and Family Services; providing that
19 it is a first degree misdemeanor to knowingly and
20 willfully fail to make a report as required, or to prevent
21 another from doing so, or to submit inaccurate or
22 untruthful information; providing that it is a third
23 degree felony to coerce or threaten another person to

24 | alter testimony or a report with respect to an incident of
25 | sexual misconduct; providing criminal penalties; amending
26 | s. 435.03, F.S.; expanding level 1 screening standards to
27 | include criminal offenses related to sexual misconduct
28 | with certain developmentally disabled clients, mental
29 | health patients, or forensic clients and the reporting of
30 | such sexual misconduct; amending s. 435.04, F.S.;
31 | expanding level 2 screening standards to include the
32 | offenses related to sexual misconduct with certain
33 | developmentally disabled clients, mental health patients,
34 | or forensic clients and the reporting of such sexual
35 | misconduct; amending s. 393.0655, F.S.; requiring the
36 | employment screening of direct service providers to
37 | include screening as provided under ch. 435, F.S.;
38 | reenacting s. 393.067(6)(a), (b), (c), (d), (f), and (g),
39 | F.S., relating to background screening and licensure of
40 | personnel of intermediate care facilities for the
41 | developmentally disabled, for the purpose of incorporating
42 | the amendment to s. 435.04, F.S., in references thereto;
43 | amending s. 394.4572, F.S.; requiring the employment
44 | screening of mental health personnel to include screening
45 | as provided under ch. 435, F.S.; amending s. 943.0585,
46 | F.S., relating to court-ordered expunction of criminal
47 | history records, for the purpose of incorporating the
48 | amendment to s. 943.059, F.S., in a reference thereto;
49 | providing that certain criminal history records relating
50 | to sexual misconduct with developmentally disabled
51 | clients, mental health patients, or forensic clients, or

52 | the reporting of such sexual misconduct, shall not be
53 | expunged; providing that the application for eligibility
54 | for expunction certify that the criminal history record
55 | does not relate to an offense involving sexual misconduct
56 | with certain developmentally disabled clients, mental
57 | health patients, or forensic clients, or the reporting of
58 | such sexual misconduct; amending s. 943.059, F.S.,
59 | relating to court-ordered sealing of criminal history
60 | records, for the purpose of incorporating the amendment to
61 | s. 943.0585, F.S., in a reference thereto; providing that
62 | certain criminal history records relating to sexual
63 | misconduct with developmentally disabled clients, mental
64 | health patients, or forensic clients, or the reporting of
65 | such sexual misconduct, shall not be sealed; providing
66 | that the application for eligibility for sealing certify
67 | that the criminal history record does not relate to an
68 | offense involving sexual misconduct with certain
69 | developmentally disabled clients, mental health patients,
70 | or forensic clients, or the reporting of such sexual
71 | misconduct; amending s. 400.215, F.S., and reenacting
72 | paragraphs (b) and (c) of subsection (2) and subsection
73 | (3), relating to background screening requirements for
74 | certain nursing home personnel, for the purpose of
75 | incorporating the amendments to ss. 435.03 and 435.04,
76 | F.S., in references thereto; correcting a cross reference;
77 | amending s. 400.964, F.S., and reenacting subsections (1),
78 | (2), and (7), relating to background screening
79 | requirements for certain personnel employed by

80 intermediate care facilities for the developmentally
81 disabled, for the purpose of incorporating the amendments
82 to ss. 435.03 and 435.04, F.S., in references thereto;
83 correcting a cross reference; amending s. 435.045, F.S.,
84 and reenacting paragraph (a) of subsection (1), relating
85 to requirements for the placement of dependent children,
86 for the purpose of incorporating the amendment to s.
87 435.04, F.S., in a reference thereto; correcting a cross
88 reference; reenacting ss. 400.414(1)(f) and (g), 400.4174,
89 400.509(4)(a), (b), (c), (d), (f), and (g), 400.556(2)(c),
90 400.6065(1), (2), and (4), 400.980(4)(a), (b), (c), (d),
91 (f), and (g), 409.175(2)(k), 409.907(8)(d), 435.05(1) and
92 (3), 744.3135, and 985.04(2), F.S., relating to denial,
93 revocation, or suspension of license to operate an
94 assisted living facility; background screening
95 requirements for certain personnel employed by assisted
96 living facilities; registration of particular home health
97 care service providers; denial, suspension, or revocation
98 of license to operate adult day care centers; background
99 screening requirements for certain hospice personnel;
100 background screening requirements for registrants of the
101 health care service pools; the definition of "screening"
102 in connection with the licensure of family foster homes,
103 residential child-caring agencies, and child-placing
104 agencies; background screening requirements of Medicaid
105 providers; employment of persons in positions requiring
106 background screening; credit and criminal investigations
107 of guardians; oaths, records, and confidential information

108 | pertaining to juvenile offenders, respectively, for the
 109 | purpose of incorporating the amendments to ss. 435.03 and
 110 | 435.04, F.S., in references thereto; reenacting ss.
 111 | 400.512, 400.619(4), 400.6194(1), 400.953, 409.912(32),
 112 | 435.07(4), 464.018(1)(e), 744.309(3), 744.474(12), and
 113 | 985.407(4), F.S., relating to background screening of home
 114 | health agency personnel, nurse registry personnel,
 115 | companions, and homemakers; application and renewal of
 116 | adult family-care home provider licenses; relating to
 117 | denial, revocation, or suspension of adult family-care
 118 | home provider license; background screening of home
 119 | medical equipment provider personnel, background screening
 120 | requirements for certain persons responsible for managed
 121 | care plans; exemptions from disqualification from
 122 | employment; denial of nursing license and disciplinary
 123 | actions against such licensees; disqualification of
 124 | guardians; removal of guardians; background screening
 125 | requirements for certain Department of Juvenile Justice
 126 | personnel, respectively, for the purpose of incorporating
 127 | the amendment to s. 435.03, F.S., in references thereto;
 128 | reenacting ss. 39.001(2)(b), 39.821(1), 110.1127(3)(a) and
 129 | (c), 112.0455(12)(a), 381.0059(1), (2), and (4),
 130 | 381.60225(1)(a), (b), (c), (d), (f), and (g),
 131 | 383.305(7)(a), (b), (c), (d), (f), and (g), 390.015(3)(a),
 132 | (b), (c), (d), (f), and (g), 394.875(13)(a), (b), (c),
 133 | (d), (f), and (g), 395.0055(1), (2), (3), (4), (6), and
 134 | (8), 395.0199(4)(a), (b), (c), (d), (f), and (g),
 135 | 397.451(1)(a), 400.071(4)(a), (b), (c), (d), and (f),

136 400.471(4)(a), (b), (c), (d), (f), and (g), 400.506(2)(a),
 137 (b), (c), (d), (f), and (g), 400.5572, 400.607(3)(a),
 138 400.801(4)(a), (b), (c), (d), (f), and (g), 400.805(3)(a),
 139 (b), (c), (d), (f), and (g), 400.906(5)(a), (b), (c), (d),
 140 (f), and (g), 400.931(5)(a), (b), (c), (e), and (f),
 141 400.962(10)(a), (b), (c), (d), and (f), 400.991(7)(b) and
 142 (d), 402.302(2)(e), 402.305(2)(a), 402.3054(3),
 143 483.30(2)(a), (b), (c), (d), (f), and (g), 483.101(2)(a),
 144 (b), (c), (d), (f), and (g), 744.1085(5), 984.01(2)(b),
 145 985.01(2)(b), 1002.36(7)(a) and (b), F.S., relating to
 146 background screening requirements for certain Department
 147 of Children and Family Services personnel; qualifications
 148 of guardians ad litem; security checks of certain public
 149 officers and employees; background screening requirements
 150 of certain laboratory personnel in connection with the
 151 Drug-Free Workplace Act; background screening requirements
 152 for school health services personnel; background screening
 153 of certain personnel of the public health system;
 154 background screening and licensure of birth center
 155 personnel; background screening and licensure of abortion
 156 clinic personnel; background screening of mental health
 157 personnel; background screening and licensure of personnel
 158 of crisis stabilization units, residential treatment
 159 facilities, and residential treatment centers for children
 160 and adolescents; background screening and licensure of
 161 personnel of hospitals, ambulatory surgical centers, and
 162 mobile surgical facilities; background screening of
 163 certain personnel in connection with registration for

164 private utilization reviews; background screening of
 165 certain service provider personnel; background screening
 166 and licensure of certain long-term care facility
 167 personnel; background screening and licensure of certain
 168 home health agency personnel; background screening and
 169 licensure of nurse registry applicants; background
 170 screening of certain adult day care center personnel;
 171 denial or revocation of hospice license; background
 172 screening and licensure of certain transitional living
 173 facility personnel; background screening and licensure of
 174 certain prescribed pediatric extended care center
 175 personnel; background screening and licensure of certain
 176 home medical equipment provider personnel; background
 177 screening and licensure of certain personnel of
 178 intermediate care facilities for the developmentally
 179 disabled; background screening and licensure of health
 180 care clinic personnel; the definition of "child care
 181 facility" in connection with background screening of
 182 operators; background screening requirements for personnel
 183 of child care facilities; background screening
 184 requirements for child enrichment service providers;
 185 background screening and licensure of certain personnel of
 186 multiphasic health testing centers; background screening
 187 and licensure of certain clinical laboratory personnel;
 188 regulation of professional guardians; background screening
 189 of certain Department of Juvenile Justice and Department
 190 of Children and Family Services personnel in connection
 191 with programs for children and families in need of

192 services; background screening of certain Department of
 193 Juvenile Justice and Department of Children and Family
 194 Services personnel in connection with juvenile justice
 195 programs, background screening of personnel of the Florida
 196 School for the Deaf and the Blind, respectively, for the
 197 purposes of incorporating the amendment to s. 435.04,
 198 F.S., in references thereto; reenacting s. 943.0582(2)(a)
 199 and (6), F.S., relating to prearrest, postarrest, or teen
 200 court diversion program expunction for the purpose of
 201 incorporating the amendments to ss. 943.0585 and 943.059,
 202 F.S., in references thereto; reenacting s. 943.053(7),
 203 (8), and (9), F.S., relating to dissemination of criminal
 204 justice information, for the purpose of incorporating the
 205 amendment to s. 943.059, F.S., in references thereto;
 206 providing applicability; amending s. 20.19, F.S.; removing
 207 the developmental disabilities program from the Department
 208 of Children and Family Services; creating s. 20.197, F.S.;
 209 establishing the Agency for Persons with Disabilities for
 210 the purpose of providing services to persons with
 211 developmental disabilities, including institutional
 212 services; directing the agency to execute interagency
 213 agreements with the Agency for Health Care Administration
 214 for the financial management of the Medicaid waivers and
 215 the Department of Children and Family Services for
 216 administrative support; amending s. 393.063, F.S.;
 217 updating definitions and deleting obsolete definitions;
 218 amending s. 393.064, F.S.; deleting requirements that the
 219 agency's legislative budget request include funding for

220 prevention; amending s. 393.0655, F.S.; requiring Level 2
 221 screening for specified persons and service providers;
 222 providing a limitation on the screening requirement in
 223 certain circumstances involving children between 12 and 18
 224 years of age; amending s. 393.066, F.S.; removing
 225 requirement that services be administered and approved by
 226 the districts; modifying a requirement to provide certain
 227 services; deleting a requirement for a 5-year plan
 228 relating to community-based services; adding a requirement
 229 to assist clients in gaining employment; repealing
 230 obsolete requirement authorizing the state to lease or
 231 construct residential facilities; deleting authorization
 232 to adopt rules ensuring compliance with federal rules;
 233 amending s. 393.0661, F.S.; authorizing the Agency for
 234 Disabled Persons to enter into certain contracts;
 235 providing for reimbursement to certain providers of
 236 services to the developmentally disabled pursuant a
 237 methodology; requiring the Agency for Health Care
 238 administration, in consultation with the Agency for
 239 Disabled Persons, to adopt rules related to such
 240 methodology; authorizing the Agency for Health Care
 241 Administration to adopt emergency rules in certain
 242 circumstances; limiting the applicability of such
 243 emergency rules; authorizing the Agency for Health Care
 244 Administration, in consultation with the Agency for
 245 Disabled Persons, to make certain adjustments necessary to
 246 comply with the availability of appropriations; deleting
 247 an obsolete provision; modifying provisions relating to an

248 assessment instrument; adding requirements for adoption of
 249 rate methodologies; amending s. 393.068, F.S.; making
 250 service provision subject to available resources; updating
 251 list of services to be provided; deleting provision
 252 referring to 5-year plans; amending s. 393.0695, F.S.;
 253 requiring in-home subsidy amounts to be reassessed
 254 annually; amending s. 393.11, F.S.; deleting provisions
 255 referring to districts, department programs, and the
 256 nonexistent Department of Labor and Employment Security;
 257 amending s. 393.13, F.S.; deleting obsolete provisions;
 258 adding legislative intent relating to reducing the use of
 259 sheltered workshops; amending s. 393.17, F.S.; authorizing
 260 the agency to contract for the certification of behavioral
 261 analysts; deleting provisions relating to a certification
 262 program and provisions allowing fees; amending s. 393.22,
 263 F.S.; deleting prohibition preventing transfer of funds
 264 and ensuring financial commitment for specified
 265 developmental conditions; amending s. 393.502, F.S.;
 266 removing reference to districts; deleting a provision
 267 permitting appointment of family care council members if
 268 the Governor does not act; amending ss. 408.301 and
 269 408.302, F.S.; amending legislative intent to add the
 270 Agency for Persons with Disabilities and the Department of
 271 Elderly Affairs as agencies that the Agency for Health
 272 Care Administration must enter into interagency agreement
 273 with regarding persons with special needs; amending s.
 274 409.906, F.S.; clarifying powers of the Agency for Health
 275 Care Administration with respect to limiting coverage for

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276 certain services; repealing s. 393.14, F.S.; requiring a
277 multiyear plan; repealing s. 393.165, F.S., relating to
278 ICF/DDs; repealing s. 393.166, F.S., relating to homes for
279 special services; repealing s. 393.505, F.S., relating to
280 comprehensive day treatment service projects; transferring
281 programs and institutions relating to developmental
282 disabilities from the Department of Children and Family
283 Services to the Agency for Persons with Disabilities;
284 providing duties of those agencies as well as the
285 Department of Management Services; providing for
286 substitution of parties in administrative and judicial
287 proceedings; providing duties of the Office of Program
288 Policy Analysis and Government Accountability; providing
289 for a report; amending ss. 92.53, 397.405, 400.464,
290 419.001, 914.16, 914.17, 918.16, 943.0585, and 943.059,
291 F.S.; conforming cross references; amending ss. 393.0641,
292 393.065, 393.0651, 393.067, 393.0673, 393.0675, 393.0678,
293 393.071, 393.075, 393.115, 393.12, 393.125, 393.15,
294 393.501, 393.503, and 393.506, F.S.; conforming to the
295 changes made by the act; providing applicability;
296 providing for contracts for eligibility determination
297 functions; providing for review of eligibility contracts
298 by the Legislative Budget Commission in certain instances;
299 providing effective dates.

300

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

302

303 Section 1. Section 393.135, Florida Statutes, is created
304 to read:

305 393.135 Sexual misconduct prohibited; reporting required;
306 penalties.--

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

308 (a) "Employee" includes any paid staff member, volunteer,
309 or intern of the agency or the department; any person under
310 contract with the agency or the department; and any person
311 providing care or support to a client on behalf of the
312 department or its providers.

313 (b) "Sexual activity" means:

314 1. Fondling the genital area, groin, inner thighs,
315 buttocks, or breasts of a person.

316 2. The oral, anal, or vaginal penetration by or union with
317 the sexual organ of another or the anal or vaginal penetration
318 of another by any other object.

319 3. Intentionally touching in a lewd or lascivious manner
320 the breasts, genitals, the genital area, or buttocks, or the
321 clothing covering them, of a person, or forcing or enticing a
322 person to touch the perpetrator.

323 4. Intentionally masturbating in the presence of another
324 person.

325 5. Intentionally exposing the genitals in a lewd or
326 lascivious manner in the presence of another person.

327 6. Intentionally committing any other sexual act that does
328 not involve actual physical or sexual contact with the victim,
329 including, but not limited to, sadomasochistic abuse, sexual

330 bestiality, or the simulation of any act involving sexual
 331 activity in the presence of a victim.

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

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

339 (a) Is in the custody of the department;

340 (b) Resides in a residential facility, including any
 341 comprehensive transitional education program, developmental
 342 services institution, foster care facility, group home facility,
 343 intermediate care facility for the developmentally disabled, or
 344 residential habilitation center; or

345 (c) Receives services from a family care program

346
 347 commits a felony of the second degree, punishable as provided in
 348 s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 349 guilty of violating this subsection without having committed the
 350 crime of sexual battery.

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

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

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

355 (b) Has no reason to believe that the person with whom the
 356 employee engaged in sexual misconduct is a client receiving
 357 services as described in subsection (2).

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358 (5) An employee who witnesses sexual misconduct, or who
359 otherwise knows or has reasonable cause to suspect that a person
360 has engaged in sexual misconduct, shall immediately report the
361 incident to the department's central abuse hotline and to the
362 appropriate local law enforcement agency. Such employee shall
363 also prepare, date, and sign an independent report that
364 specifically describes the nature of the sexual misconduct, the
365 location and time of the incident, and the persons involved. The
366 employee shall deliver the report to the supervisor or program
367 director, who is responsible for providing copies to the
368 department's inspector general. The inspector general shall
369 immediately conduct an appropriate administrative investigation,
370 and, if there is probable cause to believe that sexual
371 misconduct has occurred, the inspector general shall notify the
372 state attorney in the circuit in which the incident occurred.

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

378 (b) Any person who knowingly or willfully submits
379 inaccurate, incomplete, or untruthful information with respect
380 to a report required under this section commits a misdemeanor of
381 the first degree, punishable as provided in s. 775.082 or s.
382 775.083.

383 (c) Any person who knowingly or willfully coerces or
384 threatens any other person with the intent to alter testimony or
385 a written report regarding an incident of sexual misconduct

386 commits a felony of the third degree, punishable as provided in
 387 s. 775.082, s. 775.083, or s. 775.084.

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

391 Section 2. Section 394.4593, Florida Statutes, is created
 392 to read:

393 394.4593 Sexual misconduct prohibited; reporting required;
 394 penalties.--

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

396 (a) "Employee" includes any paid staff member, volunteer,
 397 or intern of the department; any person under contract with the
 398 department; and any person providing care or support to a client
 399 on behalf of the department or its providers.

400 (b) "Sexual activity" means:

401 1. Fondling the genital area, groin, inner thighs,
 402 buttocks, or breasts of a person.

403 2. The oral, anal, or vaginal penetration by or union with
 404 the sexual organ of another or the anal or vaginal penetration
 405 of another by any other object.

406 3. Intentionally touching in a lewd or lascivious manner
 407 the breasts, genitals, the genital area, or buttocks, or the
 408 clothing covering them, of a person, or forcing or enticing a
 409 person to touch the perpetrator.

410 4. Intentionally masturbating in the presence of another
 411 person.

412 5. Intentionally exposing the genitals in a lewd or
 413 lascivious manner in the presence of another person.

414 6. Intentionally committing any other sexual act that does
 415 not involve actual physical or sexual contact with the victim,
 416 including, but not limited to, sadomasochistic abuse, sexual
 417 bestiality, or the simulation of any act involving sexual
 418 activity in the presence of a victim.

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

424 (2) An employee who engages in sexual misconduct with a
 425 patient who:

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

427 (b) Resides in a receiving facility or a treatment
 428 facility, as those terms are defined in s. 394.455,

429
 430 commits a felony of the second degree, punishable as provided in
 431 s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 432 guilty of violating this subsection without having committed the
 433 crime of sexual battery.

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

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

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

438 (b) Has no reason to believe that the person with whom the
 439 employee engaged in sexual misconduct is a patient receiving
 440 services as described in subsection (2).

441 (5) An employee who witnesses sexual misconduct, or who
442 otherwise knows or has reasonable cause to suspect that a person
443 has engaged in sexual misconduct, shall immediately report the
444 incident to the department's central abuse hotline and to the
445 appropriate local law enforcement agency. Such employee shall
446 also prepare, date, and sign an independent report that
447 specifically describes the nature of the sexual misconduct, the
448 location and time of the incident, and the persons involved. The
449 employee shall deliver the report to the supervisor or program
450 director, who is responsible for providing copies to the
451 department's inspector general. The inspector general shall
452 immediately conduct an appropriate administrative investigation,
453 and, if there is probable cause to believe that sexual
454 misconduct has occurred, the inspector general shall notify the
455 state attorney in the circuit in which the incident occurred.

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

461 (b) Any person who knowingly or willfully submits
462 inaccurate, incomplete, or untruthful information with respect
463 to a report required under this section commits a misdemeanor of
464 the first degree, punishable as provided in s. 775.082 or s.
465 775.083.

466 (c) Any person who knowingly or willfully coerces or
467 threatens any other person with the intent to alter testimony or
468 a written report regarding an incident of sexual misconduct

469 commits a felony of the third degree, punishable as provided in
 470 s. 775.082, s. 775.083, or s. 775.084.

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

474 Section 3. Section 916.1075, Florida Statutes, is created
 475 to read:

476 916.1075 Sexual misconduct prohibited; reporting required;
 477 penalties.--

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

479 (a) "Employee" includes any paid staff member, volunteer,
 480 or intern of the department; any person under contract with the
 481 department; and any person providing care or support to a client
 482 on behalf of the department or its providers.

483 (b) "Sexual activity" means:

484 1. Fondling the genital area, groin, inner thighs,
 485 buttocks, or breasts of a person.

486 2. The oral, anal, or vaginal penetration by or union with
 487 the sexual organ of another or the anal or vaginal penetration
 488 of another by any other object.

489 3. Intentionally touching in a lewd or lascivious manner
 490 the breasts, genitals, the genital area, or buttocks, or the
 491 clothing covering them, of a person, or forcing or enticing a
 492 person to touch the perpetrator.

493 4. Intentionally masturbating in the presence of another
 494 person.

495 5. Intentionally exposing the genitals in a lewd or
 496 lascivious manner in the presence of another person.

497 6. Intentionally committing any other sexual act that does
 498 not involve actual physical or sexual contact with the victim,
 499 including, but not limited to, sadomasochistic abuse, sexual
 500 bestiality, or the simulation of any act involving sexual
 501 activity in the presence of a victim.

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

507 (2) An employee who engages in sexual misconduct with a
 508 client who resides in a civil or forensic facility commits a
 509 felony of the second degree, punishable as provided in s.
 510 775.082, s. 775.083, or s. 775.084. An employee may be found
 511 guilty of violating this subsection without having committed the
 512 crime of sexual battery.

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

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

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

517 (b) Has no reason to believe that the person with whom the
 518 employee engaged in sexual misconduct is a client receiving
 519 services as described in subsection (2).

520 (5) An employee who witnesses sexual misconduct, or who
 521 otherwise knows or has reasonable cause to suspect that a person
 522 has engaged in sexual misconduct, shall immediately report the
 523 incident to the department's central abuse hotline and to the
 524 appropriate local law enforcement agency. Such employee shall

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525 also prepare, date, and sign an independent report that
526 specifically describes the nature of the sexual misconduct, the
527 location and time of the incident, and the persons involved. The
528 employee shall deliver the report to the supervisor or program
529 director, who is responsible for providing copies to the
530 department's inspector general. The inspector general shall
531 immediately conduct an appropriate administrative investigation,
532 and, if there is probable cause to believe that sexual
533 misconduct has occurred, the inspector general shall notify the
534 state attorney in the circuit in which the incident occurred.

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

540 (b) Any person who knowingly or willfully submits
541 inaccurate, incomplete, or untruthful information with respect
542 to a report required under this section commits a misdemeanor of
543 the first degree, punishable as provided in s. 775.082 or s.
544 775.083.

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

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

553 Section 4. Subsection (2) of section 435.03, Florida
554 Statutes, is amended to read:

555 435.03 Level 1 screening standards.--

556 (2) Any person for whom employment screening is required
557 by statute must not have been found guilty of, regardless of
558 adjudication, or entered a plea of nolo contendere or guilty to,
559 any offense prohibited under any of the following provisions of
560 the Florida Statutes or under any similar statute of another
561 jurisdiction:

562 (a) Section 393.135, relating to sexual misconduct with
563 certain developmentally disabled clients and reporting of such
564 sexual misconduct.

565 (b) Section 394.4593, relating to sexual misconduct with
566 certain mental health patients and reporting of such sexual
567 misconduct.

568 (c)(a) Section 415.111, relating to abuse, neglect, or
569 exploitation of a vulnerable adult.

570 (d)(b) Section 782.04, relating to murder.

571 (e)(e) Section 782.07, relating to manslaughter,
572 aggravated manslaughter of an elderly person or disabled adult,
573 or aggravated manslaughter of a child.

574 (f)(d) Section 782.071, relating to vehicular homicide.

575 (g)(e) Section 782.09, relating to killing of an unborn
576 child by injury to the mother.

577 (h)(f) Section 784.011, relating to assault, if the victim
578 of the offense was a minor.

579 (i)(g) Section 784.021, relating to aggravated assault.

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

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

583 (l)~~(j)~~ Section 787.01, relating to kidnapping.

584 (m)~~(k)~~ Section 787.02, relating to false imprisonment.

585 (n)~~(l)~~ Section 794.011, relating to sexual battery.

586 (o)~~(m)~~ Former s. 794.041, relating to prohibited acts of
 587 persons in familial or custodial authority.

588 (p)~~(n)~~ Chapter 796, relating to prostitution.

589 (q)~~(o)~~ Section 798.02, relating to lewd and lascivious
 590 behavior.

591 (r)~~(p)~~ Chapter 800, relating to lewdness and indecent
 592 exposure.

593 (s)~~(q)~~ Section 806.01, relating to arson.

594 (t)~~(r)~~ Chapter 812, relating to theft, robbery, and
 595 related crimes, if the offense was a felony.

596 (u)~~(s)~~ Section 817.563, relating to fraudulent sale of
 597 controlled substances, only if the offense was a felony.

598 (v)~~(t)~~ Section 825.102, relating to abuse, aggravated
 599 abuse, or neglect of an elderly person or disabled adult.

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

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

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

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

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

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

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

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

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

618 (ff) Section 916.0175, relating to sexual misconduct with
619 certain forensic clients and reporting of such sexual
620 misconduct.

621 Section 5. Subsection (2) of section 435.04, Florida
622 Statutes, is amended to read:

623 435.04 Level 2 screening standards.--

624 (2) The security background investigations under this
625 section must ensure that no persons subject to the provisions of
626 this section have been found guilty of, regardless of
627 adjudication, or entered a plea of nolo contendere or guilty to,
628 any offense prohibited under any of the following provisions of
629 the Florida Statutes or under any similar statute of another
630 jurisdiction:

631 (a) Section 393.135, relating to sexual misconduct with
632 certain developmentally disabled clients and reporting of such
633 sexual misconduct.

634 (b) Section 394.4593, relating to sexual misconduct with
 635 certain mental health patients and reporting of such sexual
 636 misconduct.

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

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

640 (e)~~(c)~~ Section 782.07, relating to manslaughter,
 641 aggravated manslaughter of an elderly person or disabled adult,
 642 or aggravated manslaughter of a child.

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

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

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

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

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

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

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

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

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

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

659 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
 660 beyond the state lines with criminal intent to avoid producing a

661 child at a custody hearing or delivering the child to the
662 designated person.

663 (q)~~(e)~~ Section 790.115(1), relating to exhibiting firearms
664 or weapons within 1,000 feet of a school.

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

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

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

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

672 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
673 behavior.

674 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
675 exposure.

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

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

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

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

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

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

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

689 (ee)~~(ee)~~ Section 827.03, relating to child abuse,
 690 aggravated child abuse, or neglect of a child.

691 (ff)~~(dd)~~ Section 827.04, relating to contributing to the
 692 delinquency or dependency of a child.

693 (gg)~~(ee)~~ Former s. 827.05, relating to negligent treatment
 694 of children.

695 (hh)~~(ff)~~ Section 827.071, relating to sexual performance
 696 by a child.

697 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest with
 698 violence.

699 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
 700 enforcement, correctional, or correctional probation officer
 701 means of protection or communication.

702 (kk)~~(ii)~~ Section 843.12, relating to aiding in an escape.

703 (ll)~~(jj)~~ Section 843.13, relating to aiding in the escape
 704 of juvenile inmates in correctional institutions.

705 (mm)~~(kk)~~ Chapter 847, relating to obscene literature.

706 (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or
 707 recruiting another to join a criminal gang.

708 (oo)~~(mm)~~ Chapter 893, relating to drug abuse prevention
 709 and control, only if the offense was a felony or if any other
 710 person involved in the offense was a minor.

711 (pp) Section 916.0175, relating to sexual misconduct with
 712 certain forensic clients and reporting of such sexual
 713 misconduct.

714 (qq)~~(nn)~~ Section 944.35(3), relating to inflicting cruel
 715 or inhuman treatment on an inmate resulting in great bodily
 716 harm.

717 ~~(rr)~~~~(ee)~~ Section 944.46, relating to harboring,
718 concealing, or aiding an escaped prisoner.

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

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

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

725 Section 6. Subsection (1) of section 393.0655, Florida
726 Statutes, is amended to read:

727 393.0655 Screening of direct service providers.--

728 (1) MINIMUM STANDARDS.--The department shall require
729 employment screening pursuant to chapter 435, using the level 2
730 standards for screening set forth in that chapter, for direct
731 service providers who are unrelated to their clients. For
732 purposes of this chapter, employment screening of direct service
733 providers shall also include, but is not limited to, employment
734 screening as provided under chapter 435.

735 Section 7. For the purpose of incorporating the amendment
736 to section 435.04, Florida Statutes, in references thereto,
737 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (6) of
738 section 393.067, Florida Statutes, are reenacted to read:

739 393.067 Licensure of residential facilities and
740 comprehensive transitional education programs.--

741 (6) Each applicant for licensure as an intermediate care
742 facility for the developmentally disabled must comply with the
743 following requirements:

744 (a) Upon receipt of a completed, signed, and dated
745 application, the agency shall require background screening, in
746 accordance with the level 2 standards for screening set forth in
747 chapter 435, of the managing employee, or other similarly titled
748 individual who is responsible for the daily operation of the
749 facility, and of the financial officer, or other similarly
750 titled individual who is responsible for the financial operation
751 of the center, including billings for resident care and
752 services. The applicant must comply with the procedures for
753 level 2 background screening as set forth in chapter 435, as
754 well as the requirements of s. 435.03(3).

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

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

765 (d) A provisional license may be granted to an applicant
766 when each individual required by this section to undergo
767 background screening has met the standards for the Department of
768 Law Enforcement background check, but the agency has not yet
769 received background screening results from the Federal Bureau of
770 Investigation, or a request for a disqualification exemption has
771 been submitted to the agency as set forth in chapter 435, but a

772 response has not yet been issued. A standard license may be
773 granted to the applicant upon the agency's receipt of a report
774 of the results of the Federal Bureau of Investigation background
775 screening for each individual required by this section to
776 undergo background screening which confirms that all standards
777 have been met, or upon the granting of a disqualification
778 exemption by the agency as set forth in chapter 435. Any other
779 person who is required to undergo level 2 background screening
780 may serve in his or her capacity pending the agency's receipt of
781 the report from the Federal Bureau of Investigation. However,
782 the person may not continue to serve if the report indicates any
783 violation of background screening standards and a
784 disqualification exemption has not been requested of and granted
785 by the agency as set forth in chapter 435.

786 (f) Each applicant must submit to the agency a description
787 and explanation of any conviction of an offense prohibited under
788 the level 2 standards of chapter 435 by a member of the board of
789 directors of the applicant, its officers, or any individual
790 owning 5 percent or more of the applicant. This requirement does
791 not apply to a director of a not-for-profit corporation or
792 organization if the director serves solely in a voluntary
793 capacity for the corporation or organization, does not regularly
794 take part in the day-to-day operational decisions of the
795 corporation or organization, receives no remuneration for his or
796 her services on the corporation or organization's board of
797 directors, and has no financial interest and has no family
798 members with a financial interest in the corporation or
799 organization, provided that the director and the not-for-profit

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800 corporation or organization include in the application a
801 statement affirming that the director's relationship to the
802 corporation satisfies the requirements of this paragraph.

803 (g) A license may not be granted to an applicant if the
804 applicant or managing employee has been found guilty of,
805 regardless of adjudication, or has entered a plea of nolo
806 contendere or guilty to, any offense prohibited under the level
807 2 standards for screening set forth in chapter 435, unless an
808 exemption from disqualification has been granted by the agency
809 as set forth in chapter 435.

810 Section 8. Paragraph (a) of subsection (1) of section
811 394.4572, Florida Statutes, is amended to read:

812 394.4572 Screening of mental health personnel.--

813 (1)(a) The department and the Agency for Health Care
814 Administration shall require employment screening for mental
815 health personnel using the standards for level 2 screening set
816 forth in chapter 435. "Mental health personnel" includes all
817 program directors, professional clinicians, staff members, and
818 volunteers working in public or private mental health programs
819 and facilities who have direct contact with unmarried patients
820 under the age of 18 years. For purposes of this chapter,
821 employment screening of mental health personnel shall also
822 include, but is not limited to, employment screening as provided
823 under chapter 435.

824 Section 9. Section 943.0585, Florida Statutes, is amended
825 to read:

826 943.0585 Court-ordered expunction of criminal history
827 records.--The courts of this state have jurisdiction over their

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828 own procedures, including the maintenance, expunction, and
829 correction of judicial records containing criminal history
830 information to the extent such procedures are not inconsistent
831 with the conditions, responsibilities, and duties established by
832 this section. Any court of competent jurisdiction may order a
833 criminal justice agency to expunge the criminal history record
834 of a minor or an adult who complies with the requirements of
835 this section. The court shall not order a criminal justice
836 agency to expunge a criminal history record until the person
837 seeking to expunge a criminal history record has applied for and
838 received a certificate of eligibility for expunction pursuant to
839 subsection (2). A criminal history record that relates to a
840 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
841 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
842 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
843 s. 916.1075, or a violation enumerated in s. 907.041 may not be
844 expunged, without regard to whether adjudication was withheld,
845 if the defendant was found guilty of or pled guilty or nolo
846 contendere to the offense, or if the defendant, as a minor, was
847 found to have committed, or pled guilty or nolo contendere to
848 committing, the offense as a delinquent act. The court may only
849 order expunction of a criminal history record pertaining to one
850 arrest or one incident of alleged criminal activity, except as
851 provided in this section. The court may, at its sole discretion,
852 order the expunction of a criminal history record pertaining to
853 more than one arrest if the additional arrests directly relate
854 to the original arrest. If the court intends to order the
855 expunction of records pertaining to such additional arrests,

856 | such intent must be specified in the order. A criminal justice
 857 | agency may not expunge any record pertaining to such additional
 858 | arrests if the order to expunge does not articulate the
 859 | intention of the court to expunge a record pertaining to more
 860 | than one arrest. This section does not prevent the court from
 861 | ordering the expunction of only a portion of a criminal history
 862 | record pertaining to one arrest or one incident of alleged
 863 | criminal activity. Notwithstanding any law to the contrary, a
 864 | criminal justice agency may comply with laws, court orders, and
 865 | official requests of other jurisdictions relating to expunction,
 866 | correction, or confidential handling of criminal history records
 867 | or information derived therefrom. This section does not confer
 868 | any right to the expunction of any criminal history record, and
 869 | any request for expunction of a criminal history record may be
 870 | denied at the sole discretion of the court.

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

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

876 | (b) The petitioner's sworn statement attesting that the
 877 | petitioner:

878 | 1. Has never, prior to the date on which the petition is
 879 | filed, been adjudicated guilty of a criminal offense or
 880 | comparable ordinance violation or adjudicated delinquent for
 881 | committing a felony or a misdemeanor specified in s.
 882 | 943.051(3)(b).

883 2. Has not been adjudicated guilty of, or adjudicated
884 delinquent for committing, any of the acts stemming from the
885 arrest or alleged criminal activity to which the petition
886 pertains.

887 3. Has never secured a prior sealing or expunction of a
888 criminal history record under this section, former s. 893.14,
889 former s. 901.33, or former s. 943.058, or from any jurisdiction
890 outside the state.

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

894
895 Any person who knowingly provides false information on such
896 sworn statement to the court commits a felony of the third
897 degree, punishable as provided in s. 775.082, s. 775.083, or s.
898 775.084.

899 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
900 petitioning the court to expunge a criminal history record, a
901 person seeking to expunge a criminal history record shall apply
902 to the department for a certificate of eligibility for
903 expunction. The department shall, by rule adopted pursuant to
904 chapter 120, establish procedures pertaining to the application
905 for and issuance of certificates of eligibility for expunction.
906 The department shall issue a certificate of eligibility for
907 expunction to a person who is the subject of a criminal history
908 record if that person:

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

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

914 2. That an indictment, information, or other charging
 915 document, if filed or issued in the case, was dismissed or nolle
 916 prosequi by the state attorney or statewide prosecutor, or was
 917 dismissed by a court of competent jurisdiction.

918 3. That the criminal history record does not relate to a
 919 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 920 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
 921 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
 922 s. 916.1075, or a violation enumerated in s. 907.041, where the
 923 defendant was found guilty of, or pled guilty or nolo contendere
 924 to any such offense, or that the defendant, as a minor, was
 925 found to have committed, or pled guilty or nolo contendere to
 926 committing, such an offense as a delinquent act, without regard
 927 to whether adjudication was withheld.

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

931 (c) Has submitted to the department a certified copy of
 932 the disposition of the charge to which the petition to expunge
 933 pertains.

934 (d) Has never, prior to the date on which the application
 935 for a certificate of eligibility is filed, been adjudicated
 936 guilty of a criminal offense or comparable ordinance violation

937 or adjudicated delinquent for committing a felony or a
938 misdemeanor specified in s. 943.051(3)(b).

939 (e) Has not been adjudicated guilty of, or adjudicated
940 delinquent for committing, any of the acts stemming from the
941 arrest or alleged criminal activity to which the petition to
942 expunge pertains.

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

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

949 (h) Is not required to wait a minimum of 10 years prior to
950 being eligible for an expunction of such records because all
951 charges related to the arrest or criminal activity to which the
952 petition to expunge pertains were dismissed prior to trial,
953 adjudication, or the withholding of adjudication. Otherwise,
954 such criminal history record must be sealed under this section,
955 former s. 893.14, former s. 901.33, or former s. 943.058 for at
956 least 10 years before such record is eligible for expunction.

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

958 (a) In judicial proceedings under this section, a copy of
959 the completed petition to expunge shall be served upon the
960 appropriate state attorney or the statewide prosecutor and upon
961 the arresting agency; however, it is not necessary to make any
962 agency other than the state a party. The appropriate state
963 attorney or the statewide prosecutor and the arresting agency

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964 | may respond to the court regarding the completed petition to
965 | expunge.

966 | (b) If relief is granted by the court, the clerk of the
967 | court shall certify copies of the order to the appropriate state
968 | attorney or the statewide prosecutor and the arresting agency.
969 | The arresting agency is responsible for forwarding the order to
970 | any other agency to which the arresting agency disseminated the
971 | criminal history record information to which the order pertains.
972 | The department shall forward the order to expunge to the Federal
973 | Bureau of Investigation. The clerk of the court shall certify a
974 | copy of the order to any other agency which the records of the
975 | court reflect has received the criminal history record from the
976 | court.

977 | (c) For an order to expunge entered by a court prior to
978 | July 1, 1992, the department shall notify the appropriate state
979 | attorney or statewide prosecutor of an order to expunge which is
980 | contrary to law because the person who is the subject of the
981 | record has previously been convicted of a crime or comparable
982 | ordinance violation or has had a prior criminal history record
983 | sealed or expunged. Upon receipt of such notice, the appropriate
984 | state attorney or statewide prosecutor shall take action, within
985 | 60 days, to correct the record and petition the court to void
986 | the order to expunge. The department shall seal the record until
987 | such time as the order is voided by the court.

988 | (d) On or after July 1, 1992, the department or any other
989 | criminal justice agency is not required to act on an order to
990 | expunge entered by a court when such order does not comply with
991 | the requirements of this section. Upon receipt of such an order,

992 | the department must notify the issuing court, the appropriate
 993 | state attorney or statewide prosecutor, the petitioner or the
 994 | petitioner's attorney, and the arresting agency of the reason
 995 | for noncompliance. The appropriate state attorney or statewide
 996 | prosecutor shall take action within 60 days to correct the
 997 | record and petition the court to void the order. No cause of
 998 | action, including contempt of court, shall arise against any
 999 | criminal justice agency for failure to comply with an order to
 1000 | expunge when the petitioner for such order failed to obtain the
 1001 | certificate of eligibility as required by this section or such
 1002 | order does not otherwise comply with the requirements of this
 1003 | section.

1004 | (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 1005 | criminal history record of a minor or an adult which is ordered
 1006 | expunged by a court of competent jurisdiction pursuant to this
 1007 | section must be physically destroyed or obliterated by any
 1008 | criminal justice agency having custody of such record; except
 1009 | that any criminal history record in the custody of the
 1010 | department must be retained in all cases. A criminal history
 1011 | record ordered expunged that is retained by the department is
 1012 | confidential and exempt from the provisions of s. 119.07(1) and
 1013 | s. 24(a), Art. I of the State Constitution and not available to
 1014 | any person or entity except upon order of a court of competent
 1015 | jurisdiction. A criminal justice agency may retain a notation
 1016 | indicating compliance with an order to expunge.

1017 | (a) The person who is the subject of a criminal history
 1018 | record that is expunged under this section or under other
 1019 | provisions of law, including former s. 893.14, former s. 901.33,

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1020 and former s. 943.058, may lawfully deny or fail to acknowledge
1021 the arrests covered by the expunged record, except when the
1022 subject of the record:

1023 1. Is a candidate for employment with a criminal justice
1024 agency;

1025 2. Is a defendant in a criminal prosecution;

1026 3. Concurrently or subsequently petitions for relief under
1027 this section or s. 943.059;

1028 4. Is a candidate for admission to The Florida Bar;

1029 5. Is seeking to be employed or licensed by or to contract
1030 with the Department of Children and Family Services or the
1031 Department of Juvenile Justice or to be employed or used by such
1032 contractor or licensee in a sensitive position having direct
1033 contact with children, the developmentally disabled, the aged,
1034 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
1035 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1036 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
1037 985.407, or chapter 400; or

1038 6. Is seeking to be employed or licensed by the Office of
1039 Teacher Education, Certification, Staff Development, and
1040 Professional Practices of the Department of Education, any
1041 district school board, or any local governmental entity that
1042 licenses child care facilities.

1043 (b) Subject to the exceptions in paragraph (a), a person
1044 who has been granted an expunction under this section, former s.
1045 893.14, former s. 901.33, or former s. 943.058 may not be held
1046 under any provision of law of this state to commit perjury or to
1047 be otherwise liable for giving a false statement by reason of

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1048 such person's failure to recite or acknowledge an expunged
1049 criminal history record.

1050 (c) Information relating to the existence of an expunged
1051 criminal history record which is provided in accordance with
1052 paragraph (a) is confidential and exempt from the provisions of
1053 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1054 except that the department shall disclose the existence of a
1055 criminal history record ordered expunged to the entities set
1056 forth in subparagraphs (a)1., 4., 5., and 6. for their
1057 respective licensing and employment purposes, and to criminal
1058 justice agencies for their respective criminal justice purposes.
1059 It is unlawful for any employee of an entity set forth in
1060 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
1061 subparagraph (a)6. to disclose information relating to the
1062 existence of an expunged criminal history record of a person
1063 seeking employment or licensure with such entity or contractor,
1064 except to the person to whom the criminal history record relates
1065 or to persons having direct responsibility for employment or
1066 licensure decisions. Any person who violates this paragraph
1067 commits a misdemeanor of the first degree, punishable as
1068 provided in s. 775.082 or s. 775.083.

1069 (5) STATUTORY REFERENCES.--Any reference to any other
1070 chapter, section, or subdivision of the Florida Statutes in this
1071 section constitutes a general reference under the doctrine of
1072 incorporation by reference.

1073 Section 10. Section 943.059, Florida Statutes, is amended
1074 to read:

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1075 | 943.059 Court-ordered sealing of criminal history
 1076 | records.--The courts of this state shall continue to have
 1077 | jurisdiction over their own procedures, including the
 1078 | maintenance, sealing, and correction of judicial records
 1079 | containing criminal history information to the extent such
 1080 | procedures are not inconsistent with the conditions,
 1081 | responsibilities, and duties established by this section. Any
 1082 | court of competent jurisdiction may order a criminal justice
 1083 | agency to seal the criminal history record of a minor or an
 1084 | adult who complies with the requirements of this section. The
 1085 | court shall not order a criminal justice agency to seal a
 1086 | criminal history record until the person seeking to seal a
 1087 | criminal history record has applied for and received a
 1088 | certificate of eligibility for sealing pursuant to subsection
 1089 | (2). A criminal history record that relates to a violation of s.
 1090 | 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 1091 | 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
 1092 | 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or
 1093 | a violation enumerated in s. 907.041 may not be sealed, without
 1094 | regard to whether adjudication was withheld, if the defendant
 1095 | was found guilty of or pled guilty or nolo contendere to the
 1096 | offense, or if the defendant, as a minor, was found to have
 1097 | committed or pled guilty or nolo contendere to committing the
 1098 | offense as a delinquent act. The court may only order sealing of
 1099 | a criminal history record pertaining to one arrest or one
 1100 | incident of alleged criminal activity, except as provided in
 1101 | this section. The court may, at its sole discretion, order the
 1102 | sealing of a criminal history record pertaining to more than one

1103 | arrest if the additional arrests directly relate to the original
 1104 | arrest. If the court intends to order the sealing of records
 1105 | pertaining to such additional arrests, such intent must be
 1106 | specified in the order. A criminal justice agency may not seal
 1107 | any record pertaining to such additional arrests if the order to
 1108 | seal does not articulate the intention of the court to seal
 1109 | records pertaining to more than one arrest. This section does
 1110 | not prevent the court from ordering the sealing of only a
 1111 | portion of a criminal history record pertaining to one arrest or
 1112 | one incident of alleged criminal activity. Notwithstanding any
 1113 | law to the contrary, a criminal justice agency may comply with
 1114 | laws, court orders, and official requests of other jurisdictions
 1115 | relating to sealing, correction, or confidential handling of
 1116 | criminal history records or information derived therefrom. This
 1117 | section does not confer any right to the sealing of any criminal
 1118 | history record, and any request for sealing a criminal history
 1119 | record may be denied at the sole discretion of the court.

1120 | (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
 1121 | petition to a court to seal a criminal history record is
 1122 | complete only when accompanied by:

1123 | (a) A certificate of eligibility for sealing issued by the
 1124 | department pursuant to subsection (2).

1125 | (b) The petitioner's sworn statement attesting that the
 1126 | petitioner:

1127 | 1. Has never, prior to the date on which the petition is
 1128 | filed, been adjudicated guilty of a criminal offense or
 1129 | comparable ordinance violation or adjudicated delinquent for

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1130 committing a felony or a misdemeanor specified in s.
1131 943.051(3)(b).

1132 2. Has not been adjudicated guilty of or adjudicated
1133 delinquent for committing any of the acts stemming from the
1134 arrest or alleged criminal activity to which the petition to
1135 seal pertains.

1136 3. Has never secured a prior sealing or expunction of a
1137 criminal history record under this section, former s. 893.14,
1138 former s. 901.33, former s. 943.058, or from any jurisdiction
1139 outside the state.

1140 4. Is eligible for such a sealing to the best of his or
1141 her knowledge or belief and does not have any other petition to
1142 seal or any petition to expunge pending before any court.

1143
1144 Any person who knowingly provides false information on such
1145 sworn statement to the court commits a felony of the third
1146 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1147 775.084.

1148 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
1149 petitioning the court to seal a criminal history record, a
1150 person seeking to seal a criminal history record shall apply to
1151 the department for a certificate of eligibility for sealing. The
1152 department shall, by rule adopted pursuant to chapter 120,
1153 establish procedures pertaining to the application for and
1154 issuance of certificates of eligibility for sealing. The
1155 department shall issue a certificate of eligibility for sealing
1156 to a person who is the subject of a criminal history record
1157 provided that such person:

1158 (a) Has submitted to the department a certified copy of
 1159 the disposition of the charge to which the petition to seal
 1160 pertains.

1161 (b) Remits a \$75 processing fee to the department for
 1162 placement in the Department of Law Enforcement Operating Trust
 1163 Fund, unless such fee is waived by the executive director.

1164 (c) Has never, prior to the date on which the application
 1165 for a certificate of eligibility is filed, been adjudicated
 1166 guilty of a criminal offense or comparable ordinance violation
 1167 or adjudicated delinquent for committing a felony or a
 1168 misdemeanor specified in s. 943.051(3)(b).

1169 (d) Has not been adjudicated guilty of or adjudicated
 1170 delinquent for committing any of the acts stemming from the
 1171 arrest or alleged criminal activity to which the petition to
 1172 seal pertains.

1173 (e) Has never secured a prior sealing or expunction of a
 1174 criminal history record under this section, former s. 893.14,
 1175 former s. 901.33, or former s. 943.058.

1176 (f) Is no longer under court supervision applicable to the
 1177 disposition of the arrest or alleged criminal activity to which
 1178 the petition to seal pertains.

1179 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1180 (a) In judicial proceedings under this section, a copy of
 1181 the completed petition to seal shall be served upon the
 1182 appropriate state attorney or the statewide prosecutor and upon
 1183 the arresting agency; however, it is not necessary to make any
 1184 agency other than the state a party. The appropriate state
 1185 attorney or the statewide prosecutor and the arresting agency

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1186 | may respond to the court regarding the completed petition to
1187 | seal.

1188 | (b) If relief is granted by the court, the clerk of the
1189 | court shall certify copies of the order to the appropriate state
1190 | attorney or the statewide prosecutor and to the arresting
1191 | agency. The arresting agency is responsible for forwarding the
1192 | order to any other agency to which the arresting agency
1193 | disseminated the criminal history record information to which
1194 | the order pertains. The department shall forward the order to
1195 | seal to the Federal Bureau of Investigation. The clerk of the
1196 | court shall certify a copy of the order to any other agency
1197 | which the records of the court reflect has received the criminal
1198 | history record from the court.

1199 | (c) For an order to seal entered by a court prior to July
1200 | 1, 1992, the department shall notify the appropriate state
1201 | attorney or statewide prosecutor of any order to seal which is
1202 | contrary to law because the person who is the subject of the
1203 | record has previously been convicted of a crime or comparable
1204 | ordinance violation or has had a prior criminal history record
1205 | sealed or expunged. Upon receipt of such notice, the appropriate
1206 | state attorney or statewide prosecutor shall take action, within
1207 | 60 days, to correct the record and petition the court to void
1208 | the order to seal. The department shall seal the record until
1209 | such time as the order is voided by the court.

1210 | (d) On or after July 1, 1992, the department or any other
1211 | criminal justice agency is not required to act on an order to
1212 | seal entered by a court when such order does not comply with the
1213 | requirements of this section. Upon receipt of such an order, the

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1214 department must notify the issuing court, the appropriate state
 1215 attorney or statewide prosecutor, the petitioner or the
 1216 petitioner's attorney, and the arresting agency of the reason
 1217 for noncompliance. The appropriate state attorney or statewide
 1218 prosecutor shall take action within 60 days to correct the
 1219 record and petition the court to void the order. No cause of
 1220 action, including contempt of court, shall arise against any
 1221 criminal justice agency for failure to comply with an order to
 1222 seal when the petitioner for such order failed to obtain the
 1223 certificate of eligibility as required by this section or when
 1224 such order does not comply with the requirements of this
 1225 section.

1226 (e) An order sealing a criminal history record pursuant to
 1227 this section does not require that such record be surrendered to
 1228 the court, and such record shall continue to be maintained by
 1229 the department and other criminal justice agencies.

1230 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
 1231 history record of a minor or an adult which is ordered sealed by
 1232 a court of competent jurisdiction pursuant to this section is
 1233 confidential and exempt from the provisions of s. 119.07(1) and
 1234 s. 24(a), Art. I of the State Constitution and is available only
 1235 to the person who is the subject of the record, to the subject's
 1236 attorney, to criminal justice agencies for their respective
 1237 criminal justice purposes, or to those entities set forth in
 1238 subparagraphs (a)1., 4., 5., and 6. for their respective
 1239 licensing and employment purposes.

1240 (a) The subject of a criminal history record sealed under
 1241 this section or under other provisions of law, including former

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1242 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1243 deny or fail to acknowledge the arrests covered by the sealed
1244 record, except when the subject of the record:

1245 1. Is a candidate for employment with a criminal justice
1246 agency;

1247 2. Is a defendant in a criminal prosecution;

1248 3. Concurrently or subsequently petitions for relief under
1249 this section or s. 943.0585;

1250 4. Is a candidate for admission to The Florida Bar;

1251 5. Is seeking to be employed or licensed by or to contract
1252 with the Department of Children and Family Services or the
1253 Department of Juvenile Justice or to be employed or used by such
1254 contractor or licensee in a sensitive position having direct
1255 contact with children, the developmentally disabled, the aged,
1256 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
1257 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1258 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
1259 (13), s. 985.407, or chapter 400; or

1260 6. Is seeking to be employed or licensed by the Office of
1261 Teacher Education, Certification, Staff Development, and
1262 Professional Practices of the Department of Education, any
1263 district school board, or any local governmental entity which
1264 licenses child care facilities.

1265 (b) Subject to the exceptions in paragraph (a), a person
1266 who has been granted a sealing under this section, former s.
1267 893.14, former s. 901.33, or former s. 943.058 may not be held
1268 under any provision of law of this state to commit perjury or to
1269 be otherwise liable for giving a false statement by reason of

1270 such person's failure to recite or acknowledge a sealed criminal
1271 history record.

1272 (c) Information relating to the existence of a sealed
1273 criminal record provided in accordance with the provisions of
1274 paragraph (a) is confidential and exempt from the provisions of
1275 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1276 except that the department shall disclose the sealed criminal
1277 history record to the entities set forth in subparagraphs (a)1.,
1278 4., 5., and 6. for their respective licensing and employment
1279 purposes. It is unlawful for any employee of an entity set forth
1280 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
1281 or subparagraph (a)6. to disclose information relating to the
1282 existence of a sealed criminal history record of a person
1283 seeking employment or licensure with such entity or contractor,
1284 except to the person to whom the criminal history record relates
1285 or to persons having direct responsibility for employment or
1286 licensure decisions. Any person who violates the provisions of
1287 this paragraph commits a misdemeanor of the first degree,
1288 punishable as provided in s. 775.082 or s. 775.083.

1289 (5) STATUTORY REFERENCES.--Any reference to any other
1290 chapter, section, or subdivision of the Florida Statutes in this
1291 section constitutes a general reference under the doctrine of
1292 incorporation by reference.

1293 Section 11. Paragraph (a) of subsection (2) of section
1294 400.215, Florida Statutes, is amended, and paragraphs (b) and
1295 (c) of subsection (2) and subsection (3) of said section are
1296 reenacted for the purpose of incorporating the amendments to

1297 sections 435.03 and 435.04, Florida Statutes, in references
1298 thereto, to read:

1299 400.215 Personnel screening requirement.--

1300 (2) Employers and employees shall comply with the
1301 requirements of s. 435.05.

1302 (a) Notwithstanding the provisions of s. 435.05(1),
1303 facilities must have in their possession evidence that level 1
1304 screening has been completed before allowing an employee to
1305 begin working with patients as provided in subsection (1). All
1306 information necessary for conducting background screening using
1307 level 1 standards as specified in s. 435.03~~(1)~~ shall be
1308 submitted by the nursing facility to the agency. Results of the
1309 background screening shall be provided by the agency to the
1310 requesting nursing facility.

1311 (b) Employees qualified under the provisions of paragraph
1312 (a) who have not maintained continuous residency within the
1313 state for the 5 years immediately preceding the date of request
1314 for background screening must complete level 2 screening, as
1315 provided in chapter 435. Such employees may work in a
1316 conditional status up to 180 days pending the receipt of written
1317 findings evidencing the completion of level 2 screening. Level 2
1318 screening shall not be required of employees or prospective
1319 employees who attest in writing under penalty of perjury that
1320 they meet the residency requirement. Completion of level 2
1321 screening shall require the employee or prospective employee to
1322 furnish to the nursing facility a full set of fingerprints to
1323 enable a criminal background investigation to be conducted. The
1324 nursing facility shall submit the completed fingerprint card to

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1325 the agency. The agency shall establish a record of the request
1326 in the database provided for in paragraph (c) and forward the
1327 request to the Department of Law Enforcement, which is
1328 authorized to submit the fingerprints to the Federal Bureau of
1329 Investigation for a national criminal history records check. The
1330 results of the national criminal history records check shall be
1331 returned to the agency, which shall maintain the results in the
1332 database provided for in paragraph (c). The agency shall notify
1333 the administrator of the requesting nursing facility or the
1334 administrator of any other facility licensed under chapter 393,
1335 chapter 394, chapter 395, chapter 397, or this chapter, as
1336 requested by such facility, as to whether or not the employee
1337 has qualified under level 1 or level 2 screening. An employee or
1338 prospective employee who has qualified under level 2 screening
1339 and has maintained such continuous residency within the state
1340 shall not be required to complete a subsequent level 2 screening
1341 as a condition of employment at another facility.

1342 (c) The agency shall establish and maintain a database of
1343 background screening information which shall include the results
1344 of both level 1 and level 2 screening. The Department of Law
1345 Enforcement shall timely provide to the agency, electronically,
1346 the results of each statewide screening for incorporation into
1347 the database. The agency shall, upon request from any facility,
1348 agency, or program required by or authorized by law to screen
1349 its employees or applicants, notify the administrator of the
1350 facility, agency, or program of the qualifying or disqualifying
1351 status of the employee or applicant named in the request.

1352 (3) The applicant is responsible for paying the fees
 1353 associated with obtaining the required screening. Payment for
 1354 the screening shall be submitted to the agency. The agency shall
 1355 establish a schedule of fees to cover the costs of level 1 and
 1356 level 2 screening. Facilities may reimburse employees for these
 1357 costs. The Department of Law Enforcement shall charge the agency
 1358 for a level 1 or level 2 screening a rate sufficient to cover
 1359 the costs of such screening pursuant to s. 943.053(3). The
 1360 agency shall, as allowable, reimburse nursing facilities for the
 1361 cost of conducting background screening as required by this
 1362 section. This reimbursement will not be subject to any rate
 1363 ceilings or payment targets in the Medicaid Reimbursement plan.

1364 Section 12. For the purpose of incorporating the
 1365 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1366 references thereto, subsections (1) and (2) of section 400.964,
 1367 Florida Statutes, are reenacted, and subsection (7) of said
 1368 section is amended and reenacted, to read:

1369 400.964 Personnel screening requirement.--

1370 (1) The agency shall require level 2 background screening
 1371 as provided in chapter 435 for all employees or prospective
 1372 employees of facilities licensed under this part who are
 1373 expected to be, or whose responsibilities are such that they
 1374 would be considered to be, a direct service provider.

1375 (2) Employers and employees shall comply with the
 1376 requirements of chapter 435.

1377 (7) All employees must comply with the requirements of
 1378 this section by October 1, 2000. A person employed by a facility
 1379 licensed pursuant to this part as of the effective date of this

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1380 act is not required to submit to rescreening if the facility has
 1381 in its possession written evidence that the person has been
 1382 screened and qualified according to level 1 standards as
 1383 specified in s. 435.03~~(1)~~. Any current employee who meets the
 1384 level 1 requirement but does not meet the 5-year residency
 1385 requirement must provide to the employing facility written
 1386 attestation under penalty of perjury that the employee has not
 1387 been convicted of a disqualifying offense in another state or
 1388 jurisdiction. All applicants hired on or after October 1, 1999,
 1389 must comply with the requirements of this section.

1390 Section 13. For the purpose of incorporating the amendment
 1391 to section 435.04, Florida Statutes, in a reference thereto,
 1392 paragraph (a) of subsection (1) of section 435.045, Florida
 1393 Statutes, is amended and reenacted to read:

1394 435.045 Requirements for placement of dependent
 1395 children.--

1396 (1)(a) Unless an election provided for in subsection (2)
 1397 is made with respect to the state, the department is authorized
 1398 to conduct criminal records checks equivalent to the level 2
 1399 screening required in s. 435.04~~(1)~~ for any person being
 1400 considered by the department for placement of a child subject to
 1401 a placement decision pursuant to chapter 39. Approval shall not
 1402 be granted:

1403 1. In any case in which a record check reveals a felony
 1404 conviction for child abuse, abandonment, or neglect; for spousal
 1405 abuse; for a crime against children, including child
 1406 pornography, or for a crime involving violence, including rape,
 1407 sexual assault, or homicide but not including other physical

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1408 assault or battery, if the department finds that a court of
1409 competent jurisdiction has determined that the felony was
1410 committed at any time; and

1411 2. In any case in which a record check reveals a felony
1412 conviction for physical assault, battery, or a drug-related
1413 offense, if the department finds that a court of competent
1414 jurisdiction has determined that the felony was committed within
1415 the past 5 years.

1416 Section 14. For the purpose of incorporating the
1417 amendments to sections 435.03 and 435.04, Florida Statutes, in
1418 references thereto, paragraphs (f) and (g) of subsection (1) of
1419 section 400.414, Florida Statutes, are reenacted to read:

1420 400.414 Denial, revocation, or suspension of license;
1421 imposition of administrative fine; grounds.--

1422 (1) The agency may deny, revoke, or suspend any license
1423 issued under this part, or impose an administrative fine in the
1424 manner provided in chapter 120, for any of the following actions
1425 by an assisted living facility, for the actions of any person
1426 subject to level 2 background screening under s. 400.4174, or
1427 for the actions of any facility employee:

1428 (f) A determination that a person subject to level 2
1429 background screening under s. 400.4174(1) does not meet the
1430 screening standards of s. 435.04 or that the facility is
1431 retaining an employee subject to level 1 background screening
1432 standards under s. 400.4174(2) who does not meet the screening
1433 standards of s. 435.03 and for whom exemptions from
1434 disqualification have not been provided by the agency.

1435 (g) A determination that an employee, volunteer,
 1436 administrator, or owner, or person who otherwise has access to
 1437 the residents of a facility does not meet the criteria specified
 1438 in s. 435.03(2), and the owner or administrator has not taken
 1439 action to remove the person. Exemptions from disqualification
 1440 may be granted as set forth in s. 435.07. No administrative
 1441 action may be taken against the facility if the person is
 1442 granted an exemption.

1443
 1444 Administrative proceedings challenging agency action under this
 1445 subsection shall be reviewed on the basis of the facts and
 1446 conditions that resulted in the agency action.

1447 Section 15. For the purpose of incorporating the
 1448 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1449 references thereto, section 400.4174, Florida Statutes, is
 1450 reenacted to read:

1451 400.4174 Background screening; exemptions.--

1452 (1)(a) Level 2 background screening must be conducted on
 1453 each of the following persons, who shall be considered employees
 1454 for the purposes of conducting screening under chapter 435:

1455 1. The facility owner if an individual, the administrator,
 1456 and the financial officer.

1457 2. An officer or board member if the facility owner is a
 1458 firm, corporation, partnership, or association, or any person
 1459 owning 5 percent or more of the facility if the agency has
 1460 probable cause to believe that such person has been convicted of
 1461 any offense prohibited by s. 435.04. For each officer, board
 1462 member, or person owning 5 percent or more who has been

1463 convicted of any such offense, the facility shall submit to the
 1464 agency a description and explanation of the conviction at the
 1465 time of license application. This subparagraph does not apply to
 1466 a board member of a not-for-profit corporation or organization
 1467 if the board member serves solely in a voluntary capacity, does
 1468 not regularly take part in the day-to-day operational decisions
 1469 of the corporation or organization, receives no remuneration for
 1470 his or her services, and has no financial interest and has no
 1471 family members with a financial interest in the corporation or
 1472 organization, provided that the board member and facility submit
 1473 a statement affirming that the board member's relationship to
 1474 the facility satisfies the requirements of this subparagraph.

1475 (b) Proof of compliance with level 2 screening standards
 1476 which has been submitted within the previous 5 years to meet any
 1477 facility or professional licensure requirements of the agency or
 1478 the Department of Health satisfies the requirements of this
 1479 subsection, provided that such proof is accompanied, under
 1480 penalty of perjury, by an affidavit of compliance with the
 1481 provisions of chapter 435. Proof of compliance with the
 1482 background screening requirements of the Financial Services
 1483 Commission and the Office of Insurance Regulation for applicants
 1484 for a certificate of authority to operate a continuing care
 1485 retirement community under chapter 651, submitted within the
 1486 last 5 years, satisfies the Department of Law Enforcement and
 1487 Federal Bureau of Investigation portions of a level 2 background
 1488 check.

1489 (c) The agency may grant a provisional license to a
 1490 facility applying for an initial license when each individual

1491 required by this subsection to undergo screening has completed
 1492 the Department of Law Enforcement background checks, but has not
 1493 yet received results from the Federal Bureau of Investigation,
 1494 or when a request for an exemption from disqualification has
 1495 been submitted to the agency pursuant to s. 435.07, but a
 1496 response has not been issued.

1497 (2) The owner or administrator of an assisted living
 1498 facility must conduct level 1 background screening, as set forth
 1499 in chapter 435, on all employees hired on or after October 1,
 1500 1998, who perform personal services as defined in s.
 1501 400.402(17). The agency may exempt an individual from employment
 1502 disqualification as set forth in chapter 435. Such persons shall
 1503 be considered as having met this requirement if:

1504 (a) Proof of compliance with level 1 screening
 1505 requirements obtained to meet any professional license
 1506 requirements in this state is provided and accompanied, under
 1507 penalty of perjury, by a copy of the person's current
 1508 professional license and an affidavit of current compliance with
 1509 the background screening requirements.

1510 (b) The person required to be screened has been
 1511 continuously employed in the same type of occupation for which
 1512 the person is seeking employment without a breach in service
 1513 which exceeds 180 days, and proof of compliance with the level 1
 1514 screening requirement which is no more than 2 years old is
 1515 provided. Proof of compliance shall be provided directly from
 1516 one employer or contractor to another, and not from the person
 1517 screened. Upon request, a copy of screening results shall be

1518 provided by the employer retaining documentation of the
1519 screening to the person screened.

1520 (c) The person required to be screened is employed by a
1521 corporation or business entity or related corporation or
1522 business entity that owns, operates, or manages more than one
1523 facility or agency licensed under this chapter, and for whom a
1524 level 1 screening was conducted by the corporation or business
1525 entity as a condition of initial or continued employment.

1526 Section 16. For the purpose of incorporating the
1527 amendments to sections 435.03 and 435.04, Florida Statutes, in
1528 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)
1529 of subsection (4) of section 400.509, Florida Statutes, are
1530 reenacted to read:

1531 400.509 Registration of particular service providers
1532 exempt from licensure; certificate of registration; regulation
1533 of registrants.--

1534 (4) Each applicant for registration must comply with the
1535 following requirements:

1536 (a) Upon receipt of a completed, signed, and dated
1537 application, the agency shall require background screening, in
1538 accordance with the level 1 standards for screening set forth in
1539 chapter 435, of every individual who will have contact with the
1540 client. The agency shall require background screening of the
1541 managing employee or other similarly titled individual who is
1542 responsible for the operation of the entity, and of the
1543 financial officer or other similarly titled individual who is
1544 responsible for the financial operation of the entity, including

1545 | billings for client services in accordance with the level 2
1546 | standards for background screening as set forth in chapter 435.

1547 | (b) The agency may require background screening of any
1548 | other individual who is affiliated with the applicant if the
1549 | agency has a reasonable basis for believing that he or she has
1550 | been convicted of a crime or has committed any other offense
1551 | prohibited under the level 2 standards for screening set forth
1552 | in chapter 435.

1553 | (c) Proof of compliance with the level 2 background
1554 | screening requirements of chapter 435 which has been submitted
1555 | within the previous 5 years in compliance with any other health
1556 | care or assisted living licensure requirements of this state is
1557 | acceptable in fulfillment of paragraph (a).

1558 | (d) A provisional registration may be granted to an
1559 | applicant when each individual required by this section to
1560 | undergo background screening has met the standards for the
1561 | abuse-registry background check through the agency and the
1562 | Department of Law Enforcement background check, but the agency
1563 | has not yet received background screening results from the
1564 | Federal Bureau of Investigation. A standard registration may be
1565 | granted to the applicant upon the agency's receipt of a report
1566 | of the results of the Federal Bureau of Investigation background
1567 | screening for each individual required by this section to
1568 | undergo background screening which confirms that all standards
1569 | have been met, or upon the granting of a disqualification
1570 | exemption by the agency as set forth in chapter 435. Any other
1571 | person who is required to undergo level 2 background screening
1572 | may serve in his or her capacity pending the agency's receipt of

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1573 the report from the Federal Bureau of Investigation. However,
1574 the person may not continue to serve if the report indicates any
1575 violation of background screening standards and if a
1576 disqualification exemption has not been requested of and granted
1577 by the agency as set forth in chapter 435.

1578 (f) Each applicant must submit to the agency a description
1579 and explanation of any conviction of an offense prohibited under
1580 the level 2 standards of chapter 435 which was committed by a
1581 member of the board of directors of the applicant, its officers,
1582 or any individual owning 5 percent or more of the applicant.
1583 This requirement does not apply to a director of a not-for-
1584 profit corporation or organization who serves solely in a
1585 voluntary capacity for the corporation or organization, does not
1586 regularly take part in the day-to-day operational decisions of
1587 the corporation or organization, receives no remuneration for
1588 his or her services on the corporation's or organization's board
1589 of directors, and has no financial interest and no family
1590 members having a financial interest in the corporation or
1591 organization, if the director and the not-for-profit corporation
1592 or organization include in the application a statement affirming
1593 that the director's relationship to the corporation satisfies
1594 the requirements of this paragraph.

1595 (g) A registration may not be granted to an applicant if
1596 the applicant or managing employee has been found guilty of,
1597 regardless of adjudication, or has entered a plea of nolo
1598 contendere or guilty to, any offense prohibited under the level
1599 2 standards for screening set forth in chapter 435, unless an

1600 exemption from disqualification has been granted by the agency
1601 as set forth in chapter 435.

1602 Section 17. For the purpose of incorporating the
1603 amendments to sections 435.03 and 435.04, Florida Statutes, in
1604 references thereto, paragraph (c) of subsection (2) of section
1605 400.556, Florida Statutes, is reenacted to read:

1606 400.556 Denial, suspension, revocation of license;
1607 administrative fines; investigations and inspections.--

1608 (2) Each of the following actions by the owner of an adult
1609 day care center or by its operator or employee is a ground for
1610 action by the agency against the owner of the center or its
1611 operator or employee:

1612 (c) A failure of persons subject to level 2 background
1613 screening under s. 400.4174(1) to meet the screening standards
1614 of s. 435.04, or the retention by the center of an employee
1615 subject to level 1 background screening standards under s.
1616 400.4174(2) who does not meet the screening standards of s.
1617 435.03 and for whom exemptions from disqualification have not
1618 been provided by the agency.

1619 Section 18. For the purpose of incorporating the
1620 amendments to sections 435.03 and 435.04, Florida Statutes, in
1621 references thereto, subsections (1), (2), and (4) of section
1622 400.6065, Florida Statutes, are reenacted to read:

1623 400.6065 Background screening.--

1624 (1) Upon receipt of a completed application under s.
1625 400.606, the agency shall require level 2 background screening
1626 on each of the following persons, who shall be considered

1627 employees for the purposes of conducting screening under chapter
1628 435:

1629 (a) The hospice administrator and financial officer.

1630 (b) An officer or board member if the hospice is a firm,
1631 corporation, partnership, or association, or any person owning 5
1632 percent or more of the hospice if the agency has probable cause
1633 to believe that such officer, board member, or owner has been
1634 convicted of any offense prohibited by s. 435.04. For each
1635 officer, board member, or person owning 5 percent or more who
1636 has been convicted of any such offense, the hospice shall submit
1637 to the agency a description and explanation of the conviction at
1638 the time of license application. This paragraph does not apply
1639 to a board member of a not-for-profit corporation or
1640 organization if the board member serves solely in a voluntary
1641 capacity, does not regularly take part in the day-to-day
1642 operational decisions of the corporation or organization,
1643 receives no remuneration for his or her services, and has no
1644 financial interest and has no family members with a financial
1645 interest in the corporation or organization, provided that the
1646 board member and the corporation or organization submit a
1647 statement affirming that the board member's relationship to the
1648 corporation or organization satisfies the requirements of this
1649 paragraph.

1650 (2) Proof of compliance with level 2 screening standards
1651 which has been submitted within the previous 5 years to meet any
1652 facility or professional licensure requirements of the agency or
1653 the Department of Health satisfies the requirements of this
1654 section.

1655 (4) The agency shall require employment or contractor
 1656 screening as provided in chapter 435, using the level 1
 1657 standards for screening set forth in that chapter, for hospice
 1658 personnel.

1659 Section 19. For the purpose of incorporating the
 1660 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1661 references thereto, paragraphs (a), (b), (c), (d), (f), and (g)
 1662 of subsection (4) of section 400.980, Florida Statutes, are
 1663 reenacted to read:

1664 400.980 Health care services pools.--

1665 (4) Each applicant for registration must comply with the
 1666 following requirements:

1667 (a) Upon receipt of a completed, signed, and dated
 1668 application, the agency shall require background screening, in
 1669 accordance with the level 1 standards for screening set forth in
 1670 chapter 435, of every individual who will have contact with
 1671 patients. The agency shall require background screening of the
 1672 managing employee or other similarly titled individual who is
 1673 responsible for the operation of the entity, and of the
 1674 financial officer or other similarly titled individual who is
 1675 responsible for the financial operation of the entity, including
 1676 billings for services in accordance with the level 2 standards
 1677 for background screening as set forth in chapter 435.

1678 (b) The agency may require background screening of any
 1679 other individual who is affiliated with the applicant if the
 1680 agency has a reasonable basis for believing that he or she has
 1681 been convicted of a crime or has committed any other offense

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1682 prohibited under the level 2 standards for screening set forth
1683 in chapter 435.

1684 (c) Proof of compliance with the level 2 background
1685 screening requirements of chapter 435 which has been submitted
1686 within the previous 5 years in compliance with any other health
1687 care or assisted living licensure requirements of this state is
1688 acceptable in fulfillment of paragraph (a).

1689 (d) A provisional registration may be granted to an
1690 applicant when each individual required by this section to
1691 undergo background screening has met the standards for the
1692 Department of Law Enforcement background check but the agency
1693 has not yet received background screening results from the
1694 Federal Bureau of Investigation. A standard registration may be
1695 granted to the applicant upon the agency's receipt of a report
1696 of the results of the Federal Bureau of Investigation background
1697 screening for each individual required by this section to
1698 undergo background screening which confirms that all standards
1699 have been met, or upon the granting of a disqualification
1700 exemption by the agency as set forth in chapter 435. Any other
1701 person who is required to undergo level 2 background screening
1702 may serve in his or her capacity pending the agency's receipt of
1703 the report from the Federal Bureau of Investigation. However,
1704 the person may not continue to serve if the report indicates any
1705 violation of background screening standards and if a
1706 disqualification exemption has not been requested of and granted
1707 by the agency as set forth in chapter 435.

1708 (f) Each applicant must submit to the agency a description
1709 and explanation of any conviction of an offense prohibited under

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1710 the level 2 standards of chapter 435 which was committed by a
1711 member of the board of directors of the applicant, its officers,
1712 or any individual owning 5 percent or more of the applicant.
1713 This requirement does not apply to a director of a not-for-
1714 profit corporation or organization who serves solely in a
1715 voluntary capacity for the corporation or organization, does not
1716 regularly take part in the day-to-day operational decisions of
1717 the corporation or organization, receives no remuneration for
1718 his or her services on the corporation's or organization's board
1719 of directors, and has no financial interest and no family
1720 members having a financial interest in the corporation or
1721 organization, if the director and the not-for-profit corporation
1722 or organization include in the application a statement affirming
1723 that the director's relationship to the corporation satisfies
1724 the requirements of this paragraph.

1725 (g) A registration may not be granted to an applicant if
1726 the applicant or managing employee has been found guilty of,
1727 regardless of adjudication, or has entered a plea of nolo
1728 contendere or guilty to, any offense prohibited under the level
1729 2 standards for screening set forth in chapter 435, unless an
1730 exemption from disqualification has been granted by the agency
1731 as set forth in chapter 435.

1732 Section 20. For the purpose of incorporating the
1733 amendments to sections 435.03 and 435.04, Florida Statutes, in
1734 references thereto, paragraph (k) of subsection (2) of section
1735 409.175, Florida Statutes, is reenacted to read:

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1736 409.175 Licensure of family foster homes, residential
1737 child-caring agencies, and child-placing agencies; public
1738 records exemption.--

1739 (2) As used in this section, the term:

1740 (k) "Screening" means the act of assessing the background
1741 of personnel and includes, but is not limited to, employment
1742 history checks as provided in chapter 435, using the level 2
1743 standards for screening set forth in that chapter. Screening for
1744 employees and volunteers in summer day camps and summer 24-hour
1745 camps and screening for all volunteers included under the
1746 definition of "personnel" shall be conducted as provided in
1747 chapter 435, using the level 1 standards set forth in that
1748 chapter.

1749 Section 21. For the purpose of incorporating the
1750 amendments to sections 435.03 and 435.04, Florida Statutes, in
1751 references thereto, paragraph (d) of subsection (8) of section
1752 409.907, Florida Statutes, is reenacted to read:

1753 409.907 Medicaid provider agreements.--The agency may make
1754 payments for medical assistance and related services rendered to
1755 Medicaid recipients only to an individual or entity who has a
1756 provider agreement in effect with the agency, who is performing
1757 services or supplying goods in accordance with federal, state,
1758 and local law, and who agrees that no person shall, on the
1759 grounds of handicap, race, color, or national origin, or for any
1760 other reason, be subjected to discrimination under any program
1761 or activity for which the provider receives payment from the
1762 agency.

1763 (8)

1764 (d) Proof of compliance with the requirements of level 2
 1765 screening under s. 435.04 conducted within 12 months prior to
 1766 the date that the Medicaid provider application is submitted to
 1767 the agency shall fulfill the requirements of this subsection.
 1768 Proof of compliance with the requirements of level 1 screening
 1769 under s. 435.03 conducted within 12 months prior to the date
 1770 that the Medicaid provider application is submitted to the
 1771 agency shall meet the requirement that the Department of Law
 1772 Enforcement conduct a state criminal history record check.

1773 Section 22. For the purpose of incorporating the
 1774 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1775 references thereto, subsections (1) and (3) of section 435.05,
 1776 Florida Statutes, are reenacted to read:

1777 435.05 Requirements for covered employees.--Except as
 1778 otherwise provided by law, the following requirements shall
 1779 apply to covered employees:

1780 (1)(a) Every person employed in a position for which
 1781 employment screening is required must, within 5 working days
 1782 after starting to work, submit to the employer a complete set of
 1783 information necessary to conduct a screening under this section.

1784 (b) For level 1 screening, the employer must submit the
 1785 information necessary for screening to the Florida Department of
 1786 Law Enforcement within 5 working days after receiving it. The
 1787 Florida Department of Law Enforcement will conduct a search of
 1788 its records and will respond to the employer agency. The
 1789 employer will inform the employee whether screening has revealed
 1790 any disqualifying information.

1791 (c) For level 2 screening, the employer or licensing
 1792 agency must submit the information necessary for screening to
 1793 the Florida Department of Law Enforcement within 5 working days
 1794 after receiving it. The Florida Department of Law Enforcement
 1795 will conduct a search of its criminal and juvenile records and
 1796 will request that the Federal Bureau of Investigation conduct a
 1797 search of its records for each employee for whom the request is
 1798 made. The Florida Department of Law Enforcement will respond to
 1799 the employer or licensing agency, and the employer or licensing
 1800 agency will inform the employee whether screening has revealed
 1801 disqualifying information.

1802 (d) The person whose background is being checked must
 1803 supply any missing criminal or other necessary information to
 1804 the employer within 30 days after the employer makes a request
 1805 for the information or be subject to automatic disqualification.

1806 (3) Each employer required to conduct level 2 background
 1807 screening must sign an affidavit annually, under penalty of
 1808 perjury, stating that all covered employees have been screened
 1809 or are newly hired and are awaiting the results of the required
 1810 screening checks.

1811 Section 23. For the purpose of incorporating the
 1812 amendments to sections 435.03 and 435.04, Florida Statutes, in
 1813 references thereto, section 744.3135, Florida Statutes, as
 1814 amended by chapter 2003-402, Laws of Florida, is reenacted to
 1815 read:

1816 744.3135 Credit and criminal investigation.—The court may
 1817 require a nonprofessional guardian and shall require a
 1818 professional or public guardian, and all employees of a

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1819 professional guardian who have a fiduciary responsibility to a
1820 ward, to submit, at their own expense, to an investigation of
1821 the guardian's credit history and to undergo level 2 background
1822 screening as required under s. 435.04. The clerk of the court
1823 shall obtain fingerprint cards from the Federal Bureau of
1824 Investigation and make them available to guardians. Any guardian
1825 who is so required shall have his or her fingerprints taken and
1826 forward the proper fingerprint card along with the necessary fee
1827 to the Florida Department of Law Enforcement for processing. The
1828 professional guardian shall pay to the clerk of the court a fee
1829 of up to \$7.50 for handling and processing professional guardian
1830 files. The results of the fingerprint checks shall be forwarded
1831 to the clerk of court who shall maintain the results in a
1832 guardian file and shall make the results available to the court.
1833 If credit or criminal investigations are required, the court
1834 must consider the results of the investigations in appointing a
1835 guardian. Professional guardians and all employees of a
1836 professional guardian who have a fiduciary responsibility to a
1837 ward, so appointed, must resubmit, at their own expense, to an
1838 investigation of credit history, and undergo level 1 background
1839 screening as required under s. 435.03, at least every 2 years
1840 after the date of their appointment. At any time, the court may
1841 require guardians or their employees to submit to an
1842 investigation of credit history and undergo level 1 background
1843 screening as required under s. 435.03. The court must consider
1844 the results of these investigations in reappointing a guardian.
1845 This section shall not apply to a professional guardian, or to
1846 the employees of a professional guardian, that is a trust

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1847 | company, a state banking corporation or state savings
 1848 | association authorized and qualified to exercise fiduciary
 1849 | powers in this state, or a national banking association or
 1850 | federal savings and loan association authorized and qualified to
 1851 | exercise fiduciary powers in this state.

1852 | Section 24. For the purpose of incorporating the
 1853 | amendments to sections 435.03 and 435.04, Florida Statutes, in
 1854 | references thereto, subsection (2) of section 985.04, Florida
 1855 | Statutes, is reenacted to read:

1856 | 985.04 Oaths; records; confidential information.--

1857 | (2) Records maintained by the Department of Juvenile
 1858 | Justice, including copies of records maintained by the court,
 1859 | which pertain to a child found to have committed a delinquent
 1860 | act which, if committed by an adult, would be a crime specified
 1861 | in ss. 435.03 and 435.04 may not be destroyed pursuant to this
 1862 | section for a period of 25 years after the youth's final
 1863 | referral to the department, except in cases of the death of the
 1864 | child. Such records, however, shall be sealed by the court for
 1865 | use only in meeting the screening requirements for personnel in
 1866 | s. 402.3055 and the other sections cited above, or pursuant to
 1867 | departmental rule; however, current criminal history information
 1868 | must be obtained from the Department of Law Enforcement in
 1869 | accordance with s. 943.053. The information shall be released to
 1870 | those persons specified in the above cited sections for the
 1871 | purposes of complying with those sections. The court may punish
 1872 | by contempt any person who releases or uses the records for any
 1873 | unauthorized purpose.

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1874 Section 25. For the purpose of incorporating the amendment
1875 to section 435.03, Florida Statutes, in references thereto,
1876 section 400.512, Florida Statutes, is reenacted to read:

1877 400.512 Screening of home health agency personnel; nurse
1878 registry personnel; and companions and homemakers.--The agency
1879 shall require employment or contractor screening as provided in
1880 chapter 435, using the level 1 standards for screening set forth
1881 in that chapter, for home health agency personnel; persons
1882 referred for employment by nurse registries; and persons
1883 employed by companion or homemaker services registered under s.
1884 400.509.

1885 (1)(a) The Agency for Health Care Administration may, upon
1886 request, grant exemptions from disqualification from employment
1887 or contracting under this section as provided in s. 435.07,
1888 except for health care practitioners licensed by the Department
1889 of Health or a regulatory board within that department.

1890 (b) The appropriate regulatory board within the Department
1891 of Health, or that department itself when there is no board,
1892 may, upon request of the licensed health care practitioner,
1893 grant exemptions from disqualification from employment or
1894 contracting under this section as provided in s. 435.07.

1895 (2) The administrator of each home health agency, the
1896 managing employee of each nurse registry, and the managing
1897 employee of each companion or homemaker service registered under
1898 s. 400.509 must sign an affidavit annually, under penalty of
1899 perjury, stating that all personnel hired, contracted with, or
1900 registered on or after October 1, 1994, who enter the home of a
1901 patient or client in their service capacity have been screened

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1902 and that its remaining personnel have worked for the home health
1903 agency or registrant continuously since before October 1, 1994.

1904 (3) As a prerequisite to operating as a home health
1905 agency, nurse registry, or companion or homemaker service under
1906 s. 400.509, the administrator or managing employee,
1907 respectively, must submit to the agency his or her name and any
1908 other information necessary to conduct a complete screening
1909 according to this section. The agency shall submit the
1910 information to the Department of Law Enforcement for state
1911 processing. The agency shall review the record of the
1912 administrator or manager with respect to the offenses specified
1913 in this section and shall notify the owner of its findings. If
1914 disposition information is missing on a criminal record, the
1915 administrator or manager, upon request of the agency, must
1916 obtain and supply within 30 days the missing disposition
1917 information to the agency. Failure to supply missing information
1918 within 30 days or to show reasonable efforts to obtain such
1919 information will result in automatic disqualification.

1920 (4) Proof of compliance with the screening requirements of
1921 chapter 435 shall be accepted in lieu of the requirements of
1922 this section if the person has been continuously employed or
1923 registered without a breach in service that exceeds 180 days,
1924 the proof of compliance is not more than 2 years old, and the
1925 person has been screened by the Department of Law Enforcement. A
1926 home health agency, nurse registry, or companion or homemaker
1927 service registered under s. 400.509 shall directly provide proof
1928 of compliance to another home health agency, nurse registry, or
1929 companion or homemaker service registered under s. 400.509. The

1930 recipient home health agency, nurse registry, or companion or
 1931 homemaker service registered under s. 400.509 may not accept any
 1932 proof of compliance directly from the person who requires
 1933 screening. Proof of compliance with the screening requirements
 1934 of this section shall be provided upon request to the person
 1935 screened by the home health agencies; nurse registries; or
 1936 companion or homemaker services registered under s. 400.509.

1937 (5) There is no monetary liability on the part of, and no
 1938 cause of action for damages arises against, a licensed home
 1939 health agency, licensed nurse registry, or companion or
 1940 homemaker service registered under s. 400.509, that, upon notice
 1941 that the employee or contractor has been found guilty of,
 1942 regardless of adjudication, or entered a plea of nolo contendere
 1943 or guilty to, any offense prohibited under s. 435.03 or under
 1944 any similar statute of another jurisdiction, terminates the
 1945 employee or contractor, whether or not the employee or
 1946 contractor has filed for an exemption with the agency in
 1947 accordance with chapter 435 and whether or not the time for
 1948 filing has expired.

1949 (6) The costs of processing the statewide correspondence
 1950 criminal records checks must be borne by the home health agency;
 1951 the nurse registry; or the companion or homemaker service
 1952 registered under s. 400.509, or by the person being screened, at
 1953 the discretion of the home health agency, nurse registry, or s.
 1954 400.509 registrant.

1955 (7)(a) It is a misdemeanor of the first degree, punishable
 1956 under s. 775.082 or s. 775.083, for any person willfully,
 1957 knowingly, or intentionally to:

1958 | 1. Fail, by false statement, misrepresentation,
1959 | impersonation, or other fraudulent means, to disclose in any
1960 | application for voluntary or paid employment a material fact
1961 | used in making a determination as to such person's
1962 | qualifications to be an employee under this section;

1963 | 2. Operate or attempt to operate an entity licensed or
1964 | registered under this part with persons who do not meet the
1965 | minimum standards for good moral character as contained in this
1966 | section; or

1967 | 3. Use information from the criminal records obtained
1968 | under this section for any purpose other than screening that
1969 | person for employment as specified in this section or release
1970 | such information to any other person for any purpose other than
1971 | screening for employment under this section.

1972 | (b) It is a felony of the third degree, punishable under
1973 | s. 775.082, s. 775.083, or s. 775.084, for any person willfully,
1974 | knowingly, or intentionally to use information from the juvenile
1975 | records of a person obtained under this section for any purpose
1976 | other than screening for employment under this section.

1977 | Section 26. For the purpose of incorporating the amendment
1978 | to section 435.03, Florida Statutes, in references thereto,
1979 | subsection (4) of section 400.619, Florida Statutes, is
1980 | reenacted to read:

1981 | 400.619 Licensure application and renewal.--

1982 | (4) Upon receipt of a completed license application or
1983 | license renewal, and the fee, the agency shall initiate a level
1984 | 1 background screening as provided under chapter 435 on the
1985 | adult family-care home provider, the designated relief person,

1986 | all adult household members, and all staff members. The agency
 1987 | shall conduct an onsite visit to the home that is to be
 1988 | licensed.

1989 | (a) Proof of compliance with level 1 screening standards
 1990 | which has been submitted within the previous 5 years to meet any
 1991 | facility or professional licensure requirements of the agency or
 1992 | the Department of Health satisfies the requirements of this
 1993 | subsection. Such proof must be accompanied, under penalty of
 1994 | perjury, by a copy of the person's current professional license
 1995 | and an affidavit of current compliance with the background
 1996 | screening requirements.

1997 | (b) The person required to be screened must have been
 1998 | continuously employed in the same type of occupation for which
 1999 | the person is seeking employment without a breach in service
 2000 | that exceeds 180 days, and proof of compliance with the level 1
 2001 | screening requirement which is no more than 2 years old must be
 2002 | provided. Proof of compliance shall be provided directly from
 2003 | one employer or contractor to another, and not from the person
 2004 | screened. Upon request, a copy of screening results shall be
 2005 | provided to the person screened by the employer retaining
 2006 | documentation of the screening.

2007 | Section 27. For the purpose of incorporating the amendment
 2008 | to section 435.03, Florida Statutes, in references thereto,
 2009 | subsection (1) of section 400.6194, Florida Statutes, is
 2010 | reenacted to read:

2011 | 400.6194 Denial, revocation, or suspension of a
 2012 | license.--The agency may deny, suspend, or revoke a license for
 2013 | any of the following reasons:

2014 (1) Failure of any of the persons required to undergo
 2015 background screening under s. 400.619 to meet the level 1
 2016 screening standards of s. 435.03, unless an exemption from
 2017 disqualification has been provided by the agency.

2018 Section 28. For the purpose of incorporating the amendment
 2019 to section 435.03, Florida Statutes, in references thereto,
 2020 section 400.953, Florida Statutes, is reenacted to read:

2021 400.953 Background screening of home medical equipment
 2022 provider personnel.--The agency shall require employment
 2023 screening as provided in chapter 435, using the level 1
 2024 standards for screening set forth in that chapter, for home
 2025 medical equipment provider personnel.

2026 (1) The agency may grant exemptions from disqualification
 2027 from employment under this section as provided in s. 435.07.

2028 (2) The general manager of each home medical equipment
 2029 provider must sign an affidavit annually, under penalty of
 2030 perjury, stating that all home medical equipment provider
 2031 personnel hired on or after July 1, 1999, who enter the home of
 2032 a patient in the capacity of their employment have been screened
 2033 and that its remaining personnel have worked for the home
 2034 medical equipment provider continuously since before July 1,
 2035 1999.

2036 (3) Proof of compliance with the screening requirements of
 2037 s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305,
 2038 s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part
 2039 must be accepted in lieu of the requirements of this section if
 2040 the person has been continuously employed in the same type of
 2041 occupation for which he or she is seeking employment without a

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2042 | breach in service that exceeds 180 days, the proof of compliance
2043 | is not more than 2 years old, and the person has been screened
2044 | by the Department of Law Enforcement. An employer or contractor
2045 | shall directly provide proof of compliance to another employer
2046 | or contractor, and a potential employer or contractor may not
2047 | accept any proof of compliance directly from the person
2048 | requiring screening. Proof of compliance with the screening
2049 | requirements of this section shall be provided, upon request, to
2050 | the person screened by the home medical equipment provider.

2051 | (4) There is no monetary liability on the part of, and no
2052 | cause of action for damages arising against, a licensed home
2053 | medical equipment provider that, upon notice that an employee
2054 | has been found guilty of, regardless of adjudication, or entered
2055 | a plea of nolo contendere or guilty to, any offense prohibited
2056 | under s. 435.03 or under any similar statute of another
2057 | jurisdiction, terminates the employee, whether or not the
2058 | employee has filed for an exemption with the agency and whether
2059 | or not the time for filing has expired.

2060 | (5) The costs of processing the statewide correspondence
2061 | criminal records checks must be borne by the home medical
2062 | equipment provider or by the person being screened, at the
2063 | discretion of the home medical equipment provider.

2064 | (6) Neither the agency nor the home medical equipment
2065 | provider may use the criminal records or juvenile records of a
2066 | person for any purpose other than determining whether that
2067 | person meets minimum standards of good moral character for home
2068 | medical equipment provider personnel.

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2069 (7)(a) It is a misdemeanor of the first degree, punishable
2070 as provided in s. 775.082 or s. 775.083, for any person
2071 willfully, knowingly, or intentionally to:

2072 1. Fail, by false statement, misrepresentation,
2073 impersonation, or other fraudulent means, to disclose in any
2074 application for paid employment a material fact used in making a
2075 determination as to the person's qualifications to be an
2076 employee under this section;

2077 2. Operate or attempt to operate an entity licensed under
2078 this part with persons who do not meet the minimum standards for
2079 good moral character as contained in this section; or

2080 3. Use information from the criminal records obtained
2081 under this section for any purpose other than screening that
2082 person for employment as specified in this section, or release
2083 such information to any other person for any purpose other than
2084 screening for employment under this section.

2085 (b) It is a felony of the third degree, punishable as
2086 provided in s. 775.082, s. 775.083, or s. 775.084, for any
2087 person willfully, knowingly, or intentionally to use information
2088 from the juvenile records of a person obtained under this
2089 section for any purpose other than screening for employment
2090 under this section.

2091 Section 29. For the purpose of incorporating the amendment
2092 to section 435.03, Florida Statutes, in references thereto,
2093 subsection (32) of section 409.912, Florida Statutes, is
2094 reenacted to read:

2095 409.912 Cost-effective purchasing of health care.--The
2096 agency shall purchase goods and services for Medicaid recipients

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2097 | in the most cost-effective manner consistent with the delivery
 2098 | of quality medical care. The agency shall maximize the use of
 2099 | prepaid per capita and prepaid aggregate fixed-sum basis
 2100 | services when appropriate and other alternative service delivery
 2101 | and reimbursement methodologies, including competitive bidding
 2102 | pursuant to s. 287.057, designed to facilitate the cost-
 2103 | effective purchase of a case-managed continuum of care. The
 2104 | agency shall also require providers to minimize the exposure of
 2105 | recipients to the need for acute inpatient, custodial, and other
 2106 | institutional care and the inappropriate or unnecessary use of
 2107 | high-cost services. The agency may establish prior authorization
 2108 | requirements for certain populations of Medicaid beneficiaries,
 2109 | certain drug classes, or particular drugs to prevent fraud,
 2110 | abuse, overuse, and possible dangerous drug interactions. The
 2111 | Pharmaceutical and Therapeutics Committee shall make
 2112 | recommendations to the agency on drugs for which prior
 2113 | authorization is required. The agency shall inform the
 2114 | Pharmaceutical and Therapeutics Committee of its decisions
 2115 | regarding drugs subject to prior authorization.

2116 | (32) Each managed care plan that is under contract with
 2117 | the agency to provide health care services to Medicaid
 2118 | recipients shall annually conduct a background check with the
 2119 | Florida Department of Law Enforcement of all persons with
 2120 | ownership interest of 5 percent or more or executive management
 2121 | responsibility for the managed care plan and shall submit to the
 2122 | agency information concerning any such person who has been found
 2123 | guilty of, regardless of adjudication, or has entered a plea of

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2124 nolo contendere or guilty to, any of the offenses listed in s.
2125 435.03.

2126 Section 30. For the purpose of incorporating the amendment
2127 to section 435.03, Florida Statutes, in references thereto,
2128 subsection (4) of section 435.07, Florida Statutes, is reenacted
2129 to read:

2130 435.07 Exemptions from disqualification.--Unless otherwise
2131 provided by law, the provisions of this section shall apply to
2132 exemptions from disqualification.

2133 (4) Disqualification from employment under subsection (1)
2134 may not be removed from, nor may an exemption be granted to, any
2135 personnel who is found guilty of, regardless of adjudication, or
2136 who has entered a plea of nolo contendere or guilty to, any
2137 felony covered by s. 435.03 solely by reason of any pardon,
2138 executive clemency, or restoration of civil rights.

2139 Section 31. For the purpose of incorporating the amendment
2140 to section 435.03, Florida Statutes, in references thereto,
2141 paragraph (e) of subsection (1) of section 464.018, Florida
2142 Statutes, is reenacted to read:

2143 464.018 Disciplinary actions.--

2144 (1) The following acts constitute grounds for denial of a
2145 license or disciplinary action, as specified in s. 456.072(2):

2146 (e) Having been found guilty of, regardless of
2147 adjudication, or entered a plea of nolo contendere or guilty to,
2148 any offense prohibited under s. 435.03 or under any similar
2149 statute of another jurisdiction; or having committed an act
2150 which constitutes domestic violence as defined in s. 741.28.

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2151 Section 32. For the purpose of incorporating the amendment
 2152 to section 435.03, Florida Statutes, in references thereto,
 2153 subsection (3) of section 744.309, Florida Statutes, is
 2154 reenacted to read:

2155 744.309 Who may be appointed guardian of a resident
 2156 ward.--

2157 (3) DISQUALIFIED PERSONS.--No person who has been
 2158 convicted of a felony or who, from any incapacity or illness, is
 2159 incapable of discharging the duties of a guardian, or who is
 2160 otherwise unsuitable to perform the duties of a guardian, shall
 2161 be appointed to act as guardian. Further, no person who has been
 2162 judicially determined to have committed abuse, abandonment, or
 2163 neglect against a child as defined in s. 39.01 or s. 984.03(1),
 2164 (2), and (37), or who has been found guilty of, regardless of
 2165 adjudication, or entered a plea of nolo contendere or guilty to,
 2166 any offense prohibited under s. 435.03 or under any similar
 2167 statute of another jurisdiction, shall be appointed to act as a
 2168 guardian. Except as provided in subsection (5) or subsection
 2169 (6), a person who provides substantial services to the proposed
 2170 ward in a professional or business capacity, or a creditor of
 2171 the proposed ward, may not be appointed guardian and retain that
 2172 previous professional or business relationship. A person may not
 2173 be appointed a guardian if he or she is in the employ of any
 2174 person, agency, government, or corporation that provides service
 2175 to the proposed ward in a professional or business capacity,
 2176 except that a person so employed may be appointed if he or she
 2177 is the spouse, adult child, parent, or sibling of the proposed
 2178 ward or the court determines that the potential conflict of

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2179 interest is insubstantial and that the appointment would clearly
 2180 be in the proposed ward's best interest. The court may not
 2181 appoint a guardian in any other circumstance in which a conflict
 2182 of interest may occur.

2183 Section 33. For the purpose of incorporating the amendment
 2184 to section 435.03, Florida Statutes, in references thereto,
 2185 subsection (12) of section 744.474, Florida Statutes, is
 2186 reenacted to read:

2187 744.474 Reasons for removal of guardian.--A guardian may
 2188 be removed for any of the following reasons, and the removal
 2189 shall be in addition to any other penalties prescribed by law:

2190 (12) Having been found guilty of, regardless of
 2191 adjudication, or entered a plea of nolo contendere or guilty to,
 2192 any offense prohibited under s. 435.03 or under any similar
 2193 statute of another jurisdiction.

2194 Section 34. For the purpose of incorporating the amendment
 2195 to section 435.03, Florida Statutes, in references thereto,
 2196 subsection (4) of section 985.407, Florida Statutes, is
 2197 reenacted to read:

2198 985.407 Departmental contracting powers; personnel
 2199 standards and screening.--

2200 (4) The department shall require employment screening
 2201 pursuant to chapter 435, using the level 1 standards for
 2202 screening set forth in that chapter, for personnel in
 2203 delinquency facilities, services, and programs.

2204 Section 35. For the purpose of incorporating the amendment
 2205 to section 435.04, Florida Statutes, in references thereto,

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2206 paragraph (b) of subsection (2) of section 39.001, Florida
2207 Statutes, is reenacted to read:

2208 39.001 Purposes and intent; personnel standards and
2209 screening.--

2210 (2) DEPARTMENT CONTRACTS.--The department may contract
2211 with the Federal Government, other state departments and
2212 agencies, county and municipal governments and agencies, public
2213 and private agencies, and private individuals and corporations
2214 in carrying out the purposes of, and the responsibilities
2215 established in, this chapter.

2216 (b) The department shall require employment screening, and
2217 rescreening no less frequently than once every 5 years, pursuant
2218 to chapter 435, using the level 2 standards set forth in that
2219 chapter for personnel in programs for children or youths.

2220 Section 36. For the purpose of incorporating the amendment
2221 to section 435.04, Florida Statutes, in references thereto,
2222 subsection (1) of section 39.821, Florida Statutes, is reenacted
2223 to read:

2224 39.821 Qualifications of guardians ad litem.--

2225 (1) Because of the special trust or responsibility placed
2226 in a guardian ad litem, the Guardian Ad Litem Program may use
2227 any private funds collected by the program, or any state funds
2228 so designated, to conduct a security background investigation
2229 before certifying a volunteer to serve. A security background
2230 investigation must include, but need not be limited to,
2231 employment history checks, checks of references, local criminal
2232 records checks through local law enforcement agencies, and
2233 statewide criminal records checks through the Department of Law

2234 Enforcement. Upon request, an employer shall furnish a copy of
 2235 the personnel record for the employee or former employee who is
 2236 the subject of a security background investigation conducted
 2237 under this section. The information contained in the personnel
 2238 record may include, but need not be limited to, disciplinary
 2239 matters and the reason why the employee was terminated from
 2240 employment. An employer who releases a personnel record for
 2241 purposes of a security background investigation is presumed to
 2242 have acted in good faith and is not liable for information
 2243 contained in the record without a showing that the employer
 2244 maliciously falsified the record. A security background
 2245 investigation conducted under this section must ensure that a
 2246 person is not certified as a guardian ad litem if the person has
 2247 been convicted of, regardless of adjudication, or entered a plea
 2248 of nolo contendere or guilty to, any offense prohibited under
 2249 the provisions of the Florida Statutes specified in s. 435.04(2)
 2250 or under any similar law in another jurisdiction. Before
 2251 certifying an applicant to serve as a guardian ad litem, the
 2252 chief judge of the circuit court may request a federal criminal
 2253 records check of the applicant through the Federal Bureau of
 2254 Investigation. In analyzing and evaluating the information
 2255 obtained in the security background investigation, the program
 2256 must give particular emphasis to past activities involving
 2257 children, including, but not limited to, child-related criminal
 2258 offenses or child abuse. The program has the sole discretion in
 2259 determining whether to certify a person based on his or her
 2260 security background investigation. The information collected

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2261 | pursuant to the security background investigation is
2262 | confidential and exempt from s. 119.07(1).

2263 | Section 37. For the purpose of incorporating the amendment
2264 | to section 435.04, Florida Statutes, in references thereto,
2265 | paragraphs (a) and (c) of subsection (3) of section 110.1127,
2266 | Florida Statutes, are reenacted to read:

2267 | 110.1127 Employee security checks.--

2268 | (3)(a) All positions in programs providing care to
2269 | children, the developmentally disabled, or vulnerable adults for
2270 | 15 hours or more per week; all permanent and temporary employee
2271 | positions of the central abuse hotline; and all persons working
2272 | under contract who have access to abuse records are deemed to be
2273 | persons and positions of special trust or responsibility, and
2274 | require employment screening pursuant to chapter 435, using the
2275 | level 2 standards set forth in that chapter.

2276 | (c) All persons and employees in such positions of trust
2277 | or responsibility shall be required to undergo security
2278 | background investigations as a condition of employment and
2279 | continued employment. For the purposes of this subsection,
2280 | security background investigations shall be conducted as
2281 | provided in chapter 435, using the level 2 standards for
2282 | screening set forth in that chapter.

2283 | Section 38. For the purpose of incorporating the amendment
2284 | to section 435.04, Florida Statutes, in references thereto,
2285 | paragraph (a) of subsection (12) of section 112.0455, Florida
2286 | Statutes, is reenacted to read:

2287 | 112.0455 Drug-Free Workplace Act.--

2288 | (12) DRUG-TESTING STANDARDS; LABORATORIES.--

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2289 (a) A laboratory may analyze initial or confirmation drug
2290 specimens only if:

2291 1. The laboratory is licensed and approved by the Agency
2292 for Health Care Administration using criteria established by the
2293 United States Department of Health and Human Services as general
2294 guidelines for modeling the state drug testing program. Each
2295 applicant for licensure must comply with the following
2296 requirements:

2297 a. Upon receipt of a completed, signed, and dated
2298 application, the agency shall require background screening, in
2299 accordance with the level 2 standards for screening set forth in
2300 chapter 435, of the managing employee, or other similarly titled
2301 individual responsible for the daily operation of the
2302 laboratory, and of the financial officer, or other similarly
2303 titled individual who is responsible for the financial operation
2304 of the laboratory, including billings for services. The
2305 applicant must comply with the procedures for level 2 background
2306 screening as set forth in chapter 435, as well as the
2307 requirements of s. 435.03(3).

2308 b. The agency may require background screening of any
2309 other individual who is an applicant if the agency has probable
2310 cause to believe that he or she has been convicted of an offense
2311 prohibited under the level 2 standards for screening set forth
2312 in chapter 435.

2313 c. Proof of compliance with the level 2 background
2314 screening requirements of chapter 435 which has been submitted
2315 within the previous 5 years in compliance with any other health

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2316 care licensure requirements of this state is acceptable in
2317 fulfillment of screening requirements.

2318 d. A provisional license may be granted to an applicant
2319 when each individual required by this section to undergo
2320 background screening has met the standards for the Department of
2321 Law Enforcement background check, but the agency has not yet
2322 received background screening results from the Federal Bureau of
2323 Investigation, or a request for a disqualification exemption has
2324 been submitted to the agency as set forth in chapter 435, but a
2325 response has not yet been issued. A license may be granted to
2326 the applicant upon the agency's receipt of a report of the
2327 results of the Federal Bureau of Investigation background
2328 screening for each individual required by this section to
2329 undergo background screening which confirms that all standards
2330 have been met, or upon the granting of a disqualification
2331 exemption by the agency as set forth in chapter 435. Any other
2332 person who is required to undergo level 2 background screening
2333 may serve in his or her capacity pending the agency's receipt of
2334 the report from the Federal Bureau of Investigation. However,
2335 the person may not continue to serve if the report indicates any
2336 violation of background screening standards and a
2337 disqualification exemption has not been requested of and granted
2338 by the agency as set forth in chapter 435.

2339 e. Each applicant must submit to the agency, with its
2340 application, a description and explanation of any exclusions,
2341 permanent suspensions, or terminations of the applicant from the
2342 Medicare or Medicaid programs. Proof of compliance with the
2343 requirements for disclosure of ownership and control interests

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2344 | under the Medicaid or Medicare programs shall be accepted in
2345 | lieu of this submission.

2346 | f. Each applicant must submit to the agency a description
2347 | and explanation of any conviction of an offense prohibited under
2348 | the level 2 standards of chapter 435 by a member of the board of
2349 | directors of the applicant, its officers, or any individual
2350 | owning 5 percent or more of the applicant. This requirement does
2351 | not apply to a director of a not-for-profit corporation or
2352 | organization if the director serves solely in a voluntary
2353 | capacity for the corporation or organization, does not regularly
2354 | take part in the day-to-day operational decisions of the
2355 | corporation or organization, receives no remuneration for his or
2356 | her services on the corporation or organization's board of
2357 | directors, and has no financial interest and has no family
2358 | members with a financial interest in the corporation or
2359 | organization, provided that the director and the not-for-profit
2360 | corporation or organization include in the application a
2361 | statement affirming that the director's relationship to the
2362 | corporation satisfies the requirements of this sub-subparagraph.

2363 | g. A license may not be granted to any applicant if the
2364 | applicant or managing employee has been found guilty of,
2365 | regardless of adjudication, or has entered a plea of nolo
2366 | contendere or guilty to, any offense prohibited under the level
2367 | 2 standards for screening set forth in chapter 435, unless an
2368 | exemption from disqualification has been granted by the agency
2369 | as set forth in chapter 435.

2370 | h. The agency may deny or revoke licensure if the
2371 | applicant:

2372 (I) Has falsely represented a material fact in the
 2373 application required by sub-subparagraph e. or sub-subparagraph
 2374 f., or has omitted any material fact from the application
 2375 required by sub-subparagraph e. or sub-subparagraph f.; or

2376 (II) Has had prior action taken against the applicant
 2377 under the Medicaid or Medicare program as set forth in sub-
 2378 subparagraph e.

2379 i. An application for license renewal must contain the
 2380 information required under sub-subparagraphs e. and f.

2381 2. The laboratory has written procedures to ensure chain
 2382 of custody.

2383 3. The laboratory follows proper quality control
 2384 procedures, including, but not limited to:

2385 a. The use of internal quality controls including the use
 2386 of samples of known concentrations which are used to check the
 2387 performance and calibration of testing equipment, and periodic
 2388 use of blind samples for overall accuracy.

2389 b. An internal review and certification process for drug
 2390 test results, conducted by a person qualified to perform that
 2391 function in the testing laboratory.

2392 c. Security measures implemented by the testing laboratory
 2393 to preclude adulteration of specimens and drug test results.

2394 d. Other necessary and proper actions taken to ensure
 2395 reliable and accurate drug test results.

2396 Section 39. For the purpose of incorporating the amendment
 2397 to section 435.04, Florida Statutes, in references thereto,
 2398 subsections (1), (2), and (4) of section 381.0059, Florida
 2399 Statutes, are reenacted to read:

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2400 381.0059 Background screening requirements for school
2401 health services personnel.--

2402 (1) Pursuant to the provisions of chapter 435, any person
2403 who provides services under a school health services plan
2404 pursuant to s. 381.0056 must meet level 2 screening requirements
2405 as described in s. 435.04. A person may satisfy the requirements
2406 of this subsection by submitting proof of compliance with the
2407 requirements of level 2 screening conducted within 12 months
2408 before the date that person initially provides services under a
2409 school health services plan.

2410 (2) A person may provide services under a school health
2411 services plan pursuant to s. 381.0056 prior to the completion of
2412 level 2 screening. However, pending the results of the
2413 screening, such person may not be alone with a minor.

2414 (4) Under penalty of perjury, each person who provides
2415 services under a school health plan pursuant to s. 381.0056 must
2416 attest to meeting the level 2 screening requirements for
2417 participation under the plan and agree to inform his or her
2418 employer immediately if convicted of any disqualifying offense
2419 while providing services under a plan.

2420 Section 40. For the purpose of incorporating the amendment
2421 to section 435.04, Florida Statutes, in references thereto,
2422 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (1) of
2423 section 381.60225, Florida Statutes, are reenacted to read:

2424 381.60225 Background screening.--

2425 (1) Each applicant for certification must comply with the
2426 following requirements:

2427 (a) Upon receipt of a completed, signed, and dated
 2428 application, the Agency for Health Care Administration shall
 2429 require background screening, in accordance with the level 2
 2430 standards for screening set forth in chapter 435, of the
 2431 managing employee, or other similarly titled individual
 2432 responsible for the daily operation of the organization, agency,
 2433 or entity, and financial officer, or other similarly titled
 2434 individual who is responsible for the financial operation of the
 2435 organization, agency, or entity, including billings for
 2436 services. The applicant must comply with the procedures for
 2437 level 2 background screening as set forth in chapter 435, as
 2438 well as the requirements of s. 435.03(3).

2439 (b) The Agency for Health Care Administration may require
 2440 background screening of any other individual who is an applicant
 2441 if the Agency for Health Care Administration has probable cause
 2442 to believe that he or she has been convicted of a crime or has
 2443 committed any other offense prohibited under the level 2
 2444 standards for screening set forth in chapter 435.

2445 (c) Proof of compliance with the level 2 background
 2446 screening requirements of chapter 435 which has been submitted
 2447 within the previous 5 years in compliance with any other health
 2448 care licensure requirements of this state is acceptable in
 2449 fulfillment of the requirements of paragraph (a).

2450 (d) A provisional certification may be granted to the
 2451 organization, agency, or entity when each individual required by
 2452 this section to undergo background screening has met the
 2453 standards for the Department of Law Enforcement background
 2454 check, but the agency has not yet received background screening

2455 results from the Federal Bureau of Investigation, or a request
 2456 for a disqualification exemption has been submitted to the
 2457 agency as set forth in chapter 435, but a response has not yet
 2458 been issued. A standard certification may be granted to the
 2459 organization, agency, or entity upon the agency's receipt of a
 2460 report of the results of the Federal Bureau of Investigation
 2461 background screening for each individual required by this
 2462 section to undergo background screening which confirms that all
 2463 standards have been met, or upon the granting of a
 2464 disqualification exemption by the agency as set forth in chapter
 2465 435. Any other person who is required to undergo level 2
 2466 background screening may serve in his or her capacity pending
 2467 the agency's receipt of the report from the Federal Bureau of
 2468 Investigation. However, the person may not continue to serve if
 2469 the report indicates any violation of background screening
 2470 standards and a disqualification exemption has not been
 2471 requested of and granted by the agency as set forth in chapter
 2472 435.

2473 (f) Each applicant must submit to the agency a description
 2474 and explanation of any conviction of an offense prohibited under
 2475 the level 2 standards of chapter 435 by a member of the board of
 2476 directors of the applicant, its officers, or any individual
 2477 owning 5 percent or more of the applicant. This requirement does
 2478 not apply to a director of a not-for-profit corporation or
 2479 organization if the director serves solely in a voluntary
 2480 capacity for the corporation or organization, does not regularly
 2481 take part in the day-to-day operational decisions of the
 2482 corporation or organization, receives no remuneration for his or

2483 her services on the corporation or organization's board of
 2484 directors, and has no financial interest and has no family
 2485 members with a financial interest in the corporation or
 2486 organization, provided that the director and the not-for-profit
 2487 corporation or organization include in the application a
 2488 statement affirming that the director's relationship to the
 2489 corporation satisfies the requirements of this paragraph.

2490 (g) The agency may not certify any organization, agency,
 2491 or entity if any applicant or managing employee has been found
 2492 guilty of, regardless of adjudication, or has entered a plea of
 2493 nolo contendere or guilty to, any offense prohibited under the
 2494 level 2 standards for screening set forth in chapter 435, unless
 2495 an exemption from disqualification has been granted by the
 2496 agency as set forth in chapter 435.

2497 Section 41. For the purpose of incorporating the amendment
 2498 to section 435.04, Florida Statutes, in references thereto,
 2499 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (7) of
 2500 section 383.305, Florida Statutes, are reenacted to read:

2501 383.305 Licensure; issuance, renewal, denial, suspension,
 2502 revocation; fees; background screening.--

2503 (7) Each applicant for licensure must comply with the
 2504 following requirements:

2505 (a) Upon receipt of a completed, signed, and dated
 2506 application, the agency shall require background screening, in
 2507 accordance with the level 2 standards for screening set forth in
 2508 chapter 435, of the managing employee, or other similarly titled
 2509 individual who is responsible for the daily operation of the
 2510 center, and of the financial officer, or other similarly titled

2511 individual who is responsible for the financial operation of the
 2512 center, including billings for patient care and services. The
 2513 applicant must comply with the procedures for level 2 background
 2514 screening as set forth in chapter 435 as well as the
 2515 requirements of s. 435.03(3).

2516 (b) The agency may require background screening of any
 2517 other individual who is an applicant if the agency has probable
 2518 cause to believe that he or she has been convicted of a crime or
 2519 has committed any other offense prohibited under the level 2
 2520 standards for screening set forth in chapter 435.

2521 (c) Proof of compliance with the level 2 background
 2522 screening requirements of chapter 435 which has been submitted
 2523 within the previous 5 years in compliance with any other health
 2524 care licensure requirements of this state is acceptable in
 2525 fulfillment of the requirements of paragraph (a).

2526 (d) A provisional license may be granted to an applicant
 2527 when each individual required by this section to undergo
 2528 background screening has met the standards for the Department of
 2529 Law Enforcement background check, but the agency has not yet
 2530 received background screening results from the Federal Bureau of
 2531 Investigation, or a request for a disqualification exemption has
 2532 been submitted to the agency as set forth in chapter 435 but a
 2533 response has not yet been issued. A standard license may be
 2534 granted to the applicant upon the agency's receipt of a report
 2535 of the results of the Federal Bureau of Investigation background
 2536 screening for each individual required by this section to
 2537 undergo background screening which confirms that all standards
 2538 have been met, or upon the granting of a disqualification

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2539 exemption by the agency as set forth in chapter 435. Any other
2540 person who is required to undergo level 2 background screening
2541 may serve in his or her capacity pending the agency's receipt of
2542 the report from the Federal Bureau of Investigation. However,
2543 the person may not continue to serve if the report indicates any
2544 violation of background screening standards and a
2545 disqualification exemption has not been requested of and granted
2546 by the agency as set forth in chapter 435.

2547 (f) Each applicant must submit to the agency a description
2548 and explanation of any conviction of an offense prohibited under
2549 the level 2 standards of chapter 435 by a member of the board of
2550 directors of the applicant, its officers, or any individual
2551 owning 5 percent or more of the applicant. This requirement does
2552 not apply to a director of a not-for-profit corporation or
2553 organization if the director serves solely in a voluntary
2554 capacity for the corporation or organization, does not regularly
2555 take part in the day-to-day operational decisions of the
2556 corporation or organization, receives no remuneration for his or
2557 her services on the corporation or organization's board of
2558 directors, and has no financial interest and has no family
2559 members with a financial interest in the corporation or
2560 organization, provided that the director and the not-for-profit
2561 corporation or organization include in the application a
2562 statement affirming that the director's relationship to the
2563 corporation satisfies the requirements of this paragraph.

2564 (g) A license may not be granted to an applicant if the
2565 applicant or managing employee has been found guilty of,
2566 regardless of adjudication, or has entered a plea of nolo

2567 | contendere or guilty to, any offense prohibited under the level
 2568 | 2 standards for screening set forth in chapter 435, unless an
 2569 | exemption from disqualification has been granted by the agency
 2570 | as set forth in chapter 435.

2571 | Section 42. For the purpose of incorporating the amendment
 2572 | to section 435.04, Florida Statutes, in references thereto,
 2573 | paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
 2574 | section 390.015, Florida Statutes, are reenacted to read:

2575 | 390.015 Application for license.--

2576 | (3) Each applicant for licensure must comply with the
 2577 | following requirements:

2578 | (a) Upon receipt of a completed, signed, and dated
 2579 | application, the agency shall require background screening, in
 2580 | accordance with the level 2 standards for screening set forth in
 2581 | chapter 435, of the managing employee, or other similarly titled
 2582 | individual who is responsible for the daily operation of the
 2583 | clinic, and financial officer, or other similarly titled
 2584 | individual who is responsible for the financial operation of the
 2585 | clinic, including billings for patient care and services. The
 2586 | applicant must comply with the procedures for level 2 background
 2587 | screening as set forth in chapter 435, as well as the
 2588 | requirements of s. 435.03(3).

2589 | (b) The agency may require background screening of any
 2590 | other individual who is an applicant if the agency has probable
 2591 | cause to believe that he or she has been convicted of a crime or
 2592 | has committed any other offense prohibited under the level 2
 2593 | standards for screening set forth in chapter 435.

2594 (c) Proof of compliance with the level 2 background
 2595 screening requirements of chapter 435 which has been submitted
 2596 within the previous 5 years in compliance with any other health
 2597 care licensure requirements of this state is acceptable in
 2598 fulfillment of the requirements of paragraph (a).

2599 (d) A provisional license may be granted to an applicant
 2600 when each individual required by this section to undergo
 2601 background screening has met the standards for the Department of
 2602 Law Enforcement background check, but the agency has not yet
 2603 received background screening results from the Federal Bureau of
 2604 Investigation, or a request for a disqualification exemption has
 2605 been submitted to the agency as set forth in chapter 435 but a
 2606 response has not yet been issued. A standard license may be
 2607 granted to the applicant upon the agency's receipt of a report
 2608 of the results of the Federal Bureau of Investigation background
 2609 screening for each individual required by this section to
 2610 undergo background screening which confirms that all standards
 2611 have been met, or upon the granting of a disqualification
 2612 exemption by the agency as set forth in chapter 435. Any other
 2613 person who is required to undergo level 2 background screening
 2614 may serve in his or her capacity pending the agency's receipt of
 2615 the report from the Federal Bureau of Investigation. However,
 2616 the person may not continue to serve if the report indicates any
 2617 violation of background screening standards and a
 2618 disqualification exemption has not been requested of and granted
 2619 by the agency as set forth in chapter 435.

2620 (f) Each applicant must submit to the agency a description
 2621 and explanation of any conviction of an offense prohibited under

2622 the level 2 standards of chapter 435 by a member of the board of
 2623 directors of the applicant, its officers, or any individual
 2624 owning 5 percent or more of the applicant. This requirement does
 2625 not apply to a director of a not-for-profit corporation or
 2626 organization if the director serves solely in a voluntary
 2627 capacity for the corporation or organization, does not regularly
 2628 take part in the day-to-day operational decisions of the
 2629 corporation or organization, receives no remuneration for his or
 2630 her services on the corporation or organization's board of
 2631 directors, and has no financial interest and has no family
 2632 members with a financial interest in the corporation or
 2633 organization, provided that the director and the not-for-profit
 2634 corporation or organization include in the application a
 2635 statement affirming that the director's relationship to the
 2636 corporation satisfies the requirements of this paragraph.

2637 (g) A license may not be granted to an applicant if the
 2638 applicant or managing employee has been found guilty of,
 2639 regardless of adjudication, or has entered a plea of nolo
 2640 contendere or guilty to, any offense prohibited under the level
 2641 2 standards for screening set forth in chapter 435, unless an
 2642 exemption from disqualification has been granted by the agency
 2643 as set forth in chapter 435.

2644 Section 43. For the purpose of incorporating the amendment
 2645 to section 435.04, Florida Statutes, in references thereto,
 2646 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (13)
 2647 of section 394.875, Florida Statutes, are reenacted to read:

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2648 | 394.875 Crisis stabilization units, residential treatment
2649 | facilities, and residential treatment centers for children and
2650 | adolescents; authorized services; license required; penalties.--

2651 | (13) Each applicant for licensure must comply with the
2652 | following requirements:

2653 | (a) Upon receipt of a completed, signed, and dated
2654 | application, the agency shall require background screening, in
2655 | accordance with the level 2 standards for screening set forth in
2656 | chapter 435, of the managing employee and financial officer, or
2657 | other similarly titled individual who is responsible for the
2658 | financial operation of the facility, including billings for
2659 | client care and services. The applicant must comply with the
2660 | procedures for level 2 background screening as set forth in
2661 | chapter 435, as well as the requirements of s. 435.03(3).

2662 | (b) The agency may require background screening of any
2663 | other individual who is an applicant if the agency has probable
2664 | cause to believe that he or she has been convicted of a crime or
2665 | has committed any other offense prohibited under the level 2
2666 | standards for screening set forth in chapter 435.

2667 | (c) Proof of compliance with the level 2 background
2668 | screening requirements of chapter 435 which has been submitted
2669 | within the previous 5 years in compliance with any other health
2670 | care licensure requirements of this state is acceptable in
2671 | fulfillment of the requirements of paragraph (a).

2672 | (d) A provisional license may be granted to an applicant
2673 | when each individual required by this section to undergo
2674 | background screening has met the standards for the Department of
2675 | Law Enforcement background check, but the agency has not yet

2676 received background screening results from the Federal Bureau of
 2677 Investigation, or a request for a disqualification exemption has
 2678 been submitted to the agency as set forth in chapter 435, but a
 2679 response has not yet been issued. A standard license may be
 2680 granted to the applicant upon the agency's receipt of a report
 2681 of the results of the Federal Bureau of Investigation background
 2682 screening for each individual required by this section to
 2683 undergo background screening which confirms that all standards
 2684 have been met, or upon the granting of a disqualification
 2685 exemption by the agency as set forth in chapter 435. Any other
 2686 person who is required to undergo level 2 background screening
 2687 may serve in his or her capacity pending the agency's receipt of
 2688 the report from the Federal Bureau of Investigation. However,
 2689 the person may not continue to serve if the report indicates any
 2690 violation of background screening standards and a
 2691 disqualification exemption has not been requested of and granted
 2692 by the agency as set forth in chapter 435.

2693 (f) Each applicant must submit to the agency a description
 2694 and explanation of any conviction of an offense prohibited under
 2695 the level 2 standards of chapter 435 by a member of the board of
 2696 directors of the applicant, its officers, or any individual
 2697 owning 5 percent or more of the applicant. This requirement does
 2698 not apply to a director of a not-for-profit corporation or
 2699 organization if the director serves solely in a voluntary
 2700 capacity for the corporation or organization, does not regularly
 2701 take part in the day-to-day operational decisions of the
 2702 corporation or organization, receives no remuneration for his or
 2703 her services on the corporation or organization's board of

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2704 directors, and has no financial interest and has no family
2705 members with a financial interest in the corporation or
2706 organization, provided that the director and the not-for-profit
2707 corporation or organization include in the application a
2708 statement affirming that the director's relationship to the
2709 corporation satisfies the requirements of this paragraph.

2710 (g) A license may not be granted to an applicant if the
2711 applicant or managing employee has been found guilty of,
2712 regardless of adjudication, or has entered a plea of nolo
2713 contendere or guilty to, any offense prohibited under the level
2714 2 standards for screening set forth in chapter 435, unless an
2715 exemption from disqualification has been granted by the agency
2716 as set forth in chapter 435.

2717 Section 44. For the purpose of incorporating the amendment
2718 to section 435.04, Florida Statutes, in references thereto,
2719 subsections (1), (2), (3), (4), (6), and (8) of section
2720 395.0055, Florida Statutes, are reenacted to read:

2721 395.0055 Background screening.--Each applicant for
2722 licensure must comply with the following requirements:

2723 (1) Upon receipt of a completed, signed, and dated
2724 application, the agency shall require background screening of
2725 the managing employee in accordance with the level 2 standards
2726 for screening set forth in chapter 435, as well as the
2727 requirements of s. 435.03(3).

2728 (2) The agency may require background screening for a
2729 member of the board of directors of the licensee, or an officer
2730 or an individual owning 5 percent or more of the licensee, if
2731 the agency has probable cause to believe that such individual

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2732 | has been convicted of an offense prohibited under the level 2
2733 | standards for screening set forth in chapter 435.

2734 | (3) Proof of compliance with the level 2 background
2735 | screening requirements of chapter 435 which has been submitted
2736 | within the previous 5 years in compliance with any other health
2737 | care licensure requirements of this state is acceptable in
2738 | fulfillment of subsection (1).

2739 | (4) A provisional license may be granted to an applicant
2740 | when each individual required by this section to undergo
2741 | background screening has met the standards for the Department of
2742 | Law Enforcement background check, but the agency has not yet
2743 | received background screening results from the Federal Bureau of
2744 | Investigation, or a request for a disqualification exemption has
2745 | been submitted to the agency as set forth in chapter 435 but a
2746 | response has not yet been issued. A standard license may be
2747 | granted to the applicant upon the agency's receipt of a report
2748 | of the results of the Federal Bureau of Investigation background
2749 | screening for each individual required by this section to
2750 | undergo background screening which confirms that all standards
2751 | have been met, or upon the granting of a disqualification
2752 | exemption by the agency as set forth in chapter 435. Any other
2753 | person who is required to undergo level 2 background screening
2754 | may serve in his or her capacity pending the agency's receipt of
2755 | the report from the Federal Bureau of Investigation; however,
2756 | the person may not continue to serve if the report indicates any
2757 | violation of background screening standards and a
2758 | disqualification exemption has not been requested of and granted
2759 | by the agency as set forth in chapter 435.

2760 (6) Each applicant must submit to the agency a description
 2761 and explanation of any conviction of an offense prohibited under
 2762 the level 2 standards of chapter 435 by a member of the board of
 2763 directors of the applicant, its officers, or any individual
 2764 owning 5 percent or more of the applicant.

2765 (8) A license may not be granted to an applicant if the
 2766 applicant or managing employee has been found guilty of,
 2767 regardless of adjudication, or has entered a plea of nolo
 2768 contendere or guilty to, any offense prohibited under the level
 2769 2 standards for screening set forth in chapter 435, unless an
 2770 exemption from disqualification has been granted by the agency
 2771 as set forth in chapter 435.

2772 Section 45. For the purpose of incorporating the amendment
 2773 to section 435.04, Florida Statutes, in references thereto,
 2774 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2775 section 395.0199, Florida Statutes, are reenacted to read:

2776 395.0199 Private utilization review.--

2777 (4) Each applicant for registration must comply with the
 2778 following requirements:

2779 (a) Upon receipt of a completed, signed, and dated
 2780 application, the agency shall require background screening, in
 2781 accordance with the level 2 standards for screening set forth in
 2782 chapter 435, of the managing employee or other similarly titled
 2783 individual who is responsible for the operation of the entity.
 2784 The applicant must comply with the procedures for level 2
 2785 background screening as set forth in chapter 435, as well as the
 2786 requirements of s. 435.03(3).

2787 (b) The agency may require background screening of any
 2788 other individual who is an applicant, if the agency has probable
 2789 cause to believe that he or she has been convicted of a crime or
 2790 has committed any other offense prohibited under the level 2
 2791 standards for screening set forth in chapter 435.

2792 (c) Proof of compliance with the level 2 background
 2793 screening requirements of chapter 435 which has been submitted
 2794 within the previous 5 years in compliance with any other health
 2795 care licensure requirements of this state is acceptable in
 2796 fulfillment of the requirements of paragraph (a).

2797 (d) A provisional registration may be granted to an
 2798 applicant when each individual required by this section to
 2799 undergo background screening has met the standards for the
 2800 Department of Law Enforcement background check, but the agency
 2801 has not yet received background screening results from the
 2802 Federal Bureau of Investigation, or a request for a
 2803 disqualification exemption has been submitted to the agency as
 2804 set forth in chapter 435 but a response has not yet been issued.
 2805 A standard registration may be granted to the applicant upon the
 2806 agency's receipt of a report of the results of the Federal
 2807 Bureau of Investigation background screening for each individual
 2808 required by this section to undergo background screening which
 2809 confirms that all standards have been met, or upon the granting
 2810 of a disqualification exemption by the agency as set forth in
 2811 chapter 435. Any other person who is required to undergo level 2
 2812 background screening may serve in his or her capacity pending
 2813 the agency's receipt of the report from the Federal Bureau of
 2814 Investigation. However, the person may not continue to serve if

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2815 | the report indicates any violation of background screening
2816 | standards and a disqualification exemption has not been
2817 | requested of and granted by the agency as set forth in chapter
2818 | 435.

2819 | (f) Each applicant must submit to the agency a description
2820 | and explanation of any conviction of an offense prohibited under
2821 | the level 2 standards of chapter 435 by a member of the board of
2822 | directors of the applicant, its officers, or any individual
2823 | owning 5 percent or more of the applicant. This requirement does
2824 | not apply to a director of a not-for-profit corporation or
2825 | organization if the director serves solely in a voluntary
2826 | capacity for the corporation or organization, does not regularly
2827 | take part in the day-to-day operational decisions of the
2828 | corporation or organization, receives no remuneration for his or
2829 | her services on the corporation or organization's board of
2830 | directors, and has no financial interest and has no family
2831 | members with a financial interest in the corporation or
2832 | organization, provided that the director and the not-for-profit
2833 | corporation or organization include in the application a
2834 | statement affirming that the director's relationship to the
2835 | corporation satisfies the requirements of this paragraph.

2836 | (g) A registration may not be granted to an applicant if
2837 | the applicant or managing employee has been found guilty of,
2838 | regardless of adjudication, or has entered a plea of nolo
2839 | contendere or guilty to, any offense prohibited under the level
2840 | 2 standards for screening set forth in chapter 435, unless an
2841 | exemption from disqualification has been granted by the agency
2842 | as set forth in chapter 435.

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2843 Section 46. For the purpose of incorporating the amendment
2844 to section 435.04, Florida Statutes, in references thereto,
2845 paragraph (a) of subsection (1) of section 397.451, Florida
2846 Statutes, is reenacted to read:

2847 397.451 Background checks of service provider personnel.--

2848 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
2849 EXCEPTIONS.--

2850 (a) Background checks shall apply as follows:

2851 1. All owners, directors, and chief financial officers of
2852 service providers are subject to level 2 background screening as
2853 provided under chapter 435.

2854 2. All service provider personnel who have direct contact
2855 with children receiving services or with adults who are
2856 developmentally disabled receiving services are subject to level
2857 2 background screening as provided under chapter 435.

2858 Section 47. For the purpose of incorporating the amendment
2859 to section 435.04, Florida Statutes, in references thereto,
2860 paragraphs (a), (b), (c), (d), and (f) of subsection (4) of
2861 section 400.071, Florida Statutes, are reenacted to read:

2862 400.071 Application for license.--

2863 (4) Each applicant for licensure must comply with the
2864 following requirements:

2865 (a) Upon receipt of a completed, signed, and dated
2866 application, the agency shall require background screening of
2867 the applicant, in accordance with the level 2 standards for
2868 screening set forth in chapter 435. As used in this subsection,
2869 the term "applicant" means the facility administrator, or
2870 similarly titled individual who is responsible for the day-to-

2871 day operation of the licensed facility, and the facility
 2872 financial officer, or similarly titled individual who is
 2873 responsible for the financial operation of the licensed
 2874 facility.

2875 (b) The agency may require background screening for a
 2876 member of the board of directors of the licensee or an officer
 2877 or an individual owning 5 percent or more of the licensee if the
 2878 agency has probable cause to believe that such individual has
 2879 been convicted of an offense prohibited under the level 2
 2880 standards for screening set forth in chapter 435.

2881 (c) Proof of compliance with the level 2 background
 2882 screening requirements of chapter 435 which has been submitted
 2883 within the previous 5 years in compliance with any other health
 2884 care or assisted living licensure requirements of this state is
 2885 acceptable in fulfillment of paragraph (a). Proof of compliance
 2886 with background screening which has been submitted within the
 2887 previous 5 years to fulfill the requirements of the Financial
 2888 Services Commission and the Office of Insurance Regulation
 2889 pursuant to chapter 651 as part of an application for a
 2890 certificate of authority to operate a continuing care retirement
 2891 community is acceptable in fulfillment of the Department of Law
 2892 Enforcement and Federal Bureau of Investigation background
 2893 check.

2894 (d) A provisional license may be granted to an applicant
 2895 when each individual required by this section to undergo
 2896 background screening has met the standards for the Department of
 2897 Law Enforcement background check, but the agency has not yet
 2898 received background screening results from the Federal Bureau of

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2899 Investigation, or a request for a disqualification exemption has
2900 been submitted to the agency as set forth in chapter 435, but a
2901 response has not yet been issued. A license may be granted to
2902 the applicant upon the agency's receipt of a report of the
2903 results of the Federal Bureau of Investigation background
2904 screening for each individual required by this section to
2905 undergo background screening which confirms that all standards
2906 have been met, or upon the granting of a disqualification
2907 exemption by the agency as set forth in chapter 435. Any other
2908 person who is required to undergo level 2 background screening
2909 may serve in his or her capacity pending the agency's receipt of
2910 the report from the Federal Bureau of Investigation; however,
2911 the person may not continue to serve if the report indicates any
2912 violation of background screening standards and a
2913 disqualification exemption has not been requested of and granted
2914 by the agency as set forth in chapter 435.

2915 (f) Each applicant must submit to the agency a description
2916 and explanation of any conviction of an offense prohibited under
2917 the level 2 standards of chapter 435 by a member of the board of
2918 directors of the applicant, its officers, or any individual
2919 owning 5 percent or more of the applicant. This requirement
2920 shall not apply to a director of a not-for-profit corporation or
2921 organization if the director serves solely in a voluntary
2922 capacity for the corporation or organization, does not regularly
2923 take part in the day-to-day operational decisions of the
2924 corporation or organization, receives no remuneration for his or
2925 her services on the corporation or organization's board of
2926 directors, and has no financial interest and has no family

2927 members with a financial interest in the corporation or
 2928 organization, provided that the director and the not-for-profit
 2929 corporation or organization include in the application a
 2930 statement affirming that the director's relationship to the
 2931 corporation satisfies the requirements of this paragraph.

2932 Section 48. For the purpose of incorporating the amendment
 2933 to section 435.04, Florida Statutes, in references thereto,
 2934 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 2935 section 400.471, Florida Statutes, are reenacted to read:

2936 400.471 Application for license; fee; provisional license;
 2937 temporary permit.--

2938 (4) Each applicant for licensure must comply with the
 2939 following requirements:

2940 (a) Upon receipt of a completed, signed, and dated
 2941 application, the agency shall require background screening of
 2942 the applicant, in accordance with the level 2 standards for
 2943 screening set forth in chapter 435. As used in this subsection,
 2944 the term "applicant" means the administrator, or a similarly
 2945 titled person who is responsible for the day-to-day operation of
 2946 the licensed home health agency, and the financial officer, or
 2947 similarly titled individual who is responsible for the financial
 2948 operation of the licensed home health agency.

2949 (b) The agency may require background screening for a
 2950 member of the board of directors of the licensee or an officer
 2951 or an individual owning 5 percent or more of the licensee if the
 2952 agency reasonably suspects that such individual has been
 2953 convicted of an offense prohibited under the level 2 standards
 2954 for screening set forth in chapter 435.

2955 (c) Proof of compliance with the level 2 background
 2956 screening requirements of chapter 435 which has been submitted
 2957 within the previous 5 years in compliance with any other health
 2958 care or assisted living licensure requirements of this state is
 2959 acceptable in fulfillment of paragraph (a). Proof of compliance
 2960 with background screening which has been submitted within the
 2961 previous 5 years to fulfill the requirements of the Financial
 2962 Services Commission and the Office of Insurance Regulation
 2963 pursuant to chapter 651 as part of an application for a
 2964 certificate of authority to operate a continuing care retirement
 2965 community is acceptable in fulfillment of the Department of Law
 2966 Enforcement and Federal Bureau of Investigation background
 2967 check.

2968 (d) A provisional license may be granted to an applicant
 2969 when each individual required by this section to undergo
 2970 background screening has met the standards for the Department of
 2971 Law Enforcement background check, but the agency has not yet
 2972 received background screening results from the Federal Bureau of
 2973 Investigation. A standard license may be granted to the licensee
 2974 upon the agency's receipt of a report of the results of the
 2975 Federal Bureau of Investigation background screening for each
 2976 individual required by this section to undergo background
 2977 screening which confirms that all standards have been met, or
 2978 upon the granting of a disqualification exemption by the agency
 2979 as set forth in chapter 435. Any other person who is required to
 2980 undergo level 2 background screening may serve in his or her
 2981 capacity pending the agency's receipt of the report from the
 2982 Federal Bureau of Investigation. However, the person may not

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2983 | continue to serve if the report indicates any violation of
2984 | background screening standards and a disqualification exemption
2985 | has not been requested of and granted by the agency as set forth
2986 | in chapter 435.

2987 | (f) Each applicant must submit to the agency a description
2988 | and explanation of any conviction of an offense prohibited under
2989 | the level 2 standards of chapter 435 by a member of the board of
2990 | directors of the applicant, its officers, or any individual
2991 | owning 5 percent or more of the applicant. This requirement does
2992 | not apply to a director of a not-for-profit corporation or
2993 | organization if the director serves solely in a voluntary
2994 | capacity for the corporation or organization, does not regularly
2995 | take part in the day-to-day operational decisions of the
2996 | corporation or organization, receives no remuneration for his or
2997 | her services on the corporation or organization's board of
2998 | directors, and has no financial interest and has no family
2999 | members with a financial interest in the corporation or
3000 | organization, provided that the director and the not-for-profit
3001 | corporation or organization include in the application a
3002 | statement affirming that the director's relationship to the
3003 | corporation satisfies the requirements of this paragraph.

3004 | (g) A license may not be granted to an applicant if the
3005 | applicant, administrator, or financial officer has been found
3006 | guilty of, regardless of adjudication, or has entered a plea of
3007 | nolo contendere or guilty to, any offense prohibited under the
3008 | level 2 standards for screening set forth in chapter 435, unless
3009 | an exemption from disqualification has been granted by the
3010 | agency as set forth in chapter 435.

3011 Section 49. For the purpose of incorporating the amendment
 3012 to section 435.04, Florida Statutes, in references thereto,
 3013 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3014 section 400.506, Florida Statutes, are reenacted to read:

3015 400.506 Licensure of nurse registries; requirements;
 3016 penalties.--

3017 (2) Each applicant for licensure must comply with the
 3018 following requirements:

3019 (a) Upon receipt of a completed, signed, and dated
 3020 application, the agency shall require background screening, in
 3021 accordance with the level 2 standards for screening set forth in
 3022 chapter 435, of the managing employee, or other similarly titled
 3023 individual who is responsible for the daily operation of the
 3024 nurse registry, and of the financial officer, or other similarly
 3025 titled individual who is responsible for the financial operation
 3026 of the registry, including billings for patient care and
 3027 services. The applicant shall comply with the procedures for
 3028 level 2 background screening as set forth in chapter 435.

3029 (b) The agency may require background screening of any
 3030 other individual who is an applicant if the agency has probable
 3031 cause to believe that he or she has been convicted of a crime or
 3032 has committed any other offense prohibited under the level 2
 3033 standards for screening set forth in chapter 435.

3034 (c) Proof of compliance with the level 2 background
 3035 screening requirements of chapter 435 which has been submitted
 3036 within the previous 5 years in compliance with any other health
 3037 care or assisted living licensure requirements of this state is
 3038 acceptable in fulfillment of the requirements of paragraph (a).

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3039 (d) A provisional license may be granted to an applicant
3040 when each individual required by this section to undergo
3041 background screening has met the standards for the Department of
3042 Law Enforcement background check but the agency has not yet
3043 received background screening results from the Federal Bureau of
3044 Investigation. A standard license may be granted to the
3045 applicant upon the agency's receipt of a report of the results
3046 of the Federal Bureau of Investigation background screening for
3047 each individual required by this section to undergo background
3048 screening which confirms that all standards have been met, or
3049 upon the granting of a disqualification exemption by the agency
3050 as set forth in chapter 435. Any other person who is required to
3051 undergo level 2 background screening may serve in his or her
3052 capacity pending the agency's receipt of the report from the
3053 Federal Bureau of Investigation. However, the person may not
3054 continue to serve if the report indicates any violation of
3055 background screening standards and a disqualification exemption
3056 has not been requested of and granted by the agency as set forth
3057 in chapter 435.

3058 (f) Each applicant must submit to the agency a description
3059 and explanation of any conviction of an offense prohibited under
3060 the level 2 standards of chapter 435 by a member of the board of
3061 directors of the applicant, its officers, or any individual
3062 owning 5 percent or more of the applicant. This requirement does
3063 not apply to a director of a not-for-profit corporation or
3064 organization if the director serves solely in a voluntary
3065 capacity for the corporation or organization, does not regularly
3066 take part in the day-to-day operational decisions of the

3067 corporation or organization, receives no remuneration for his or
 3068 her services on the corporation or organization's board of
 3069 directors, and has no financial interest and has no family
 3070 members with a financial interest in the corporation or
 3071 organization, provided that the director and the not-for-profit
 3072 corporation or organization include in the application a
 3073 statement affirming that the director's relationship to the
 3074 corporation satisfies the requirements of this paragraph.

3075 (g) A license may not be granted to an applicant if the
 3076 applicant or managing employee has been found guilty of,
 3077 regardless of adjudication, or has entered a plea of nolo
 3078 contendere or guilty to, any offense prohibited under the level
 3079 2 standards for screening set forth in chapter 435, unless an
 3080 exemption from disqualification has been granted by the agency
 3081 as set forth in chapter 435.

3082 Section 50. For the purpose of incorporating the amendment
 3083 to section 435.04, Florida Statutes, in references thereto,
 3084 section 400.5572, Florida Statutes, is reenacted to read:

3085 400.5572 Background screening.--

3086 (1)(a) Level 2 background screening must be conducted on
 3087 each of the following persons, who shall be considered employees
 3088 for the purposes of conducting screening under chapter 435:

3089 1. The adult day care center owner if an individual, the
 3090 operator, and the financial officer.

3091 2. An officer or board member if the owner of the adult
 3092 day care center is a firm, corporation, partnership, or
 3093 association, or any person owning 5 percent or more of the
 3094 facility, if the agency has probable cause to believe that such

3095 | person has been convicted of any offense prohibited by s.
 3096 | 435.04. For each officer, board member, or person owning 5
 3097 | percent or more who has been convicted of any such offense, the
 3098 | facility shall submit to the agency a description and
 3099 | explanation of the conviction at the time of license
 3100 | application. This subparagraph does not apply to a board member
 3101 | of a not-for-profit corporation or organization if the board
 3102 | member serves solely in a voluntary capacity, does not regularly
 3103 | take part in the day-to-day operational decisions of the
 3104 | corporation or organization, receives no remuneration for his or
 3105 | her services, and has no financial interest and has no family
 3106 | members with a financial interest in the corporation or
 3107 | organization, provided that the board member and facility submit
 3108 | a statement affirming that the board member's relationship to
 3109 | the facility satisfies the requirements of this subparagraph.

3110 | (b) Proof of compliance with level 2 screening standards
 3111 | which has been submitted within the previous 5 years to meet any
 3112 | facility or professional licensure requirements of the agency or
 3113 | the Department of Health satisfies the requirements of this
 3114 | subsection.

3115 | (c) The agency may grant a provisional license to an adult
 3116 | day care center applying for an initial license when each
 3117 | individual required by this subsection to undergo screening has
 3118 | completed the Department of Law Enforcement background check,
 3119 | but has not yet received results from the Federal Bureau of
 3120 | Investigation, or when a request for an exemption from
 3121 | disqualification has been submitted to the agency pursuant to s.
 3122 | 435.07, but a response has not been issued.

3123 (2) The owner or administrator of an adult day care center
3124 must conduct level 1 background screening as set forth in
3125 chapter 435 on all employees hired on or after October 1, 1998,
3126 who provide basic services or supportive and optional services
3127 to the participants. Such persons satisfy this requirement if:

3128 (a) Proof of compliance with level 1 screening
3129 requirements obtained to meet any professional license
3130 requirements in this state is provided and accompanied, under
3131 penalty of perjury, by a copy of the person's current
3132 professional license and an affidavit of current compliance with
3133 the background screening requirements.

3134 (b) The person required to be screened has been
3135 continuously employed, without a breach in service that exceeds
3136 180 days, in the same type of occupation for which the person is
3137 seeking employment and provides proof of compliance with the
3138 level 1 screening requirement which is no more than 2 years old.
3139 Proof of compliance must be provided directly from one employer
3140 or contractor to another, and not from the person screened. Upon
3141 request, a copy of screening results shall be provided to the
3142 person screened by the employer retaining documentation of the
3143 screening.

3144 (c) The person required to be screened is employed by a
3145 corporation or business entity or related corporation or
3146 business entity that owns, operates, or manages more than one
3147 facility or agency licensed under this chapter, and for whom a
3148 level 1 screening was conducted by the corporation or business
3149 entity as a condition of initial or continued employment.

3150 Section 51. For the purpose of incorporating the amendment
 3151 to section 435.04, Florida Statutes, in references thereto,
 3152 paragraph (a) of subsection (3) of section 400.607, Florida
 3153 Statutes, is reenacted to read:

3154 400.607 Denial, suspension, or revocation of license;
 3155 imposition of administrative fine; grounds; injunctions.--

3156 (3) The agency may deny or revoke a license upon a
 3157 determination that:

3158 (a) Persons subject to level 2 background screening under
 3159 s. 400.6065 do not meet the screening standards of s. 435.04,
 3160 and exemptions from disqualification have not been provided by
 3161 the agency.

3162 Section 52. For the purpose of incorporating the amendment
 3163 to section 435.04, Florida Statutes, in references thereto,
 3164 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (4) of
 3165 section 400.801, Florida Statutes, are reenacted to read:

3166 400.801 Homes for special services.--

3167 (4) Each applicant for licensure must comply with the
 3168 following requirements:

3169 (a) Upon receipt of a completed, signed, and dated
 3170 application, the agency shall require background screening, in
 3171 accordance with the level 2 standards for screening set forth in
 3172 chapter 435, of the managing employee, or other similarly titled
 3173 individual who is responsible for the daily operation of the
 3174 facility, and of the financial officer, or other similarly
 3175 titled individual who is responsible for the financial operation
 3176 of the facility, including billings for client care and
 3177 services, in accordance with the level 2 standards for screening

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3178 set forth in chapter 435. The applicant must comply with the
3179 procedures for level 2 background screening as set forth in
3180 chapter 435.

3181 (b) The agency may require background screening of any
3182 other individual who is an applicant if the agency has probable
3183 cause to believe that he or she has been convicted of a crime or
3184 has committed any other offense prohibited under the level 2
3185 standards for screening set forth in chapter 435.

3186 (c) Proof of compliance with the level 2 background
3187 screening requirements of chapter 435 which has been submitted
3188 within the previous 5 years in compliance with any other health
3189 care or assisted living licensure requirements of this state is
3190 acceptable in fulfillment of the requirements of paragraph (a).

3191 (d) A provisional license may be granted to an applicant
3192 when each individual required by this section to undergo
3193 background screening has met the standards for the Department of
3194 Law Enforcement background check, but the agency has not yet
3195 received background screening results from the Federal Bureau of
3196 Investigation, or a request for a disqualification exemption has
3197 been submitted to the agency as set forth in chapter 435, but a
3198 response has not yet been issued. A standard license may be
3199 granted to the applicant upon the agency's receipt of a report
3200 of the results of the Federal Bureau of Investigation background
3201 screening for each individual required by this section to
3202 undergo background screening which confirms that all standards
3203 have been met, or upon the granting of a disqualification
3204 exemption by the agency as set forth in chapter 435. Any other
3205 person who is required to undergo level 2 background screening

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3206 | may serve in his or her capacity pending the agency's receipt of
3207 | the report from the Federal Bureau of Investigation. However,
3208 | the person may not continue to serve if the report indicates any
3209 | violation of background screening standards and a
3210 | disqualification exemption has not been requested of and granted
3211 | by the agency as set forth in chapter 435.

3212 | (f) Each applicant must submit to the agency a description
3213 | and explanation of any conviction of an offense prohibited under
3214 | the level 2 standards of chapter 435 by a member of the board of
3215 | directors of the applicant, its officers, or any individual
3216 | owning 5 percent or more of the applicant. This requirement does
3217 | not apply to a director of a not-for-profit corporation or
3218 | organization if the director serves solely in a voluntary
3219 | capacity for the corporation or organization, does not regularly
3220 | take part in the day-to-day operational decisions of the
3221 | corporation or organization, receives no remuneration for his or
3222 | her services on the corporation or organization's board of
3223 | directors, and has no financial interest and has no family
3224 | members with a financial interest in the corporation or
3225 | organization, provided that the director and the not-for-profit
3226 | corporation or organization include in the application a
3227 | statement affirming that the director's relationship to the
3228 | corporation satisfies the requirements of this paragraph.

3229 | (g) A license may not be granted to an applicant if the
3230 | applicant or managing employee has been found guilty of,
3231 | regardless of adjudication, or has entered a plea of nolo
3232 | contendere or guilty to, any offense prohibited under the level
3233 | 2 standards for screening set forth in chapter 435, unless an

3234 exemption from disqualification has been granted by the agency
3235 as set forth in chapter 435.

3236 Section 53. For the purpose of incorporating the amendment
3237 to section 435.04, Florida Statutes, in references thereto,
3238 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (3) of
3239 section 400.805, Florida Statutes, are reenacted to read:

3240 400.805 Transitional living facilities.--

3241 (3) Each applicant for licensure must comply with the
3242 following requirements:

3243 (a) Upon receipt of a completed, signed, and dated
3244 application, the agency shall require background screening, in
3245 accordance with the level 2 standards for screening set forth in
3246 chapter 435, of the managing employee, or other similarly titled
3247 individual who is responsible for the daily operation of the
3248 facility, and of the financial officer, or other similarly
3249 titled individual who is responsible for the financial operation
3250 of the facility, including billings for client care and
3251 services. The applicant must comply with the procedures for
3252 level 2 background screening as set forth in chapter 435.

3253 (b) The agency may require background screening of any
3254 other individual who is an applicant if the agency has probable
3255 cause to believe that he or she has been convicted of a crime or
3256 has committed any other offense prohibited under the level 2
3257 standards for screening set forth in chapter 435.

3258 (c) Proof of compliance with the level 2 background
3259 screening requirements of chapter 435 which has been submitted
3260 within the previous 5 years in compliance with any other health

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3261 care or assisted living licensure requirements of this state is
3262 acceptable in fulfillment of the requirements of paragraph (a).

3263 (d) A provisional license may be granted to an applicant
3264 when each individual required by this section to undergo
3265 background screening has met the standards for the Department of
3266 Law Enforcement background check, but the agency has not yet
3267 received background screening results from the Federal Bureau of
3268 Investigation, or a request for a disqualification exemption has
3269 been submitted to the agency as set forth in chapter 435, but a
3270 response has not yet been issued. A standard license may be
3271 granted to the applicant upon the agency's receipt of a report
3272 of the results of the Federal Bureau of Investigation background
3273 screening for each individual required by this section to
3274 undergo background screening which confirms that all standards
3275 have been met, or upon the granting of a disqualification
3276 exemption by the agency as set forth in chapter 435. Any other
3277 person who is required to undergo level 2 background screening
3278 may serve in his or her capacity pending the agency's receipt of
3279 the report from the Federal Bureau of Investigation. However,
3280 the person may not continue to serve if the report indicates any
3281 violation of background screening standards and a
3282 disqualification exemption has not been requested of and granted
3283 by the agency as set forth in chapter 435.

3284 (f) Each applicant must submit to the agency a description
3285 and explanation of any conviction of an offense prohibited under
3286 the level 2 standards of chapter 435 by a member of the board of
3287 directors of the applicant, its officers, or any individual
3288 owning 5 percent or more of the applicant. This requirement does

3289 | not apply to a director of a not-for-profit corporation or
 3290 | organization if the director serves solely in a voluntary
 3291 | capacity for the corporation or organization, does not regularly
 3292 | take part in the day-to-day operational decisions of the
 3293 | corporation or organization, receives no remuneration for his or
 3294 | her services on the corporation or organization's board of
 3295 | directors, and has no financial interest and has no family
 3296 | members with a financial interest in the corporation or
 3297 | organization, provided that the director and the not-for-profit
 3298 | corporation or organization include in the application a
 3299 | statement affirming that the director's relationship to the
 3300 | corporation satisfies the requirements of this paragraph.

3301 | (g) A license may not be granted to an applicant if the
 3302 | applicant or managing employee has been found guilty of,
 3303 | regardless of adjudication, or has entered a plea of nolo
 3304 | contendere or guilty to, any offense prohibited under the level
 3305 | 2 standards for screening set forth in chapter 435, unless an
 3306 | exemption from disqualification has been granted by the agency
 3307 | as set forth in chapter 435.

3308 | Section 54. For the purpose of incorporating the amendment
 3309 | to section 435.04, Florida Statutes, in references thereto,
 3310 | paragraphs (a), (b), (c), (d), (f), and (g) of subsection (5) of
 3311 | section 400.906, Florida Statutes, are reenacted to read:

3312 | 400.906 Initial application for license.--

3313 | (5) Each applicant for licensure must comply with the
 3314 | following requirements:

3315 | (a) Upon receipt of a completed, signed, and dated
 3316 | application, the agency shall require background screening, in

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3317 | accordance with the level 2 standards for screening set forth in
 3318 | chapter 435, of the operator, and of the financial officer, or
 3319 | other similarly titled individual who is responsible for the
 3320 | financial operation of the center, including billings for
 3321 | patient care and services. The applicant must comply with the
 3322 | procedures for level 2 background screening as set forth in
 3323 | chapter 435, as well as the requirements of s. 435.03(3).

3324 | (b) The agency may require background screening of any
 3325 | other individual who is an applicant if the agency has a
 3326 | reasonable basis for believing that he or she has been convicted
 3327 | of a crime or has committed any other offense prohibited under
 3328 | the level 2 standards for screening set forth in chapter 435.

3329 | (c) Proof of compliance with the level 2 background
 3330 | screening requirements of chapter 435 which has been submitted
 3331 | within the previous 5 years in compliance with any other health
 3332 | care licensure requirements of this state is acceptable in
 3333 | fulfillment of the requirements of paragraph (a).

3334 | (d) A provisional license may be granted to an applicant
 3335 | when each individual required by this section to undergo
 3336 | background screening has met the standards for the Department of
 3337 | Law Enforcement background check, but the agency has not yet
 3338 | received background screening results from the Federal Bureau of
 3339 | Investigation, or a request for a disqualification exemption has
 3340 | been submitted to the agency as set forth in chapter 435, but a
 3341 | response has not yet been issued. A standard license may be
 3342 | granted to the applicant upon the agency's receipt of a report
 3343 | of the results of the Federal Bureau of Investigation background
 3344 | screening for each individual required by this section to

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3345 | undergo background screening which confirms that all standards
3346 | have been met, or upon the granting of a disqualification
3347 | exemption by the agency as set forth in chapter 435. Any other
3348 | person who is required to undergo level 2 background screening
3349 | may serve in his or her capacity pending the agency's receipt of
3350 | the report from the Federal Bureau of Investigation. However,
3351 | the person may not continue to serve if the report indicates any
3352 | violation of background screening standards and a
3353 | disqualification exemption has not been requested of and granted
3354 | by the agency as set forth in chapter 435.

3355 | (f) Each applicant must submit to the agency a description
3356 | and explanation of any conviction of an offense prohibited under
3357 | the level 2 standards of chapter 435 by a member of the board of
3358 | directors of the applicant, its officers, or any individual
3359 | owning 5 percent or more of the applicant. This requirement does
3360 | not apply to a director of a not-for-profit corporation or
3361 | organization if the director serves solely in a voluntary
3362 | capacity for the corporation or organization, does not regularly
3363 | take part in the day-to-day operational decisions of the
3364 | corporation or organization, receives no remuneration for his or
3365 | her services on the corporation or organization's board of
3366 | directors, and has no financial interest and has no family
3367 | members with a financial interest in the corporation or
3368 | organization, provided that the director and the not-for-profit
3369 | corporation or organization include in the application a
3370 | statement affirming that the director's relationship to the
3371 | corporation satisfies the requirements of this paragraph.

3372 (g) A license may not be granted to an applicant if the
 3373 applicant or managing employee has been found guilty of,
 3374 regardless of adjudication, or has entered a plea of nolo
 3375 contendere or guilty to, any offense prohibited under the level
 3376 2 standards for screening set forth in chapter 435, unless an
 3377 exemption from disqualification has been granted by the agency
 3378 as set forth in chapter 435.

3379 Section 55. For the purpose of incorporating the amendment
 3380 to section 435.04, Florida Statutes, in references thereto,
 3381 paragraphs (a), (b), (c), (e), and (f) of subsection (5) of
 3382 section 400.931, Florida Statutes, are reenacted to read:

3383 400.931 Application for license; fee; provisional license;
 3384 temporary permit.--

3385 (5) Each applicant for licensure must comply with the
 3386 following requirements:

3387 (a) Upon receipt of a completed, signed, and dated
 3388 application, the agency shall require background screening of
 3389 the applicant, in accordance with the level 2 standards for
 3390 screening set forth in chapter 435. As used in this subsection,
 3391 the term "applicant" means the general manager and the financial
 3392 officer or similarly titled individual who is responsible for
 3393 the financial operation of the licensed facility.

3394 (b) The agency may require background screening for a
 3395 member of the board of directors of the licensee or an officer
 3396 or an individual owning 5 percent or more of the licensee if the
 3397 agency has probable cause to believe that such individual has
 3398 been convicted of an offense prohibited under the level 2
 3399 standards for screening set forth in chapter 435.

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3400 (c) Proof of compliance with the level 2 background
3401 screening requirements of chapter 435 which has been submitted
3402 within the previous 5 years in compliance with any other health
3403 care licensure requirements of this state is acceptable in
3404 fulfillment of paragraph (a).

3405 (e) Each applicant must submit to the agency a description
3406 and explanation of any conviction of an offense prohibited under
3407 the level 2 standards of chapter 435 by a member of the board of
3408 directors of the applicant, its officers, or any individual
3409 owning 5 percent or more of the applicant. This requirement does
3410 not apply to a director of a not-for-profit corporation or
3411 organization if the director serves solely in a voluntary
3412 capacity for the corporation or organization, does not regularly
3413 take part in the day-to-day operational decisions of the
3414 corporation or organization, receives no remuneration for his or
3415 her services on the corporation's or organization's board of
3416 directors, and has no financial interest and has no family
3417 members with a financial interest in the corporation or
3418 organization, provided that the director and the not-for-profit
3419 corporation or organization include in the application a
3420 statement affirming that the director's relationship to the
3421 corporation satisfies the requirements of this provision.

3422 (f) A license may not be granted to any potential licensee
3423 if any applicant, administrator, or financial officer has been
3424 found guilty of, regardless of adjudication, or has entered a
3425 plea of nolo contendere or guilty to, any offense prohibited
3426 under the level 2 standards for screening set forth in chapter

3427 435, unless an exemption from disqualification has been granted
3428 by the agency as set forth in chapter 435.

3429 Section 56. For the purpose of incorporating the amendment
3430 to section 435.04, Florida Statutes, in references thereto,
3431 paragraphs (a), (b), (c), (d), and (f) of subsection (10) of
3432 section 400.962, Florida Statutes, are reenacted to read:

3433 400.962 License required; license application.--

3434 (10)(a) Upon receipt of a completed, signed, and dated
3435 application, the agency shall require background screening of
3436 the applicant, in accordance with the level 2 standards for
3437 screening set forth in chapter 435. As used in this subsection,
3438 the term "applicant" means the facility administrator, or
3439 similarly titled individual who is responsible for the day-to-
3440 day operation of the licensed facility, and the facility
3441 financial officer, or similarly titled individual who is
3442 responsible for the financial operation of the licensed
3443 facility.

3444 (b) The agency may require background screening for a
3445 member of the board of directors of the licensee or an officer
3446 or an individual owning 5 percent or more of the licensee if the
3447 agency has probable cause to believe that such individual has
3448 been convicted of an offense prohibited under the level 2
3449 standards for screening set forth in chapter 435.

3450 (c) Proof of compliance with the level 2 background
3451 screening requirements of chapter 435 which has been submitted
3452 within the previous 5 years in compliance with any other
3453 licensure requirements under this chapter satisfies the
3454 requirements of paragraph (a). Proof of compliance with

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3455 background screening which has been submitted within the
3456 previous 5 years to fulfill the requirements of the Financial
3457 Services Commission and the Office of Insurance Regulation under
3458 chapter 651 as part of an application for a certificate of
3459 authority to operate a continuing care retirement community
3460 satisfies the requirements for the Department of Law Enforcement
3461 and Federal Bureau of Investigation background checks.

3462 (d) A provisional license may be granted to an applicant
3463 when each individual required by this section to undergo
3464 background screening has met the standards for the Department of
3465 Law Enforcement background check, but the agency has not yet
3466 received background screening results from the Federal Bureau of
3467 Investigation, or a request for a disqualification exemption has
3468 been submitted to the agency as set forth in chapter 435, but a
3469 response has not yet been issued. A license may be granted to
3470 the applicant upon the agency's receipt of a report of the
3471 results of the Federal Bureau of Investigation background
3472 screening for each individual required by this section to
3473 undergo background screening which confirms that all standards
3474 have been met, or upon the granting of a disqualification
3475 exemption by the agency as set forth in chapter 435. Any other
3476 person who is required to undergo level 2 background screening
3477 may serve in his or her capacity pending the agency's receipt of
3478 the report from the Federal Bureau of Investigation; however,
3479 the person may not continue to serve if the report indicates any
3480 violation of background screening standards and a
3481 disqualification exemption has not been granted by the agency as
3482 set forth in chapter 435.

3483 (f) Each applicant must submit to the agency a description
 3484 and explanation of any conviction of an offense prohibited under
 3485 the level 2 standards of chapter 435 by a member of the board of
 3486 directors of the applicant, its officers, or any individual
 3487 owning 5 percent or more of the applicant. This requirement does
 3488 not apply to a director of a not-for-profit corporation or
 3489 organization if the director serves solely in a voluntary
 3490 capacity for the corporation or organization, does not regularly
 3491 take part in the day-to-day operational decisions of the
 3492 corporation or organization, receives no remuneration for his or
 3493 her services on the corporation's or organization's board of
 3494 directors, and has no financial interest and has no family
 3495 members with a financial interest in the corporation or
 3496 organization, provided that the director and the not-for-profit
 3497 corporation or organization include in the application a
 3498 statement affirming that the director's relationship to the
 3499 corporation satisfies the requirements of this paragraph.

3500 Section 57. For the purpose of incorporating the amendment
 3501 to section 435.04, Florida Statutes, in references thereto,
 3502 paragraphs (b) and (d) of subsection (7) of section 400.991,
 3503 Florida Statutes, are reenacted to read:

3504 400.991 License requirements; background screenings;
 3505 prohibitions.--

3506 (7) Each applicant for licensure shall comply with the
 3507 following requirements:

3508 (b) Upon receipt of a completed, signed, and dated
 3509 application, the agency shall require background screening of
 3510 the applicant, in accordance with the level 2 standards for

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3511 screening set forth in chapter 435. Proof of compliance with the
 3512 level 2 background screening requirements of chapter 435 which
 3513 has been submitted within the previous 5 years in compliance
 3514 with any other health care licensure requirements of this state
 3515 is acceptable in fulfillment of this paragraph.

3516 (d) A license may not be granted to a clinic if the
 3517 applicant has been found guilty of, regardless of adjudication,
 3518 or has entered a plea of nolo contendere or guilty to, any
 3519 offense prohibited under the level 2 standards for screening set
 3520 forth in chapter 435, or a violation of insurance fraud under s.
 3521 817.234, within the past 5 years. If the applicant has been
 3522 convicted of an offense prohibited under the level 2 standards
 3523 or insurance fraud in any jurisdiction, the applicant must show
 3524 that his or her civil rights have been restored prior to
 3525 submitting an application.

3526 Section 58. For the purpose of incorporating the amendment
 3527 to section 435.04, Florida Statutes, in references thereto,
 3528 paragraph (e) of subsection (2) of section 402.302, Florida
 3529 Statutes, is reenacted to read:

3530 402.302 Definitions.--

3531 (2) "Child care facility" includes any child care center
 3532 or child care arrangement which provides child care for more
 3533 than five children unrelated to the operator and which receives
 3534 a payment, fee, or grant for any of the children receiving care,
 3535 wherever operated, and whether or not operated for profit. The
 3536 following are not included:

3537 (e) Operators of transient establishments, as defined in
 3538 chapter 509, which provide child care services solely for the

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3539 | guests of their establishment or resort, provided that all child
 3540 | care personnel of the establishment are screened according to
 3541 | the level 2 screening requirements of chapter 435.

3542 | Section 59. For the purpose of incorporating the amendment
 3543 | to section 435.04, Florida Statutes, in references thereto,
 3544 | paragraph (a) of subsection (2) of section 402.305, Florida
 3545 | Statutes, is reenacted to read:

3546 | 402.305 Licensing standards; child care facilities.--

3547 | (2) PERSONNEL.--Minimum standards for child care personnel
 3548 | shall include minimum requirements as to:

3549 | (a) Good moral character based upon screening. This
 3550 | screening shall be conducted as provided in chapter 435, using
 3551 | the level 2 standards for screening set forth in that chapter.

3552 | Section 60. For the purpose of incorporating the amendment
 3553 | to section 435.04, Florida Statutes, in references thereto,
 3554 | subsection (3) of section 402.3054, Florida Statutes, is
 3555 | reenacted to read:

3556 | 402.3054 Child enrichment service providers.--

3557 | (3) A child enrichment service provider shall be of good
 3558 | moral character based upon screening. This screening shall be
 3559 | conducted as provided in chapter 435, using the level 2
 3560 | standards for screening set forth in that chapter. A child
 3561 | enrichment service provider must meet the screening requirements
 3562 | prior to providing services to a child in a child care facility.
 3563 | A child enrichment service provider who has met the screening
 3564 | standards shall not be required to be under the direct and
 3565 | constant supervision of child care personnel.

3566 Section 61. For the purpose of incorporating the amendment
 3567 to section 435.04, Florida Statutes, in references thereto,
 3568 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3569 section 483.30, Florida Statutes, are reenacted to read:

3570 483.30 Licensing of centers.--

3571 (2) Each applicant for licensure must comply with the
 3572 following requirements:

3573 (a) Upon receipt of a completed, signed, and dated
 3574 application, the agency shall require background screening, in
 3575 accordance with the level 2 standards for screening set forth in
 3576 chapter 435, of the managing employee, or other similarly titled
 3577 individual who is responsible for the daily operation of the
 3578 center, and of the financial officer, or other similarly titled
 3579 individual who is responsible for the financial operation of the
 3580 center, including billings for patient services. The applicant
 3581 must comply with the procedures for level 2 background screening
 3582 as set forth in chapter 435, as well as the requirements of s.
 3583 435.03(3).

3584 (b) The agency may require background screening of any
 3585 other individual who is an applicant if the agency has probable
 3586 cause to believe that he or she has been convicted of a crime or
 3587 has committed any other offense prohibited under the level 2
 3588 standards for screening set forth in chapter 435.

3589 (c) Proof of compliance with the level 2 background
 3590 screening requirements of chapter 435 which has been submitted
 3591 within the previous 5 years in compliance with any other health
 3592 care licensure requirements of this state is acceptable in
 3593 fulfillment of the requirements of paragraph (a).

3594 (d) A provisional license may be granted to an applicant
 3595 when each individual required by this section to undergo
 3596 background screening has met the standards for the Department of
 3597 Law Enforcement background check, but the agency has not yet
 3598 received background screening results from the Federal Bureau of
 3599 Investigation, or a request for a disqualification exemption has
 3600 been submitted to the agency as set forth in chapter 435 but a
 3601 response has not yet been issued. A license may be granted to
 3602 the applicant upon the agency's receipt of a report of the
 3603 results of the Federal Bureau of Investigation background
 3604 screening for each individual required by this section to
 3605 undergo background screening which confirms that all standards
 3606 have been met, or upon the granting of a disqualification
 3607 exemption by the agency as set forth in chapter 435. Any other
 3608 person who is required to undergo level 2 background screening
 3609 may serve in his or her capacity pending the agency's receipt of
 3610 the report from the Federal Bureau of Investigation. However,
 3611 the person may not continue to serve if the report indicates any
 3612 violation of background screening standards and a
 3613 disqualification exemption has not been requested of and granted
 3614 by the agency as set forth in chapter 435.

3615 (f) Each applicant must submit to the agency a description
 3616 and explanation of any conviction of an offense prohibited under
 3617 the level 2 standards of chapter 435 by a member of the board of
 3618 directors of the applicant, its officers, or any individual
 3619 owning 5 percent or more of the applicant. This requirement does
 3620 not apply to a director of a not-for-profit corporation or
 3621 organization if the director serves solely in a voluntary

3622 capacity for the corporation or organization, does not regularly
 3623 take part in the day-to-day operational decisions of the
 3624 corporation or organization, receives no remuneration for his or
 3625 her services on the corporation or organization's board of
 3626 directors, and has no financial interest and has no family
 3627 members with a financial interest in the corporation or
 3628 organization, provided that the director and the not-for-profit
 3629 corporation or organization include in the application a
 3630 statement affirming that the director's relationship to the
 3631 corporation satisfies the requirements of this paragraph.

3632 (g) A license may not be granted to an applicant if the
 3633 applicant or managing employee has been found guilty of,
 3634 regardless of adjudication, or has entered a plea of nolo
 3635 contendere or guilty to, any offense prohibited under the level
 3636 2 standards for screening set forth in chapter 435, unless an
 3637 exemption from disqualification has been granted by the agency
 3638 as set forth in chapter 435.

3639 Section 62. For the purpose of incorporating the amendment
 3640 to section 435.04, Florida Statutes, in references thereto,
 3641 paragraphs (a), (b), (c), (d), (f), and (g) of subsection (2) of
 3642 section 483.101, Florida Statutes, are reenacted to read:

3643 483.101 Application for clinical laboratory license.--

3644 (2) Each applicant for licensure must comply with the
 3645 following requirements:

3646 (a) Upon receipt of a completed, signed, and dated
 3647 application, the agency shall require background screening, in
 3648 accordance with the level 2 standards for screening set forth in
 3649 chapter 435, of the managing director or other similarly titled

3650 individual who is responsible for the daily operation of the
 3651 laboratory and of the financial officer, or other similarly
 3652 titled individual who is responsible for the financial operation
 3653 of the laboratory, including billings for patient services. The
 3654 applicant must comply with the procedures for level 2 background
 3655 screening as set forth in chapter 435, as well as the
 3656 requirements of s. 435.03(3).

3657 (b) The agency may require background screening of any
 3658 other individual who is an applicant if the agency has probable
 3659 cause to believe that he or she has been convicted of a crime or
 3660 has committed any other offense prohibited under the level 2
 3661 standards for screening set forth in chapter 435.

3662 (c) Proof of compliance with the level 2 background
 3663 screening requirements of chapter 435 which has been submitted
 3664 within the previous 5 years in compliance with any other health
 3665 care licensure requirements of this state is acceptable in
 3666 fulfillment of the requirements of paragraph (a).

3667 (d) A provisional license may be granted to an applicant
 3668 when each individual required by this section to undergo
 3669 background screening has met the standards for the Department of
 3670 Law Enforcement background check but the agency has not yet
 3671 received background screening results from the Federal Bureau of
 3672 Investigation, or a request for a disqualification exemption has
 3673 been submitted to the agency as set forth in chapter 435 but a
 3674 response has not yet been issued. A license may be granted to
 3675 the applicant upon the agency's receipt of a report of the
 3676 results of the Federal Bureau of Investigation background
 3677 screening for each individual required by this section to

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3678 | undergo background screening which confirms that all standards
3679 | have been met, or upon the granting of a disqualification
3680 | exemption by the agency as set forth in chapter 435. Any other
3681 | person who is required to undergo level 2 background screening
3682 | may serve in his or her capacity pending the agency's receipt of
3683 | the report from the Federal Bureau of Investigation. However,
3684 | the person may not continue to serve if the report indicates any
3685 | violation of background screening standards and a
3686 | disqualification exemption has not been requested of and granted
3687 | by the agency as set forth in chapter 435.

3688 | (f) Each applicant must submit to the agency a description
3689 | and explanation of any conviction of an offense prohibited under
3690 | the level 2 standards of chapter 435 by a member of the board of
3691 | directors of the applicant, its officers, or any individual
3692 | owning 5 percent or more of the applicant. This requirement does
3693 | not apply to a director of a not-for-profit corporation or
3694 | organization if the director serves solely in a voluntary
3695 | capacity for the corporation or organization, does not regularly
3696 | take part in the day-to-day operational decisions of the
3697 | corporation or organization, receives no remuneration for his or
3698 | her services on the corporation or organization's board of
3699 | directors, and has no financial interest and has no family
3700 | members with a financial interest in the corporation or
3701 | organization, provided that the director and the not-for-profit
3702 | corporation or organization include in the application a
3703 | statement affirming that the director's relationship to the
3704 | corporation satisfies the requirements of this paragraph.

3705 (g) A license may not be granted to an applicant if the
 3706 applicant or managing employee has been found guilty of,
 3707 regardless of adjudication, or has entered a plea of nolo
 3708 contendere or guilty to, any offense prohibited under the level
 3709 2 standards for screening set forth in chapter 435, unless an
 3710 exemption from disqualification has been granted by the agency
 3711 as set forth in chapter 435.

3712 Section 63. For the purpose of incorporating the amendment
 3713 to section 435.04, Florida Statutes, in references thereto,
 3714 subsection (5) of section 744.1085, Florida Statutes, is
 3715 reenacted to read:

3716 744.1085 Regulation of professional guardians;
 3717 application; bond required; educational requirements.--

3718 (5) As required in s. 744.3135, each professional guardian
 3719 shall allow a level 2 background screening of the guardian and
 3720 employees of the guardian in accordance with the provisions of
 3721 s. 435.04.

3722 Section 64. For the purpose of incorporating the amendment
 3723 to section 435.04, Florida Statutes, in references thereto,
 3724 paragraph (b) of subsection (2) of section 984.01, Florida
 3725 Statutes, is reenacted to read:

3726 984.01 Purposes and intent; personnel standards and
 3727 screening.--

3728 (2) The Department of Juvenile Justice or the Department
 3729 of Children and Family Services, as appropriate, may contract
 3730 with the Federal Government, other state departments and
 3731 agencies, county and municipal governments and agencies, public
 3732 and private agencies, and private individuals and corporations

3733 | in carrying out the purposes of, and the responsibilities
3734 | established in, this chapter.

3735 | (b) The Department of Juvenile Justice and the Department
3736 | of Children and Family Services shall require employment
3737 | screening pursuant to chapter 435, using the level 2 standards
3738 | set forth in that chapter for personnel in programs for children
3739 | or youths.

3740 | Section 65. For the purpose of incorporating the amendment
3741 | to section 435.04, Florida Statutes, in references thereto,
3742 | paragraph (b) of subsection (2) of section 985.01, Florida
3743 | Statutes, is reenacted to read:

3744 | 985.01 Purposes and intent; personnel standards and
3745 | screening.--

3746 | (2) The Department of Juvenile Justice or the Department
3747 | of Children and Family Services, as appropriate, may contract
3748 | with the Federal Government, other state departments and
3749 | agencies, county and municipal governments and agencies, public
3750 | and private agencies, and private individuals and corporations
3751 | in carrying out the purposes of, and the responsibilities
3752 | established in, this chapter.

3753 | (b) The Department of Juvenile Justice and the Department
3754 | of Children and Family Services shall require employment
3755 | screening pursuant to chapter 435, using the level 2 standards
3756 | set forth in that chapter for personnel in programs for children
3757 | or youths.

3758 | Section 66. For the purpose of incorporating the amendment
3759 | to section 435.04, Florida Statutes, in references thereto,

3760 paragraphs (a) and (b) of subsection (7) of section 1002.36,
3761 Florida Statutes, are reenacted to read:

3762 1002.36 Florida School for the Deaf and the Blind.--

3763 (7) PERSONNEL SCREENING.--

3764 (a) The Board of Trustees of the Florida School for the
3765 Deaf and the Blind shall, because of the special trust or
3766 responsibility of employees of the school, require all employees
3767 and applicants for employment to undergo personnel screening and
3768 security background investigations as provided in chapter 435,
3769 using the level 2 standards for screening set forth in that
3770 chapter, as a condition of employment and continued employment.
3771 The cost of a personnel screening and security background
3772 investigation for an employee of the school shall be paid by the
3773 school. The cost of such a screening and investigation for an
3774 applicant for employment may be paid by the school.

3775 (b) As a prerequisite for initial and continuing
3776 employment at the Florida School for the Deaf and the Blind:

3777 1. The applicant or employee shall submit to the Florida
3778 School for the Deaf and the Blind a complete set of fingerprints
3779 taken by an authorized law enforcement agency or an employee of
3780 the Florida School for the Deaf and the Blind who is trained to
3781 take fingerprints. The Florida School for the Deaf and the Blind
3782 shall submit the fingerprints to the Department of Law
3783 Enforcement for state processing and the Federal Bureau of
3784 Investigation for federal processing.

3785 2.a. The applicant or employee shall attest to the minimum
3786 standards for good moral character as contained in chapter 435,

3787 using the level 2 standards set forth in that chapter under
3788 penalty of perjury.

3789 b. New personnel shall be on a probationary status pending
3790 a determination of compliance with such minimum standards for
3791 good moral character. This paragraph is in addition to any
3792 probationary status provided for by Florida law or Florida
3793 School for the Deaf and the Blind rules or collective bargaining
3794 contracts.

3795 3. The Florida School for the Deaf and the Blind shall
3796 review the record of the applicant or employee with respect to
3797 the crimes contained in s. 435.04 and shall notify the applicant
3798 or employee of its findings. When disposition information is
3799 missing on a criminal record, it shall be the responsibility of
3800 the applicant or employee, upon request of the Florida School
3801 for the Deaf and the Blind, to obtain and supply within 30 days
3802 the missing disposition information to the Florida School for
3803 the Deaf and the Blind. Failure to supply missing information
3804 within 30 days or to show reasonable efforts to obtain such
3805 information shall result in automatic disqualification of an
3806 applicant and automatic termination of an employee.

3807 4. After an initial personnel screening and security
3808 background investigation, written notification shall be given to
3809 the affected employee within a reasonable time prior to any
3810 subsequent screening and investigation.

3811 Section 67. For the purpose of incorporating the
3812 amendments to sections 943.0585 and 943.059, Florida Statutes,
3813 in references thereto, paragraph (a) of subsection (2) and

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3814 subsection (6) of section 943.0582, Florida Statutes, are
3815 reenacted to read:

3816 943.0582 Prearrest, postarrest, or teen court diversion
3817 program expunction.--

3818 (2)(a) As used in this section, the term "expunction" has
3819 the same meaning ascribed in and effect as s. 943.0585, except
3820 that:

3821 1. The provisions of s. 943.0585(4)(a) do not apply,
3822 except that the criminal history record of a person whose record
3823 is expunged pursuant to this section shall be made available
3824 only to criminal justice agencies for the purpose of determining
3825 eligibility for prearrest, postarrest, or teen court diversion
3826 programs; when the record is sought as part of a criminal
3827 investigation; or when the subject of the record is a candidate
3828 for employment with a criminal justice agency. For all other
3829 purposes, a person whose record is expunged under this section
3830 may lawfully deny or fail to acknowledge the arrest and the
3831 charge covered by the expunged record.

3832 2. Records maintained by local criminal justice agencies
3833 in the county in which the arrest occurred that are eligible for
3834 expunction pursuant to this section shall be sealed as the term
3835 is used in s. 943.059.

3836 (6) Expunction or sealing granted under this section does
3837 not prevent the minor who receives such relief from petitioning
3838 for the expunction or sealing of a later criminal history record
3839 as provided for in ss. 943.0585 and 943.059, if the minor is
3840 otherwise eligible under those sections.

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3841 Section 68. For the purpose of incorporating the amendment
 3842 to section 943.059, Florida Statutes, in references thereto,
 3843 subsections (7), (8), and (9) of section 943.053, Florida
 3844 Statutes, are reenacted to read:

3845 943.053 Dissemination of criminal justice information;
 3846 fees.--

3847 (7) Notwithstanding the provisions of s. 943.0525, and any
 3848 user agreements adopted pursuant thereto, and notwithstanding
 3849 the confidentiality of sealed records as provided for in s.
 3850 943.059, the sheriff of any county that has contracted with a
 3851 private entity to operate a county detention facility pursuant
 3852 to the provisions of s. 951.062 shall provide that private
 3853 entity, in a timely manner, copies of the Florida criminal
 3854 history records for its inmates. The sheriff may assess a charge
 3855 for the Florida criminal history records pursuant to the
 3856 provisions of chapter 119. Sealed records received by the
 3857 private entity under this section remain confidential and exempt
 3858 from the provisions of s. 119.07(1).

3859 (8) Notwithstanding the provisions of s. 943.0525, and any
 3860 user agreements adopted pursuant thereto, and notwithstanding
 3861 the confidentiality of sealed records as provided for in s.
 3862 943.059, the Department of Corrections shall provide, in a
 3863 timely manner, copies of the Florida criminal history records
 3864 for inmates housed in a private state correctional facility to
 3865 the private entity under contract to operate the facility
 3866 pursuant to the provisions of s. 944.105 or s. 957.03. The
 3867 department may assess a charge for the Florida criminal history
 3868 records pursuant to the provisions of chapter 119. Sealed

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3869 records received by the private entity under this section remain
3870 confidential and exempt from the provisions of s. 119.07(1).

3871 (9) Notwithstanding the provisions of s. 943.0525 and any
3872 user agreements adopted pursuant thereto, and notwithstanding
3873 the confidentiality of sealed records as provided for in s.
3874 943.059, the Department of Juvenile Justice or any other state
3875 or local criminal justice agency may provide copies of the
3876 Florida criminal history records for juvenile offenders
3877 currently or formerly detained or housed in a contracted
3878 juvenile assessment center or detention facility or serviced in
3879 a contracted treatment program and for employees or other
3880 individuals who will have access to these facilities, only to
3881 the entity under direct contract with the Department of Juvenile
3882 Justice to operate these facilities or programs pursuant to the
3883 provisions of s. 985.411. The criminal justice agency providing
3884 such data may assess a charge for the Florida criminal history
3885 records pursuant to the provisions of chapter 119. Sealed
3886 records received by the private entity under this section remain
3887 confidential and exempt from the provisions of s. 119.07(1).
3888 Information provided under this section shall be used only for
3889 the criminal justice purpose for which it was requested and may
3890 not be further disseminated.

3891 Section 69. The creation of sections 393.135, 394.4593,
3892 and 916.1075, Florida Statutes, by this act shall apply to
3893 offenses committed on or after the effective date of this act.

3894 Section 70. Paragraph (b) of subsection (4) of section
3895 20.19, Florida Statutes, is amended to read:

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3896 | 20.19 Department of Children and Family Services.--There
3897 | is created a Department of Children and Family Services.

3898 | (4) PROGRAM OFFICES AND SUPPORT OFFICES.--

3899 | (b) The following program offices are established:

3900 | 1. Adult Services.

3901 | 2. Child Care Services.

3902 | 3. Domestic Violence ~~Developmental Disabilities~~.

3903 | 4. Economic Self-Sufficiency Services.

3904 | 5. Family Safety.

3905 | 6. Mental Health.

3906 | 7. Refugee Services.

3907 | 8. Substance Abuse.

3908 | Section 71. Section 20.197, Florida Statutes, is created
3909 | to read:

3910 | 20.197 Agency for Persons with Disabilities.--There is
3911 | created the Agency for Persons with Disabilities, housed within
3912 | the Department of Children and Family Services for
3913 | administrative purposes only. The agency shall be a separate
3914 | budget entity not subject to control, supervision, or direction
3915 | by the Department of Children and Family Services in any manner,
3916 | including, but not limited to, personnel, purchasing,
3917 | transactions involving real or personal property, and budgetary
3918 | matters.

3919 | (1) The director of the agency shall be the agency head
3920 | for all purposes and shall be appointed by the Governor and
3921 | serve at the pleasure of the Governor. The director shall
3922 | administer the affairs of the agency and establish
3923 | administrative units as needed and may, within available

3924 resources, employ assistants, professional staff, and other
 3925 employees as necessary to discharge the powers and duties of the
 3926 agency.

3927 (2) The agency shall be responsible for the provision of
 3928 all services provided to persons with developmental disabilities
 3929 pursuant to chapter 393, including the operation of all state
 3930 institutional programs and the programmatic management of
 3931 Medicaid waivers established to provide services to persons with
 3932 developmental disabilities.

3933 (3) The agency shall engage in such other administrative
 3934 activities as are deemed necessary to effectively and
 3935 efficiently address the needs of the agency's clients.

3936 (4) The agency shall enter into an interagency agreement
 3937 that delineates the responsibilities of the Agency for Health
 3938 Care Administration for the following:

3939 (a) The terms, and execution of contracts with Medicaid
 3940 providers for the provision of services provided through
 3941 Medicaid, including federally approved waiver programs.

3942 (b) The billing, payment, and reconciliation of claims for
 3943 Medicaid services reimbursed by the agency.

3944 (c) The implementation of utilization management measures,
 3945 including the prior authorization of services plans and the
 3946 streamlining and consolidation of waivers services, to ensure
 3947 the cost-effective provision of needed Medicaid services and to
 3948 maximize the number of persons with access to such services.

3949 (d) A system of approving each client's plan of care to
 3950 ensure that the services on the plan of care are those that

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3951 without which the client would require the services of an
 3952 intermediate care facility for the developmentally disabled.

3953 Section 72. Section 393.063, Florida Statutes, is amended
 3954 to read:

3955 393.063 Definitions.--For the purposes of this chapter:

3956 ~~(1) "Active treatment" means the provision of services by~~
 3957 ~~an interdisciplinary team necessary to maximize a client's~~
 3958 ~~individual independence or prevent regression or loss of~~
 3959 ~~functional status.~~

3960 (1)(2) "Agency" means the Agency for Persons with
 3961 Disabilities Health Care Administration.

3962 (2)(3) "Autism" means a pervasive, neurologically based
 3963 developmental disability of extended duration which causes
 3964 severe learning, communication, and behavior disorders with age
 3965 of onset during infancy or childhood. Individuals with autism
 3966 exhibit impairment in reciprocal social interaction, impairment
 3967 in verbal and nonverbal communication and imaginative ability,
 3968 and a markedly restricted repertoire of activities and
 3969 interests.

3970 (3)(4) "Cerebral palsy" means a group of disabling
 3971 symptoms of extended duration which results from damage to the
 3972 developing brain that may occur before, during, or after birth
 3973 and that results in the loss or impairment of control over
 3974 voluntary muscles. For the purposes of this definition,
 3975 cerebral palsy does not include those symptoms or impairments
 3976 resulting solely from a stroke.

3977 ~~(4)(5)~~ "Client" means any person determined eligible by
3978 the agency department for ~~developmental~~ services under this
3979 chapter.

3980 ~~(5)(6)~~ "Client advocate" means a friend or relative of the
3981 client, or of the client's immediate family, who advocates for
3982 the best interests of the client in any proceedings under this
3983 chapter in which the client or his or her family has the right
3984 or duty to participate.

3985 ~~(6)(7)~~ "Comprehensive assessment" means the process ~~which~~
3986 ~~is~~ used to determine eligibility for ~~developmental~~ services
3987 under this chapter ~~and develop the family or individual support~~
3988 ~~plan. The term includes review and evaluation of information~~
3989 ~~provided by the applicant, the individual receiving supports or~~
3990 ~~services through developmental services, or the family, and~~
3991 ~~others providing supports or services to the individual or~~
3992 ~~family, as well as the use of formal assessment instruments.~~

3993 ~~(7)(8)~~ "Comprehensive transitional education program"
3994 means a group of jointly operating centers or units, the
3995 collective purpose of which is to provide a sequential series of
3996 educational care, training, treatment, habilitation, and
3997 rehabilitation services to persons who have developmental
3998 ~~disabilities, as defined in subsection (12),~~ and who have severe
3999 or moderate maladaptive behaviors. However, nothing in this
4000 subsection shall require such ~~comprehensive transitional~~
4001 ~~education~~ programs to provide services only to persons with
4002 developmental disabilities, ~~as defined in subsection (12)~~. All
4003 such services shall be temporary in nature and delivered in a
4004 structured residential setting with the primary goal of

4005 incorporating the normalization principle to establish permanent
 4006 residence for persons with maladaptive behaviors in facilities
 4007 not associated with the comprehensive transitional education
 4008 program. The staff shall include psychologists and teachers
 4009 ~~who, and such staff personnel~~ shall be available to provide
 4010 services in each component center or unit of the program. The
 4011 psychologists shall be individuals who are licensed in this
 4012 state and certified as behavior analysts in this state, or
 4013 individuals who ~~meet the professional requirements established~~
 4014 ~~by the department for district behavior analysts and are~~
 4015 certified as behavior analysts pursuant to s. 393.17 ~~in this~~
 4016 state.

4017 (a) Comprehensive transitional education programs shall
 4018 include a minimum of two component centers or units, ~~as defined~~
 4019 ~~in this paragraph~~, one of which shall be either an intensive
 4020 treatment and educational center or a transitional training and
 4021 educational center, which provide services to persons with
 4022 maladaptive behaviors in the following sequential order:

4023 1. Intensive treatment and educational center. This
 4024 component is a self-contained residential unit providing
 4025 intensive psychological and educational programming for persons
 4026 with severe maladaptive behaviors, whose behaviors preclude
 4027 placement in a less restrictive environment due to the threat of
 4028 danger or injury to themselves or others.

4029 2. Transitional training and educational center. This
 4030 component is a residential unit for persons with moderate
 4031 maladaptive behaviors, providing concentrated psychological and

4032 educational programming emphasizing a transition toward a less
4033 restrictive environment.

4034 3. Community transition residence. This component is a
4035 residential center providing educational programs and such
4036 support services, training, and care as are needed to assist
4037 persons with maladaptive behaviors to avoid regression to more
4038 restrictive environments while preparing them for more
4039 independent living. Continuous-shift staff shall be required for
4040 this component.

4041 4. Alternative living center. This component is a
4042 residential unit providing an educational and family living
4043 environment for persons with maladaptive behaviors, in a
4044 moderately unrestricted setting. Residential staff shall be
4045 required for this component.

4046 5. Independent living education center. This component is
4047 a facility providing a family living environment for persons
4048 with maladaptive behaviors, in a largely unrestricted setting
4049 which includes education and monitoring appropriate to support
4050 the development of independent living skills ~~by the students~~.

4051 (b) Centers or units that are components of a
4052 comprehensive transitional education program are subject to the
4053 license issued to the comprehensive transitional education
4054 program and may be located on either single or multiple sites.

4055 (c) Comprehensive transitional education programs shall
4056 develop individual education plans for each person with
4057 maladaptive behaviors who receives services therein. Such
4058 individual education plans shall be developed in accordance with

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4059 the criteria specified ~~included~~ in ~~Pub. L. No. 94-142,~~ 20 U.S.C.
4060 ss. 401 et seq., and 34 C.F.R. part 300.

4061 (d) In no instance shall the total number of persons with
4062 maladaptive behaviors being provided services in a comprehensive
4063 transitional education program exceed 120.

4064 (e) This subsection shall authorize licensure for
4065 comprehensive transitional education programs which by July 1,
4066 1989:

- 4067 1. Are in actual operation; or
- 4068 2. Own a fee simple interest in real property for which a
4069 county or city government has approved zoning allowing for the
4070 placement of the facilities described in this subsection, and
4071 have registered an intent with the department to operate a
4072 comprehensive transitional education program. However, nothing
4073 shall prohibit the assignment by such a registrant to another
4074 entity at a different site within the state, so long as there is
4075 compliance with all criteria of the comprehensive transitional
4076 education program and local zoning requirements and provided
4077 that each residential facility within the component centers or
4078 units of the program authorized under this subparagraph shall
4079 not exceed a capacity of 15 persons.

4080 ~~(9) "Day service" means the care, protection, and~~
4081 ~~supervision of a client for a period of less than 24 hours a day~~
4082 ~~on a regular basis which supplements for the client, in~~
4083 ~~accordance with his or her individual needs, daily care,~~
4084 ~~enrichment opportunities, and health supervision.~~

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4085 ~~(8)(10)~~ "Day habilitation facility" means any
4086 nonresidential facility which provides day habilitation
4087 services.

4088 (9) "Day habilitation service" means assistance with the
4089 acquisition, retention, or improvement in self-help,
4090 socialization, and adaptive skills which takes place in a
4091 nonresidential setting, separate from the home or facility in
4092 which the individual resides. Day habilitation services shall
4093 focus on enabling the individual to attain or maintain his or
4094 her maximum functional level and shall be coordinated with any
4095 physical, occupational, or speech therapies listed in the plan
4096 of care.

4097 ~~(11) "Department" means the Department of Children and~~
4098 ~~Family Services.~~

4099 ~~(10)(12)~~ "Developmental disability" means a disorder or
4100 syndrome that is attributable to retardation, cerebral palsy,
4101 autism, spina bifida, or Prader-Willi syndrome and that
4102 constitutes a substantial handicap that can reasonably be
4103 expected to continue indefinitely.

4104 ~~(11)(13)~~ "Developmental disabilities ~~services~~ institution"
4105 means a state-owned and state-operated facility, formerly known
4106 as a "Sunland Center," providing for the care, habilitation, and
4107 rehabilitation of clients with developmental disabilities.

4108 ~~(14) "Developmental training facility" means any~~
4109 ~~nonresidential facility which provides basic training and~~
4110 ~~habilitation to clients.~~

4111 ~~(12)(15)~~ "Direct service provider," also known as
4112 "caregiver" in chapters 39 and 415 or "caretaker" in provisions

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4113 relating to employment security checks, means a person 18 years
4114 of age or older who has direct contact with individuals with
4115 developmental disabilities, or has access to a client's living
4116 areas or to a client's funds or personal property, and is not a
4117 relative of such ~~unrelated to the individuals with developmental~~
4118 ~~disabilities.~~

4119 ~~(a) The term "direct service provider" also includes any~~
4120 ~~person, including members of the direct service provider's~~
4121 ~~family, over 12 years of age who resides with the direct service~~
4122 ~~provider when:~~

4123 ~~1. The direct service provider provides supports or~~
4124 ~~services in his or her residence;~~

4125 ~~2. The direct service provider provides supports or~~
4126 ~~services in a facility adjacent to his or her residence; or~~

4127 ~~3. The person residing with the direct service provider~~
4128 ~~has direct contact with the individual with developmental~~
4129 ~~disabilities during the hours of provision of supports or~~
4130 ~~services.~~

4131 ~~(b) Persons residing with the direct service provider,~~
4132 ~~including family members, who are between the ages of 12 years~~
4133 ~~and 18 years are not required to be fingerprinted, but shall be~~
4134 ~~screened for delinquency records.~~

4135 ~~(c) A volunteer who assists on an intermittent basis for~~
4136 ~~less than 40 hours per month is not a direct service provider~~
4137 ~~for the purposes of screening if the volunteer is under the~~
4138 ~~direct and constant supervision of persons who meet the~~
4139 ~~personnel requirements of s. 393.0655.~~

4140 ~~(d) A physician, nurse, or other professional licensed and~~
 4141 ~~regulated by the Department of Business and Professional~~
 4142 ~~Regulation is not a direct service provider for the purposes of~~
 4143 ~~screening if the service he or she is providing to a client is~~
 4144 ~~within the scope of practice for which he or she is licensed.~~

4145 ~~(e) A person selected by the family or the individual with~~
 4146 ~~developmental disabilities and paid by the family or the~~
 4147 ~~individual to provide supports or services is not a direct~~
 4148 ~~service provider for the purpose of screening.~~

4149 ~~(16) "District" means a service district of the~~
 4150 ~~department.~~

4151 (13)~~(17)~~ "Domicile" means the place where a client legally
 4152 resides, which place is his or her permanent home. Domicile may
 4153 be established as provided in s. 222.17. Domicile may not be
 4154 established in Florida by a minor who has no parent domiciled in
 4155 Florida, or by a minor who has no legal guardian domiciled in
 4156 Florida, or by any alien not classified as a resident alien.

4157 (14)~~(18)~~ "Enclave" means a work station in public or
 4158 private business or industry where a small group of persons with
 4159 developmental disabilities is employed and receives training and
 4160 support services or follow-along services among nonhandicapped
 4161 workers.

4162 (15)~~(19)~~ "Epilepsy" means a chronic brain disorder of
 4163 various causes which is characterized by recurrent seizures due
 4164 to excessive discharge of cerebral neurons. When found
 4165 concurrently with retardation, autism, or cerebral palsy,
 4166 epilepsy is considered a secondary disability for which the

4167 client is eligible to receive services to ameliorate this
4168 condition pursuant ~~according to the provisions of~~ this chapter.

4169 ~~(16)(20)~~ (16) "Express and informed consent" means consent
4170 voluntarily given in writing with sufficient knowledge and
4171 comprehension of the subject matter involved to enable the
4172 person giving consent to make an understanding and enlightened
4173 decision without any element of force, fraud, deceit, duress, or
4174 other form of constraint or coercion.

4175 ~~(17)(21)~~ (17) "Family care program" means the program
4176 established in s. 393.068 ~~an alternative to residential~~
4177 ~~placement, in which a direct service provider provides a home~~
4178 ~~for a client and assists him or her to the extent necessary for~~
4179 ~~the client to participate in normal activities and to meet the~~
4180 ~~demands of daily living. The program provides the support needed~~
4181 ~~by the client's family or caretaker to meet the individual needs~~
4182 ~~of the client.~~

4183 ~~(18)(22)~~ (18) "Follow-along services" means those support
4184 services ~~which shall be~~ provided to persons with developmental
4185 disabilities in all supported employment programs and may
4186 include, but are not limited to, family support, assistance in
4187 meeting transportation and medical needs, employer intervention,
4188 performance evaluation, advocacy, replacement, retraining or
4189 promotional assistance, or other similar support services.

4190 ~~(19)(23)~~ (19) "Foster care facility" means a residential
4191 facility which provides a family living environment including
4192 supervision and care necessary to meet the physical, emotional,
4193 and social needs of its residents. The capacity of such a
4194 facility shall not be more than three residents.

4195 (20)~~(24)~~ "Group home facility" means a residential
 4196 facility which provides a family living environment including
 4197 supervision and care necessary to meet the physical, emotional,
 4198 and social needs of its residents. The capacity of such a
 4199 facility shall be at least 4 ~~residents~~ but not more than 15
 4200 residents. For the purposes of this chapter, group home
 4201 facilities shall not be considered commercial enterprises.

4202 (21)~~(25)~~ "Guardian advocate" means a person appointed by
 4203 the circuit court to represent a person with developmental
 4204 disabilities in any proceedings brought pursuant to s. 393.12,
 4205 and excludes the use of the same term as applied to a guardian
 4206 advocate for mentally ill persons in chapter 394.

4207 (22)~~(26)~~ "Habilitation" means the process by which a
 4208 client is assisted to acquire and maintain those life skills
 4209 which enable the client to cope more effectively with the
 4210 demands of his or her condition and environment and to raise the
 4211 level of his or her physical, mental, and social efficiency. It
 4212 includes, but is not limited to, programs of formal structured
 4213 education and treatment.

4214 (23)~~(27)~~ "High-risk child" means, for the purposes of this
 4215 chapter, a child from birth to 5 years of age with one or more
 4216 of the following characteristics:

4217 (a) A developmental delay in cognition, language, or
 4218 physical development.

4219 (b) A child surviving a catastrophic infectious or
 4220 traumatic illness known to be associated with developmental
 4221 delay, when funds are specifically appropriated.

4222 (c) A child with a parent or guardian with developmental
 4223 disabilities ~~who is developmentally disabled and~~ who requires
 4224 assistance in meeting the child's developmental needs.

4225 (d) A child who has a physical or genetic anomaly
 4226 associated with developmental disability.

4227 ~~(24)(28)~~ "Intermediate care facility for the
 4228 developmentally disabled" or "ICF/DD" means a residential
 4229 facility licensed and certified pursuant to part XI of chapter
 4230 400 ~~in accordance with state law, and certified by the Federal~~
 4231 ~~Government pursuant to the Social Security Act, as a provider of~~
 4232 ~~Medicaid services to persons who are developmentally disabled.~~
 4233 ~~The capacity of such a facility shall not be more than 120~~
 4234 ~~clients.~~

4235 ~~(25)(29)~~ "Job coach" means a person who provides
 4236 employment-related training at a work site to individuals with
 4237 developmental disabilities.

4238 ~~(26)(30)~~ "Medical/dental services" means those services
 4239 which are provided or ordered for a client by a person licensed
 4240 pursuant to the provisions of chapter 458, chapter 459, or
 4241 chapter 466. Such services may include, but are not limited to,
 4242 prescription drugs, specialized therapies, nursing supervision,
 4243 hospitalization, dietary services, prosthetic devices, surgery,
 4244 specialized equipment and supplies, adaptive equipment, and
 4245 other services as required to prevent or alleviate a medical or
 4246 dental condition.

4247 ~~(27)(31)~~ "Mobile work crew" means a group of workers
 4248 employed by an agency that provides services outside the agency,
 4249 usually under service contracts.

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4250 (28)~~(32)~~ "Normalization principle" means the principle of
 4251 letting the client obtain an existence as close to the normal as
 4252 possible, making available to the client patterns and conditions
 4253 of everyday life which are as close as possible to the norm and
 4254 patterns of the mainstream of society.

4255 (29)~~(33)~~ "Personal services" include, but are not limited
 4256 to, such services as: individual assistance with or supervision
 4257 of essential activities of daily living for self-care, including
 4258 ambulation, bathing, dressing, eating, grooming, and toileting,
 4259 and other similar services that ~~which~~ the agency ~~department~~ may
 4260 define by rule. "Personal services" shall not be construed to
 4261 mean the provision of medical, nursing, dental, or mental health
 4262 services by the staff of a facility, except as provided in this
 4263 chapter. In addition, an emergency response device installed in
 4264 the apartment or living area of a resident shall not be
 4265 classified as a personal service.

4266 (30)~~(34)~~ "Prader-Willi syndrome" means an inherited
 4267 condition typified by neonatal hypotonia with failure to thrive,
 4268 hyperphagia or an excessive drive to eat which leads to obesity
 4269 usually at 18 to 36 months of age, mild to moderate retardation,
 4270 hypogonadism, short stature, mild facial dysmorphism, and a
 4271 characteristic neurobehavior.

4272 (31)~~(35)~~ "Reassessment" means a process which periodically
 4273 develops, through annual review and revision of a client's
 4274 family or individual support plan, a knowledgeable statement of
 4275 current needs and past development for each client.

4276 ~~(36) "Rehabilitation workshop facility" means a place~~
 4277 ~~operated by a for-profit or nonprofit agency engaged in the~~

4278 ~~manufacture or production of products or provision of services,~~
 4279 ~~which provides gainful rehabilitation to severely handicapped~~
 4280 ~~persons until such persons can become employed or which provides~~
 4281 ~~gainful work to persons who are developmentally disabled.~~

4282 (32)~~(37)~~ "Relative" means an individual who is connected
 4283 by affinity or consanguinity to the client and who is 18 years
 4284 of age or more.

4285 (33)~~(38)~~ "Resident" means any person who is
 4286 developmentally disabled residing at a residential facility in
 4287 the state, whether or not such person is a client of the agency
 4288 ~~department.~~

4289 (34)~~(39)~~ "Residential facility" means a facility providing
 4290 room and board and personal care for persons with developmental
 4291 disabilities.

4292 (35) "Residential habilitation" means assistance provided
 4293 with acquisition, retention, or improvement in skills related to
 4294 activities of daily living, such as personal grooming and
 4295 cleanliness, bedmaking and household chores, eating and the
 4296 preparation of food, and the social and adaptive skills
 4297 necessary to enable the individual to reside in a
 4298 noninstitutional setting.

4299 (36)~~(40)~~ "Residential habilitation center" means a
 4300 community residential facility that provides residential
 4301 habilitation. ~~operated primarily for the diagnosis, treatment,~~
 4302 ~~habilitation, or rehabilitation of its residents, which facility~~
 4303 ~~provides, in a structured residential setting, individualized~~
 4304 ~~continuing evaluation, planning, 24-hour supervision, and~~
 4305 ~~coordination and integration of health or rehabilitative~~

4306 ~~services to help each resident reach his or her maximum~~
 4307 ~~functioning capabilities.~~ The capacity of such a facility shall
 4308 not be fewer ~~less~~ than nine residents. After October 1, 1989, no
 4309 new residential habilitation centers shall be licensed and the
 4310 licensed capacity shall not be increased for any existing
 4311 residential habilitation center.

4312 (37)~~(41)~~ "Respite service" means appropriate, short-term,
 4313 temporary care that is provided to a person with developmental
 4314 disabilities to meet the planned or emergency needs of the
 4315 person ~~with developmental disabilities~~ or the family or other
 4316 direct service provider.

4317 (38)~~(42)~~ "Retardation" means significantly subaverage
 4318 general intellectual functioning existing concurrently with
 4319 deficits in adaptive behavior and manifested during the period
 4320 from conception to age 18. "Significantly subaverage general
 4321 intellectual functioning," for the purpose of this definition,
 4322 means performance which is two or more standard deviations from
 4323 the mean score on a standardized intelligence test specified in
 4324 the rules of the agency ~~department~~. "Adaptive behavior," for
 4325 the purpose of this definition, means the effectiveness or
 4326 degree with which an individual meets the standards of personal
 4327 independence and social responsibility expected of his or her
 4328 age, cultural group, and community.

4329 ~~(43) "Screening," for purposes of employment, contracting,~~
 4330 ~~or certification, means the act of assessing the background of~~
 4331 ~~direct service providers and independent support coordinators,~~
 4332 ~~who are not related to clients for whom they provide services,~~
 4333 ~~and includes, but is not limited to, employment history checks,~~

4334 ~~local criminal records checks through local law enforcement~~
 4335 ~~agencies, fingerprinting for all purposes and checks in this~~
 4336 ~~subsection, statewide criminal records checks through the~~
 4337 ~~Department of Law Enforcement, and federal criminal records~~
 4338 ~~checks through the Federal Bureau of Investigation; except that~~
 4339 ~~screening for volunteers included under the definition of~~
 4340 ~~personnel includes only local criminal records checks through~~
 4341 ~~local law enforcement agencies for current residence and~~
 4342 ~~residence immediately prior to employment as a volunteer, if~~
 4343 ~~different; and statewide criminal records correspondence checks~~
 4344 ~~through the Department of Law Enforcement.~~

4345 (39)~~(44)~~ "Severe self-injurious behavior" means any
 4346 chronic behavior that results in injury to the person's own
 4347 body, which includes, but is not limited to, self-hitting, head
 4348 banging, self-biting, scratching, and the ingestion of harmful
 4349 or potentially harmful nutritive or nonnutritive substances.

4350 (40)~~(45)~~ "Specialized therapies" means those treatments or
 4351 activities prescribed by and provided by an appropriately
 4352 trained, licensed, or certified professional or staff person and
 4353 may include, but are not limited to, physical therapy, speech
 4354 therapy, respiratory therapy, occupational therapy, behavior
 4355 therapy, physical management services, and related specialized
 4356 equipment and supplies.

4357 (41)~~(46)~~ "Spina bifida" means, for purposes of this
 4358 chapter, a person with a medical diagnosis of spina bifida
 4359 cystica or myelomeningocele.

4360 (42)~~(47)~~ "Support coordinator" means a person who is
 4361 designated by the agency ~~department~~ to assist individuals and

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4362 families in identifying their ~~desires~~, capacities, needs, and
 4363 resources, as well as finding and gaining access to necessary
 4364 supports and services; coordinating the delivery of supports and
 4365 services; advocating on behalf of the individual and family;
 4366 maintaining relevant records; and monitoring and evaluating the
 4367 delivery of supports and services to determine the extent to
 4368 which they meet the needs and expectations identified by the
 4369 individual, family, and others who participated in the
 4370 development of the support plan.

4371 ~~(43)(48)~~ "Supported employee" means a person whose
 4372 ~~developmental disability has traditionally kept him or her from~~
 4373 ~~integrated, community-based employment and~~ who requires and
 4374 receives supported employment ~~ongoing support or follow-along~~
 4375 services in order to maintain community-based employment.

4376 ~~(44)(49)~~ "Supported employment" means employment located
 4377 or provided in a normal employment setting which provides at
 4378 least 20 hours employment per week in an integrated work
 4379 setting, with earnings paid on a commensurate wage basis, and
 4380 for which continued support is ~~or follow-along services are~~
 4381 needed for ~~continuing~~ job maintenance.

4382 ~~(45)(50)~~ "Supported living" means a category of
 4383 individually determined services designed and coordinated in
 4384 such a manner as to provide assistance to adult clients who
 4385 require ongoing supports to live as independently as possible in
 4386 their own homes, to be integrated into the community, and to
 4387 participate in community life to the fullest extent possible.

4388 ~~(46)(51)~~ "Training" means a planned approach to assisting
 4389 a client to attain or maintain his or her maximum potential and

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4390 includes services ranging from sensory stimulation to
4391 instruction in skills for independent living and employment.

4392 (47)~~(52)~~ "Treatment" means the prevention, amelioration,
4393 or cure of a client's physical and mental disabilities or
4394 illnesses.

4395 Section 73. Subsections (1), (3), (4), and (5) of section
4396 393.064, Florida Statutes, are amended to read:

4397 393.064 Prevention.--

4398 (1) The agency ~~Department of Children and Family Services~~
4399 shall give priority to the development, planning, and
4400 implementation of programs which have the potential to prevent,
4401 correct, cure, or reduce the severity of developmental
4402 disabilities. The agency ~~department~~ shall direct an interagency
4403 ~~interdepartmental~~ and interprogram effort for the continued
4404 development of a prevention plan and program. The agency
4405 ~~department~~ shall identify, through demonstration projects,
4406 through ~~departmental~~ program evaluation, and through monitoring
4407 of programs and projects conducted outside of the agency
4408 ~~department~~, any medical, social, economic, or educational
4409 methods, techniques, or procedures that ~~which~~ have the potential
4410 to effectively ameliorate, correct, or cure developmental
4411 disabilities. The program ~~department~~ shall determine the costs
4412 and benefits that would be associated with such prevention
4413 efforts and shall implement, or recommend the implementation of,
4414 those methods, techniques, or procedures which are found likely
4415 to be cost-beneficial. ~~The department in its legislative budget~~
4416 ~~request shall identify funding needs for such prevention~~
4417 ~~programs.~~

4418 (3) Other agencies of state government shall cooperate
 4419 with and assist the agency ~~department~~, within available
 4420 resources, in implementing programs which have the potential to
 4421 prevent, or reduce the severity of, developmental disabilities
 4422 and shall consider the findings and recommendations of the
 4423 agency ~~department~~ in developing and implementing agency programs
 4424 and formulating agency budget requests.

4425 (4) There is created at the developmental services
 4426 institution in Gainesville a research and education unit. Such
 4427 unit shall be named the Raymond C. Philips Research and
 4428 Education Unit. The functions of such unit shall include:

4429 (a) Research into the etiology of developmental
 4430 disabilities.

4431 (b) Ensuring that new knowledge is rapidly disseminated
 4432 throughout the developmental services program of the agency
 4433 ~~Department of Children and Family Services~~.

4434 (c) Diagnosis of unusual conditions and syndromes
 4435 associated with developmental disabilities in clients identified
 4436 throughout the developmental services programs.

4437 (d) Evaluation of families of clients with developmental
 4438 disabilities of genetic origin in order to provide them with
 4439 genetic counseling aimed at preventing the recurrence of the
 4440 disorder in other family members.

4441 (e) Ensuring that health professionals in the
 4442 developmental services institution at Gainesville have access to
 4443 information systems that will allow them to remain updated on
 4444 newer knowledge and maintain their postgraduate education
 4445 standards.

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4446 (f) Enhancing staff training for professionals throughout
4447 the agency department in the areas of genetics and developmental
4448 disabilities.

4449 (5) The agency Department of Children and Family Services
4450 shall have the authority, within available resources, to
4451 contract for the supervision and management of the Raymond C.
4452 Philips Research and Education Unit, and such contract shall
4453 include specific program objectives.

4454 Section 74. Section 393.0655, Florida Statutes, is amended
4455 to read:

4456 393.0655 Screening of direct service providers.--

4457 (1) MINIMUM STANDARDS.--The agency department shall
4458 require level 2 employment screening pursuant to chapter 435,
4459 ~~using the level 2 standards for screening set forth in that~~
4460 ~~chapter,~~ for direct service providers who are unrelated to their
4461 clients, including support coordinators, and managers and
4462 supervisors of residential facilities or comprehensive
4463 transitional education programs licensed under s. 393.967 and
4464 any other person, including volunteers, who provide care or
4465 services, who have access to a client's living areas, or who
4466 have access to a client's funds or personal property. Background
4467 screening shall include employment history checks as provided in
4468 s. 435.03(1) and local criminal records checks through local law
4469 enforcement agencies.

4470 (a) A volunteer who assists on an intermittent basis for
4471 less than 40 hours per month does not have to be screened, if
4472 the volunteer is under the direct and constant supervision of
4473 persons who meet the screening requirements of this section.

4474 (b) Licensed physicians, nurses, or other professionals
 4475 licensed and regulated by the Department of Health are not
 4476 subject to background screening pursuant to this section if they
 4477 are providing a service that is within their scope of licensed
 4478 practice.

4479 (c) A person selected by the family or the individual with
 4480 developmental disabilities and paid by the family or the
 4481 individual to provide supports or services is not required to
 4482 have a background screening under this section.

4483 (d) Persons residing with the direct services provider,
 4484 including family members, are subject to background screening;
 4485 however, such persons who are 12 to 18 years of age shall be
 4486 screened for delinquency records only.

4487 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency
 4488 ~~department~~ may grant exemptions from disqualification from
 4489 working with children or adults with developmental disabilities
 4490 ~~the developmentally disabled~~ as provided in s. 435.07.

4491 (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE
 4492 CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints
 4493 and the state criminal records checks shall be borne by the
 4494 employer or by the employee or individual who is being screened.

4495 (4) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY
 4496 A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY; HEARINGS
 4497 PROVIDED.--

4498 (a) The agency ~~department~~ shall deny, suspend, terminate,
 4499 or revoke a license, certification, rate agreement, purchase
 4500 order, or contract, or pursue other remedies provided in s.
 4501 393.0673, s. 393.0675, or s. 393.0678 in addition to or in lieu

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4502 of denial, suspension, termination, or revocation for failure to
4503 comply with this section.

4504 (b) When the agency ~~department~~ has reasonable cause to
4505 believe that grounds for denial or termination of employment
4506 exist, it shall notify, in writing, the employer and the direct
4507 service provider affected, stating the specific record which
4508 indicates noncompliance with the standards in this section.

4509 (c) The procedures established for hearing under chapter
4510 120 shall be available to the employer and the direct service
4511 provider in order to present evidence relating either to the
4512 accuracy of the basis of exclusion or to the denial of an
4513 exemption from disqualification.

4514 (d) Refusal on the part of an employer to dismiss a direct
4515 service provider who has been found to be in noncompliance with
4516 standards of this section shall result in automatic denial,
4517 termination, or revocation of the license, certification, rate
4518 agreement, purchase order, or contract, in addition to any other
4519 remedies pursued by the agency ~~department~~.

4520 Section 75. Section 393.066, Florida Statutes, is amended
4521 to read:

4522 393.066 Community services and treatment for persons who
4523 are developmentally disabled.--

4524 (1) The agency ~~Department of Children and Family Services~~
4525 shall plan, develop, organize, and implement its programs of
4526 services and treatment for persons who are developmentally
4527 disabled ~~along district lines. The goal of such programs shall~~
4528 ~~be~~ to allow clients to live as independently as possible in

4529 | their own homes or communities and to achieve productive lives
4530 | as close to normal as possible.

4531 | ~~(2) All programs of services and treatment for clients~~
4532 | ~~shall be administered through the districts and shall serve all~~
4533 | ~~clients regardless of the type of residential setting in which~~
4534 | ~~the client lives.~~ All elements of community-based services
4535 | shall be made available, ~~in each service district~~ and
4536 | eligibility for these services shall be consistent across the
4537 | state districts. In addition, all purchased services shall be
4538 | approved by the agency district.

4539 | ~~(2)(3)~~ All services needed shall be purchased instead of
4540 | provided directly by the agency department, when such
4541 | arrangement is more cost-efficient than having those services
4542 | provided directly by the department.

4543 | ~~(3)(4)~~ Community-based services that are medically
4544 | necessary to prevent institutionalization shall, to the extent
4545 | of available resources, include:

4546 | (a) Day habilitation services, including developmental
4547 | training services.

4548 | (b) Family care services.

4549 | (c) Guardian advocate referral services.

4550 | (d) Medical/dental services, except that medical services
4551 | shall not be provided to clients with spina bifida except as
4552 | specifically appropriated by the Legislature.

4553 | (e) Parent training.

4554 | (f) Recreation.

4555 | (g) Residential services.

4556 | (h) Respite services.

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- 4557 (i) Social services.
- 4558 (j) Specialized therapies.
- 4559 (k) Supported employment, including enclave, job coach,
- 4560 mobile work crew, and follow-along services.
- 4561 (l) Supported living.
- 4562 (m) Training, including behavioral programming.
- 4563 (n) Transportation.
- 4564 (o) Other habilitative and rehabilitative services as
- 4565 needed.

4566
4567 ~~Services to clients with spina bifida shall not include medical~~
4568 ~~services except as appropriated by the Legislature.~~

4569 ~~(5) Provided it is consistent with the intent of the~~
4570 ~~Legislature, the department shall prioritize increased~~
4571 ~~appropriations provided for community-based services for~~
4572 ~~developmentally disabled individuals toward individualized,~~
4573 ~~community-based supports and services for consumers and their~~
4574 ~~families. Further, the department's 5-year plan for~~
4575 ~~Developmental Services shall reflect a priority toward~~
4576 ~~individualized, community-based supports and services for~~
4577 ~~consumers and their families.~~

4578 (4)~~(6)~~ The agency ~~department~~ shall utilize the services of
4579 private businesses, not-for-profit organizations, and units of
4580 local government whenever such services are more cost-efficient
4581 than such services provided directly by the department,
4582 including arrangements for provision of residential facilities.

4583 (5)~~(7)~~ In order to improve the potential for utilization
4584 of more cost-effective, community-based residential facilities,

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4585 | the agency department shall promote the statewide development of
 4586 | day habilitation services for clients who live with a direct
 4587 | service provider in a community-based residential facility and
 4588 | who do not require 24-hour-a-day care in a hospital or other
 4589 | health care institution, but who may, in the absence of day
 4590 | habilitation services, require admission to a developmental
 4591 | disabilities ~~services~~ institution. Each day service facility
 4592 | shall provide a protective physical environment for clients,
 4593 | ensure that direct service providers meet ~~the~~ minimum screening
 4594 | standards ~~for good moral character~~ as required ~~contained~~ in s.
 4595 | 393.0655, make available to all day habilitation service
 4596 | participants at least one meal on each day of operation, provide
 4597 | facilities to enable participants to obtain needed rest while
 4598 | attending the program, as appropriate, and provide social and
 4599 | educational activities designed to stimulate interest and
 4600 | provide socialization skills.

4601 | (6) To promote independence and productivity, the agency
 4602 | shall provide supports and services, within available resources,
 4603 | to assist clients enrolled in Medicaid waivers who choose to
 4604 | pursue gainful employment.

4605 | (7)(8) For the purpose of making needed community-based
 4606 | residential facilities available at the least possible cost to
 4607 | the state, the agency department is authorized to lease
 4608 | privately owned residential facilities under long-term rental
 4609 | agreements, if such rental agreements are projected to be less
 4610 | costly to the state over the useful life of the facility than
 4611 | state purchase or state construction of such a facility. ~~In~~
 4612 | ~~addition, the department is authorized to permit, on any public~~

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4613 ~~land to which the department holds the lease, construction of a~~
 4614 ~~residential facility for which the department has entered into a~~
 4615 ~~long-term rental agreement as specified in this subsection.~~

4616 (8)~~(9)~~ The agency ~~department~~ may adopt rules to ensure
 4617 compliance with federal laws or regulations that apply to
 4618 services provided pursuant to this section.

4619 Section 76. Section 393.0661, Florida Statutes, is amended
 4620 to read:

4621 393.0661 Home and community-based services delivery
 4622 system; comprehensive redesign.--The Legislature finds that the
 4623 home and community-based services delivery system for persons
 4624 with developmental disabilities and the availability of
 4625 appropriated funds are two of the critical elements in making
 4626 services available. Therefore, it is the intent of the
 4627 Legislature that the Agency for Persons with Disabilities
 4628 ~~Department of Children and Family Services~~ shall develop and
 4629 implement a comprehensive redesign of the system.

4630 (1) The redesign of the home and community-based services
 4631 system shall include, at a minimum, all actions necessary to
 4632 achieve an appropriate rate structure, client choice within a
 4633 specified service package, appropriate assessment strategies, an
 4634 efficient billing process that contains reconciliation and
 4635 monitoring components, a redefined role for support coordinators
 4636 that avoids potential conflicts of interest, and ensures that
 4637 family/client budgets are linked to levels of need. ~~Prior to the~~
 4638 ~~release of funds in the lump-sum appropriation, the department~~
 4639 ~~shall present a plan to the Executive Office of the Governor,~~
 4640 ~~the House Fiscal Responsibility Council, and the Senate~~

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4641 ~~Appropriations Committee. The plan must result in a full~~
4642 ~~implementation of the redesigned system no later than July 1,~~
4643 ~~2003. At a minimum, the plan must provide that the portions~~
4644 ~~related to direct provider enrollment and billing will be~~
4645 ~~operational no later than March 31, 2003. The plan must further~~
4646 ~~provide that a more effective needs assessment instrument will~~
4647 ~~be deployed by January 1, 2003, and that all clients will be~~
4648 ~~assessed with this device by June 30, 2003.~~

4649 (a) In no event may The agency shall use department select
4650 an assessment instrument without appropriate evidence that is it
4651 will be reliable and valid. Once such evidence has been
4652 obtained, however, The agency may contract with department shall
4653 determine the feasibility of contracting with an external vendor
4654 to apply the new assessment device to all clients receiving
4655 services through the Medicaid waiver. In lieu of using an
4656 external vendor or, the department may use support coordinators
4657 to complete client for the assessments if it develops sufficient
4658 safeguards and training to ensure ongoing significantly improve
4659 the inter-rater reliability of the support coordinators
4660 administering the assessment.

4661 (b) The agency, with the concurrence of the Agency for
4662 Health Care Administration, may contract for the determination
4663 of medical necessity and establishment of individual budgets.

4664 (2) A provider of services rendered to persons with
4665 developmental disabilities pursuant to a federally-approved
4666 waiver shall be reimbursed according to a rate methodology based
4667 upon an analysis of the expenditure history and prospective
4668 costs of providers participating in the waiver program, or under

4669 any other methodology developed by the Agency for Health Care
 4670 Administration, in consultation with the Agency for Persons with
 4671 Disabilities, and approved by the Federal Government in
 4672 accordance with the waiver.

4673 (3) Pending the adoption of rate methodologies pursuant to
 4674 non-emergency rulemaking under s. 120.54, the Agency for Health
 4675 Care Administration may, at any time, adopt emergency rules
 4676 under s. 120.54(4) in order to comply with subsection (4). In
 4677 adopting such emergency rules, the agency need not make the
 4678 findings required by s. 120.54(4)(a), and such rules shall be
 4679 exempt from time limitations provided in s. 120.54(4)(c) and
 4680 shall remain in effect until replaced by another emergency rule
 4681 or the non-emergency adoption of the rate methodology.

4682 (4) Nothing in this section or in any administrative rule
 4683 shall be construed to prevent or limit the Agency for Health
 4684 Care Administration, in consultation with the Agency for Persons
 4685 with Disabilities, from adjusting fees, reimbursement rates,
 4686 lengths of stay, number of visits, or number of services, or
 4687 from limiting enrollment, or making any other adjustment
 4688 necessary to comply with the availability of moneys and any
 4689 limitations or directions provided for in the General
 4690 Appropriations Act. If at any time, based upon an analysis by
 4691 the Agency for Health Care Administration in consultation with
 4692 the Agency for Persons with Disabilities, the cost of home and
 4693 community-based waiver services are expected to exceed the
 4694 appropriated amount, the Agency for Health Care Administration
 4695 may implement any adjustment, including provider rate

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4696 | reductions, within 30 days in order to remain within the
 4697 | appropriation.

4698 | Section 77. Section 393.068, Florida Statutes, is amended
 4699 | to read:

4700 | 393.068 Family care program.--

4701 | (1) The family care program is established for the purpose
 4702 | of providing services and support to families and individuals
 4703 | with developmental disabilities in order to maintain the
 4704 | individual in the home environment and avoid costly out-of-home
 4705 | residential placement. ~~The Legislature recognizes the~~
 4706 | ~~importance of family support in the long-range success of~~
 4707 | ~~deinstitutionalization.~~ Services and support available to
 4708 | families and individuals with developmental disabilities shall
 4709 | emphasize community living and enable individuals with
 4710 | developmental disabilities to enjoy typical lifestyles. ~~Support~~
 4711 | ~~and flexibility in coordinating support and services are core~~
 4712 | ~~elements in caring for the individual who is developmentally~~
 4713 | ~~disabled.~~ One way to accomplish this is to recognize that
 4714 | families are the greatest resource available to individuals who
 4715 | have developmental disabilities and ~~that families~~ must be
 4716 | supported in their role as primary care givers.

4717 | (2) Services and support authorized under this program
 4718 | shall, to the extent of available resources, include the
 4719 | services listed under s. 393.066~~(4)~~ and, in addition, shall
 4720 | include, but not be limited to:

- 4721 | (a) Attendant care.
- 4722 | (b) Barrier-free modifications to the home.
- 4723 | (c) Home visitation by agency workers.

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- 4724 (d) In-home subsidies.
- 4725 (e) Low-interest loans.
- 4726 ~~(f) Parent training.~~
- 4727 ~~(g) Respite care.~~
- 4728 (f)(h) Modifications for vehicles used to transport the
- 4729 individual with a developmental disability.
- 4730 (g)(i) Facilitated communication.
- 4731 (h)(j) Family counseling.
- 4732 (i)(k) Equipment and supplies.
- 4733 (j)(l) Self-advocacy training.
- 4734 (k)(m) Roommate services.
- 4735 (l)(n) Integrated community activities.
- 4736 (m)(o) Emergency services.
- 4737 (n)(p) Support coordination.
- 4738 (o) Supported employment.
- 4739 (p)(q) Other support services as identified by the family
- 4740 or individual.
- 4741 ~~(2) Provided it is consistent with the intent of the~~
- 4742 ~~Legislature, the department shall prioritize increased~~
- 4743 ~~appropriations provided for family-based services for~~
- 4744 ~~developmentally disabled individuals toward individualized,~~
- 4745 ~~family-based supports and services for consumers and their~~
- 4746 ~~families. Further, the department's 5-year plan for~~
- 4747 ~~developmental services shall reflect a priority toward~~
- 4748 ~~individualized, family-based supports and services for consumers~~
- 4749 ~~and their families.~~
- 4750 (3) When it is determined by the agency ~~department~~ to be
- 4751 more cost-effective and in the best interest of the client to

4752 maintain such client in the home of a direct service provider,
 4753 the parent or guardian of the client or, if competent, the
 4754 client may enroll the client in the family care program. The
 4755 direct service provider of a client enrolled in the family care
 4756 program shall be reimbursed according to a rate schedule set by
 4757 the agency ~~department~~. In-home subsidies cited in
 4758 paragraph(1)(d) shall be provided according to s. 393.0695 and
 4759 are not subject to any other payment method or rate schedule
 4760 provided for in this section.

4761 (4) All existing community resources available to the
 4762 client shall be utilized to support program objectives.
 4763 Additional services may be incorporated into the program as
 4764 appropriate and to the extent that resources are available. The
 4765 agency ~~department~~ is authorized to accept gifts and grants in
 4766 order to carry out the program.

4767 (5) The agency ~~department~~ may contract for the provision
 4768 of any portion of the services required by the program, except
 4769 for in-home subsidies cited in paragraph (2)(d) ~~(1)(d)~~, which
 4770 shall be provided pursuant to s. 393.0695. Otherwise, purchase
 4771 of service contracts shall be used whenever the services so
 4772 provided are more cost-efficient than those provided by the
 4773 agency ~~department~~.

4774 (6) When possible, services shall be obtained under the
 4775 "Florida Comprehensive Annual Services Program Plan under Title
 4776 XX of the Social Security Act" and the "Florida Plan for Medical
 4777 Assistance under Title XIX of the Social Security Act."

4778 (7) To provide a range of personal services for the
 4779 client, the use of volunteers shall be maximized. The agency

4780 ~~department~~ shall assure appropriate insurance coverage to
 4781 protect volunteers from personal liability while acting within
 4782 the scope of their volunteer assignments under the program.

4783 ~~(8) The department shall submit to the President of the~~
 4784 ~~Senate and the Speaker of the House of Representatives, as part~~
 4785 ~~of the biennial plan required by s. 393.14, an evaluation report~~
 4786 ~~summarizing the progress of the family care program. The report~~
 4787 ~~shall include the information and data necessary for an accurate~~
 4788 ~~analysis of the costs and benefits associated with the~~
 4789 ~~establishment and operation of the programs that were~~
 4790 ~~established.~~

4791 Section 78. Subsections (1) and (3) of section 393.0695,
 4792 Florida Statutes, are amended to read:

4793 393.0695 Provision of in-home subsidies.--

4794 (1) The agency may pay ~~department shall develop by October~~
 4795 ~~1, 1991, a plan for paying~~ in-home subsidies to clients enrolled
 4796 in the family care program or supported living when it is
 4797 determined to be more cost-effective and in the best interest of
 4798 the client to provide a cash supplement to the client's income
 4799 to enable the client to remain in the family home or the
 4800 client's own home. Payments may be made to the parent or
 4801 guardian of the client or, if the client is competent, directly
 4802 to the client.

4803 (3) In-home subsidies must be based on an individual
 4804 determination of need and must not exceed maximum amounts set by
 4805 the agency ~~department~~ and reassessed by the agency annually
 4806 ~~department quarterly.~~

4807 Section 79. Subsection (1), paragraph (a) of subsection
 4808 (2), paragraph (a) of subsection(4), paragraphs (a), (d), and
 4809 (h) of subsection (5), paragraph (a) of subsection (6),
 4810 paragraphs (d) and (e) of subsection (8), and subsection (13) of
 4811 section 393.11, Florida Statutes, are amended to read:

4812 393.11 Involuntary admission to residential services.--

4813 (1) JURISDICTION.--When a person is mentally retarded and
 4814 requires involuntary admission to residential services provided
 4815 by the agency ~~developmental services program of the Department~~
 4816 ~~of Children and Family Services~~, the circuit court of the county
 4817 in which the person resides shall have jurisdiction to conduct a
 4818 hearing and enter an order involuntarily admitting the person in
 4819 order that the person may receive the care, treatment,
 4820 habilitation, and rehabilitation which the person needs. For
 4821 the purpose of identifying mental retardation, diagnostic
 4822 capability shall be established by ~~in every program function of~~
 4823 ~~the agency department in the districts, including, but not~~
 4824 ~~limited to, programs provided by children and families;~~
 4825 ~~delinquency services; alcohol, drug abuse, and mental health;~~
 4826 ~~and economic services, and by the Department of Labor and~~
 4827 ~~Employment Security~~. Except as otherwise specified, the
 4828 proceedings under this section shall be governed by the Florida
 4829 Rules of Civil Procedure.

4830 (2) PETITION.--

4831 (a) A petition for involuntary admission to residential
 4832 services may be executed by a petitioning commission. For
 4833 proposed involuntary admission to residential services arising
 4834 out of chapter 916, the petition may be filed by a petitioning

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4835 | commission, the agency ~~department~~, the state attorney of the
 4836 | circuit from which the defendant was committed, or the
 4837 | defendant's attorney.

4838 | (4) DEVELOPMENTAL SERVICES PARTICIPATION.--

4839 | (a) Upon receiving the petition, the court shall
 4840 | immediately order the developmental services program of the
 4841 | agency ~~department~~ to examine the person being considered for
 4842 | involuntary admission to residential services.

4843 | (5) EXAMINING COMMITTEE.--

4844 | (a) Upon receiving the petition, the court shall
 4845 | immediately appoint an examining committee to examine the person
 4846 | being considered for involuntary admission to residential
 4847 | services of the developmental services program of the agency
 4848 | ~~department~~.

4849 | (d) Members of the committee shall not be employees of the
 4850 | agency ~~department~~ or be associated with each other in practice
 4851 | or in employer-employee relationships. Members of the committee
 4852 | shall not have served as members of the petitioning commission.
 4853 | Members of the committee shall not be employees of the members
 4854 | of the petitioning commission or be associated in practice with
 4855 | members of the commission.

4856 | (h) The agency ~~department~~ shall develop and prescribe by
 4857 | rule one or more standard forms to be used as a guide for
 4858 | members of the examining committee.

4859 | (6) COUNSEL; GUARDIAN AD LITEM.--

4860 | (a) The person with mental retardation shall be
 4861 | represented by counsel at all stages of the judicial proceeding.
 4862 | In the event the person is indigent and cannot afford counsel,

4863 | the court shall appoint a public defender not less than 20
 4864 | working days before the scheduled hearing. The person's counsel
 4865 | shall have full access to the records of the service provider
 4866 | and the agency ~~department~~. In all cases, the attorney shall
 4867 | represent the rights and legal interests of the person with
 4868 | mental retardation, regardless of who may initiate the
 4869 | proceedings or pay the attorney's fee.

4870 | (8) ORDER.--

4871 | (d) If an order of involuntary admission to residential
 4872 | services provided by the developmental services program of the
 4873 | agency ~~department~~ is entered by the court, a copy of the written
 4874 | order shall be served upon the person, the person's counsel, the
 4875 | agency ~~department~~, and the state attorney and the person's
 4876 | defense counsel, if applicable. The order of involuntary
 4877 | admission sent to the agency ~~department~~ shall also be
 4878 | accompanied by a copy of the examining committee's report and
 4879 | other reports contained in the court file.

4880 | (e) Upon receiving the order, the agency ~~department~~ shall,
 4881 | within 45 days, provide the court with a copy of the person's
 4882 | family or individual support plan and copies of all examinations
 4883 | and evaluations, outlining the treatment and rehabilitative
 4884 | programs. The agency ~~department~~ shall document that the person
 4885 | has been placed in the most appropriate, least restrictive and
 4886 | cost-beneficial residential facility. A copy of the family or
 4887 | individual support plan and other examinations and evaluations
 4888 | shall be served upon the person and the person's counsel at the
 4889 | same time the documents are filed with the court.

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4890 (13) HABEAS CORPUS.--At any time and without notice, any
 4891 person involuntarily admitted to the developmental services
 4892 program of the agency ~~department~~, or the person's parent or
 4893 legal guardian in his or her behalf, is entitled to a writ of
 4894 habeas corpus to question the cause, legality, and
 4895 appropriateness of the person's involuntary admission. Each
 4896 person, or the person's parent or legal guardian, shall receive
 4897 specific written notice of the right to petition for a writ of
 4898 habeas corpus at the time of his or her involuntary placement.

4899 Section 80. Paragraphs (a), (b), and (d) of subsection
 4900 (2), subsection (3), paragraphs(b), (g), (i), and (j) of
 4901 subsection (4), and subsection (6) of section 393.13, Florida
 4902 Statutes, are amended to read:

4903 393.13 Personal treatment of persons who are
 4904 developmentally disabled.--

4905 (2) LEGISLATIVE INTENT.--

4906 (a) The Legislature finds and declares that the system of
 4907 care provided ~~which the state provides~~ to individuals who are
 4908 developmentally disabled must be designed to meet the needs of
 4909 the clients as well as protect the integrity of their legal and
 4910 human rights. ~~Further, the current system of care for persons
 4911 who are developmentally disabled is in need of substantial
 4912 improvement in order to provide truly meaningful treatment and
 4913 habilitation.~~

4914 (b) The Legislature further finds and declares that the
 4915 design and delivery of treatment and services to persons who are
 4916 developmentally disabled should be directed by the principles of
 4917 normalization and therefore should:

- 4918 1. Abate the use of large institutions.
- 4919 2. Continue the development of community-based services
4920 which provide reasonable alternatives to institutionalization in
4921 settings that are least restrictive to the client.
- 4922 3. Provide training and education to individuals who are
4923 developmentally disabled which will maximize their potential to
4924 lead independent and productive lives and which will afford
4925 opportunities for outward mobility from institutions.
- 4926 4. Reduce the use of sheltered workshops and other
4927 noncompetitive employment day activities and promote
4928 opportunities for gainful employment for persons with
4929 developmental disabilities who choose to seek such employment.
- 4930 (d) It is the intent of the Legislature:
- 4931 1. To articulate the existing legal and human rights of
4932 persons who are developmentally disabled so that they may be
4933 exercised and protected. Persons with developmental disabilities
4934 shall have all the rights enjoyed by citizens of the state and
4935 the United States.
- 4936 2. To provide a mechanism for the identification,
4937 evaluation, and treatment of persons with developmental
4938 disabilities.
- 4939 3. To divert those individuals from institutional
4940 commitment who, by virtue of comprehensive assessment, can be
4941 placed in less costly, more effective community environments and
4942 programs.
- 4943 ~~4. To develop a plan which will indicate the most~~
4944 ~~effective and efficient manner in which to implement treatment~~
4945 ~~programs which are meaningful to individuals with developmental~~

4946 | ~~disabilities, while safeguarding and respecting the legal and~~
 4947 | ~~human rights of such individuals.~~

4948 | ~~4.5.~~ Once the plan developed under the provisions of
 4949 | ~~subparagraph 4. is presented to the Legislature,~~ To fund
 4950 | improvements in the program in accordance with the availability
 4951 | of state resources and yearly priorities determined by the
 4952 | Legislature.

4953 | ~~5.6.~~ To ensure that persons with developmental
 4954 | disabilities receive treatment and habilitation which fosters
 4955 | the developmental potential of the individual.

4956 | ~~6.7.~~ To provide programs for the proper habilitation and
 4957 | treatment of persons with developmental disabilities which shall
 4958 | include, but not be limited to, comprehensive medical/dental
 4959 | care, education, recreation, specialized therapies, training,
 4960 | social services, transportation, guardianship, family care
 4961 | programs, day habilitation services, and habilitative and
 4962 | rehabilitative services suited to the needs of the individual
 4963 | regardless of age, degree of disability, or handicapping
 4964 | condition. No person with developmental disabilities shall be
 4965 | deprived of these enumerated services by reason of inability to
 4966 | pay.

4967 | ~~7.8.~~ To fully effectuate the normalization principle
 4968 | through the establishment of community services for persons with
 4969 | developmental disabilities as a viable and practical alternative
 4970 | to institutional care at each stage of individual life
 4971 | development. If care in a residential facility becomes
 4972 | necessary, it shall be in the least restrictive setting.

4973 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
 4974 DISABILITIES.--The rights described in this subsection shall
 4975 apply to all persons with developmental disabilities, whether or
 4976 not such persons are clients of the agency ~~department~~.

4977 (a) Persons with developmental disabilities shall have a
 4978 right to dignity, privacy, and humane care, including the right
 4979 to be free from sexual abuse in residential facilities.

4980 (b) Persons with developmental disabilities shall have the
 4981 right to religious freedom and practice. Nothing shall restrict
 4982 or infringe on a person's right to religious preference and
 4983 practice.

4984 (c) Persons with developmental disabilities shall receive
 4985 services, within available sources, which protect the personal
 4986 liberty of the individual and which are provided in the least
 4987 restrictive conditions necessary to achieve the purpose of
 4988 treatment.

4989 (d) Persons who are developmentally disabled shall have a
 4990 right to participate in an appropriate program of quality
 4991 education and training services, within available resources,
 4992 regardless of chronological age or degree of disability. Such
 4993 persons may be provided with instruction in sex education,
 4994 marriage, and family planning.

4995 (e) Persons who are developmentally disabled shall have a
 4996 right to social interaction and to participate in community
 4997 activities.

4998 (f) Persons who are developmentally disabled shall have a
 4999 right to physical exercise and recreational opportunities.

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5000 (g) Persons who are developmentally disabled shall have a
 5001 right to be free from harm, including unnecessary physical,
 5002 chemical, or mechanical restraint, isolation, excessive
 5003 medication, abuse, or neglect.

5004 (h) Persons who are developmentally disabled shall have a
 5005 right to consent to or refuse treatment, subject to the
 5006 provisions of s. 393.12(2)(a) or chapter 744.

5007 (i) No otherwise qualified person shall, by reason of
 5008 having a developmental disability, be excluded from
 5009 participation in, or be denied the benefits of, or be subject to
 5010 discrimination under, any program or activity which receives
 5011 public funds, and all prohibitions set forth under any other
 5012 statute shall be actionable under this statute.

5013 (j) No otherwise qualified person shall, by reason of
 5014 having a developmental disability, be denied the right to vote
 5015 in public elections.

5016 (4) CLIENT RIGHTS.--For purposes of this subsection, the
 5017 term "client," as defined in s. 393.063, shall also include any
 5018 person served in a facility licensed pursuant to s. 393.067.

5019 (b) Each client has the right to the possession and use of
 5020 his or her own clothing and personal effects, except in those
 5021 specific instances where the use of some of these items as
 5022 reinforcers is essential for training the client as part of an
 5023 appropriately approved behavioral program. The chief
 5024 administrator of the facility may take temporary custody of such
 5025 effects when it is essential to do so for medical or safety
 5026 reasons. Custody of such personal effects shall be promptly
 5027 recorded in the client's record, and a receipt for such effects

5028 shall be immediately given to the client, if competent, or the
5029 client's parent or legal guardian.

5030 1. All money belonging to a client held by the agency
5031 ~~department~~ shall be held in compliance with s. 402.17(2).

5032 2. All interest on money received and held for the
5033 personal use and benefit of a client shall be the property of
5034 that client and shall not accrue to the general welfare of all
5035 clients or be used to defray the cost of residential care.
5036 Interest so accrued shall be used or conserved for the personal
5037 use or benefit of the individual client as provided in s.
5038 402.17(2).

5039 3. Upon the discharge or death of a client, a final
5040 accounting shall be made of all personal effects and money
5041 belonging to the client held by the agency ~~department~~. All such
5042 personal effects and money, including interest, shall be
5043 promptly turned over to the client or his or her heirs.

5044 (g) No client shall be subjected to a treatment program to
5045 eliminate bizarre or unusual behaviors without first being
5046 examined by a physician who in his or her best judgment
5047 determines that such behaviors are not organically caused.

5048 1. Treatment programs involving the use of noxious or
5049 painful stimuli shall be prohibited.

5050 2. All alleged violations of this paragraph shall be
5051 reported immediately to the chief administrative officer of the
5052 facility or the district administrator, the agency ~~department~~
5053 head, and the Florida local advocacy council. A thorough
5054 investigation of each incident shall be conducted and a written
5055 report of the finding and results of such investigation shall be

5056 submitted to the chief administrative officer of the facility or
 5057 the district administrator and to the agency ~~department~~ head
 5058 within 24 hours of the occurrence or discovery of the incident.

5059 3. The agency ~~department~~ shall adopt ~~promulgate~~ by rule a
 5060 system for the oversight of behavioral programs. Such system
 5061 shall establish guidelines and procedures governing the design,
 5062 approval, implementation, and monitoring of all behavioral
 5063 programs involving clients. The system shall ensure statewide
 5064 and local review by committees of professionals certified as
 5065 behavior analysts pursuant to s. 393.17. No behavioral program
 5066 shall be implemented unless reviewed according to the rules
 5067 established by the agency ~~department~~ under this section.

5068 Nothing stated in this section shall prohibit the review of
 5069 programs by the Florida statewide or local advocacy councils.

5070 (i) Clients shall have the right to be free from
 5071 unnecessary physical, chemical, or mechanical restraint.
 5072 Restraints shall be employed only in emergencies or to protect
 5073 the client from imminent injury to himself or herself or others.
 5074 Restraints shall not be employed as punishment, for the
 5075 convenience of staff, or as a substitute for a habilitative
 5076 plan. Restraints shall impose the least possible restrictions
 5077 consistent with their purpose and shall be removed when the
 5078 emergency ends. Restraints shall not cause physical injury to
 5079 the client and shall be designed to allow the greatest possible
 5080 comfort.

5081 1. Mechanical supports used in normative situations to
 5082 achieve proper body position and balance shall not be considered
 5083 restraints, but shall be prescriptively designed and applied

5084 | under the supervision of a qualified professional with concern
 5085 | for principles of good body alignment, circulation, and
 5086 | allowance for change of position.

5087 | 2. Totally enclosed cribs and barred enclosures shall be
 5088 | considered restraints.

5089 | 3. Daily reports on the employment of physical, chemical,
 5090 | or mechanical restraints by those specialists authorized in the
 5091 | use of such restraints shall be made to the appropriate chief
 5092 | administrator of the facility, and a monthly summary of such
 5093 | reports shall be relayed to the district administrator and the
 5094 | Florida local advocacy council. The reports shall summarize all
 5095 | such cases of restraints, the type used, the duration of usage,
 5096 | and the reasons therefor. Districts shall submit districtwide
 5097 | quarterly reports of these summaries to the state Developmental
 5098 | Disabilities Program Office.

5099 | 4. The agency ~~department~~ shall post a copy of the rules
 5100 | adopted ~~promulgated~~ under this section in each living unit of
 5101 | residential facilities. A copy of the rules adopted ~~promulgated~~
 5102 | under this section shall be given to all staff members of
 5103 | licensed facilities and made a part of all preservice and
 5104 | inservice training programs.

5105 | (j)1. Each client shall have a central record. The record
 5106 | shall include data pertaining to admission and such other
 5107 | information as may be required under rules of the agency
 5108 | ~~department~~.

5109 | 2. Unless waived by the client, if competent, or the
 5110 | client's parent or legal guardian if the client is incompetent,
 5111 | the client's central record shall be confidential and exempt

5112 | from the provisions of s. 119.07(1), and no part of it shall be
5113 | released except:

5114 | a. The record may be released to physicians, attorneys,
5115 | and government agencies having need of the record to aid the
5116 | client, as designated by the client, if competent, or the
5117 | client's parent or legal guardian, if the client is incompetent.

5118 | b. The record shall be produced in response to a subpoena
5119 | or released to persons authorized by order of court, excluding
5120 | matters privileged by other provisions of law.

5121 | c. The record or any part thereof may be disclosed to a
5122 | qualified researcher, a staff member of the facility, or an
5123 | employee of the agency ~~department~~ when the administrator of the
5124 | facility or the director ~~secretary~~ of the agency ~~department~~
5125 | deems it necessary for the treatment of the client, maintenance
5126 | of adequate records, compilation of treatment data, or
5127 | evaluation of programs.

5128 | d. Information from the records may be used for
5129 | statistical and research purposes if the information is
5130 | abstracted in such a way to protect the identity of individuals.

5131 | 3. All central records for each client in residential
5132 | facilities shall be kept on uniform forms distributed by the
5133 | agency ~~department~~. The central record shall accurately
5134 | summarize each client's history and present condition.

5135 | 4. The client, if competent, or the client's parent or
5136 | legal guardian if the client is incompetent, shall be supplied
5137 | with a copy of the client's central record upon request.

5138 | (6) NOTICE OF RIGHTS.--Each person with developmental
5139 | disabilities, if competent, or parent or legal guardian of such

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5140 | person if the person is incompetent, shall promptly receive from
 5141 | the agency ~~Department of Children and Family Services~~ or the
 5142 | Department of Education a written copy of this act. Each person
 5143 | with developmental disabilities able to comprehend shall be
 5144 | promptly informed, in the language or other mode of
 5145 | communication which such person understands, of the above legal
 5146 | rights of persons with developmental disabilities.

5147 | Section 81. Section 393.17, Florida Statutes, is amended
 5148 | to read:

5149 | 393.17 Behavioral programs; certification of behavior
 5150 | analysts; ~~fees.~~ --The agency may recognize the certification of
 5151 | behavior analysts awarded by a nonprofit corporation whose
 5152 | mission is to meet professional credentialing needs identified
 5153 | by behavior analysts, state governments, and consumers of
 5154 | behavior analysis services and whose work has the support of the
 5155 | Association for Behavior Analysis International. ~~The department~~
 5156 | ~~shall by rule implement a certification program to ensure that~~
 5157 | ~~qualified persons oversee the design and implementation of~~
 5158 | ~~behavioral programs for persons who are developmentally~~
 5159 | ~~disabled. Certification and recertification minimum standards~~
 5160 | ~~must comply with departmental rules and must include, for~~
 5161 | ~~initial certification, examination of competencies in applying~~
 5162 | ~~behavior analysis with persons who are developmentally disabled~~
 5163 | ~~within established competency clusters. These competency~~
 5164 | ~~clusters shall include, but not be limited to, behavioral~~
 5165 | ~~assessments, observation and recording, behavioral program~~
 5166 | ~~development and monitoring, and other areas as determined by~~
 5167 | ~~professional practitioners of behavior analysis. Fees shall be~~

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5168 ~~charged for certification not to exceed the cost of development~~
 5169 ~~and administration of the examination and periodic renewal of~~
 5170 ~~certification. The department shall establish by rule the~~
 5171 ~~procedures for certification and certification renewal.~~

5172 Section 82. Section 393.22, Florida Statutes, is amended
 5173 to read:

5174 393.22 ~~Transfer of appropriations; barriers to services;~~
 5175 Financial commitment to community services programs.--

5176 ~~(1) No funds appropriated for developmental services~~
 5177 ~~programs shall be transferred pursuant to s. 216.292, unless~~
 5178 ~~there is a finding by the secretary that treatment programs for~~
 5179 ~~developmental disabilities will not be adversely affected by the~~
 5180 ~~transfer.~~

5181 ~~(2) Development of programs for other disabilities shall~~
 5182 ~~not effectuate a reduction or dilution of the ongoing financial~~
 5183 ~~commitment of the state through appropriations for programs and~~
 5184 ~~services for persons with mental retardation, cerebral palsy,~~
 5185 ~~autism, or spina bifida.~~

5186 ~~(3) In order to The Department of Children and Family~~
 5187 ~~Services and the Agency for Health Care Administration jointly~~
 5188 ~~shall ensure that whenever a number of persons move from an~~
 5189 ~~institution serving persons with developmental disabilities~~
 5190 ~~which is sufficient to allow an entire residential unit within~~
 5191 ~~that institution to be closed, no less than 80 percent of the~~
 5192 ~~direct costs of providing services to persons who had resided in~~
 5193 ~~that unit shall be reallocated for community services.~~

5194 Section 83. Section 393.502, Florida Statutes, is amended
 5195 to read:

5196 | 393.502 Family care councils.--

5197 | (1) CREATION.--There shall be established and located

5198 | within each service area of the agency ~~district of the~~

5199 | ~~department~~ a ~~district~~ family care council.

5200 | (2) MEMBERSHIP.--

5201 | (a) Each local ~~district~~ family care council shall consist

5202 | of at least 10 and no more than 15 members recommended by a

5203 | majority vote of the local ~~district~~ family care council and

5204 | appointed by the Governor.

5205 | (b) At least three of the members of the council must be

5206 | consumers. One such member shall be a consumer who received

5207 | ~~developmental~~ services within the 4 years prior to the date of

5208 | recommendation, or the legal guardian of such a consumer. The

5209 | remainder of the council members shall be parents, guardians, or

5210 | siblings of persons with developmental disabilities who qualify

5211 | for ~~developmental~~ services pursuant to this chapter.

5212 | (c) A person who is currently serving on another board or

5213 | council of the agency ~~department~~ may not be appointed to a local

5214 | ~~district~~ family care council.

5215 | (d) Employees of the agency ~~department~~ are not eligible to

5216 | serve on a local ~~district~~ family care council.

5217 | (e) Persons related by consanguinity or affinity within

5218 | the third degree shall not serve on the same local ~~district~~

5219 | family care council at the same time.

5220 | (f) A chair for the council shall be chosen by the council

5221 | members to serve for 1 year. A person may serve no more than

5222 | four 1-year terms as chair.

5223 | (3) TERMS; VACANCIES.--

5224 (a) Council members shall be appointed for a 3-year term,
5225 except as provided in subsection (8), and may be reappointed to
5226 one additional term.

5227 (b) A member who has served two consecutive terms shall
5228 not be eligible to serve again until 12 months have elapsed
5229 since ending his or her service on the local ~~district~~ council.

5230 (c) Upon expiration of a term or in the case of any other
5231 vacancy, the local ~~district~~ council shall, by majority vote,
5232 recommend to the Governor for appointment a person for each
5233 vacancy. ~~If the Governor does not act on the council's~~
5234 ~~recommendations within 45 days after receiving them, the persons~~
5235 ~~recommended shall be considered to be appointed.~~

5236 (4) COMMITTEE APPOINTMENTS.--The chair of the local
5237 ~~district~~ family care council may appoint persons to serve on
5238 council committees. Such persons may include former members of
5239 the council and persons not eligible to serve on the council.

5240 (5) TRAINING.--

5241 (a) The agency ~~department~~, in consultation with the local
5242 ~~district~~ councils, shall establish a training program for local
5243 ~~district~~ family care council members. Each local area ~~district~~
5244 shall provide the training program when new persons are
5245 appointed to the local ~~district~~ council and at other times as
5246 the secretary deems necessary.

5247 (b) The training shall assist the council members to
5248 understand the laws, rules, and policies applicable to their
5249 duties and responsibilities.

5250 (c) All persons appointed to a local ~~district~~ council must
5251 complete this training within 90 days after their appointment. A

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5252 person who fails to meet this requirement shall be considered to
5253 have resigned from the council.

5254 (6) MEETINGS.--Council members shall serve on a voluntary
5255 basis without payment for their services but shall be reimbursed
5256 for per diem and travel expenses as provided for in s. 112.061.
5257 The council shall meet at least six times per year.

5258 (7) PURPOSE.--The purpose of the local ~~district~~ family
5259 care councils shall be to advise the agency ~~department~~ and its
5260 ~~district advisory boards~~, to develop a plan for the delivery of
5261 ~~developmental services~~ family support services within the local
5262 area ~~district~~, and to monitor the implementation and
5263 effectiveness of services and support provided under the plan.
5264 The primary functions of the local ~~district~~ family care councils
5265 shall be to:

5266 (a) Assist in providing information and outreach to
5267 families.

5268 (b) Review the effectiveness of service ~~developmental~~
5269 ~~services~~ programs and make recommendations with respect to
5270 program implementation.

5271 (c) Advise the agency ~~district developmental services~~
5272 ~~administrators~~ with respect to policy issues relevant to the
5273 community and family support system in the local area ~~district~~.

5274 (d) Meet and share information with other local ~~district~~
5275 family care councils.

5276 (8) NEW COUNCILS.--When a local ~~district~~ family care
5277 council is established for the first time in a local area
5278 ~~district~~, the Governor shall appoint the first four council
5279 members, who shall serve 3-year terms. These members shall

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5280 submit to the Governor, within 90 days after their appointment,
 5281 recommendations for at least six additional members, selected by
 5282 majority vote. ~~If the Governor does not act on the~~
 5283 ~~recommendations within 45 days after receiving them, the persons~~
 5284 ~~recommended shall be considered to be appointed. Those members~~
 5285 ~~recommended for appointment by the Governor shall serve for 2~~
 5286 ~~years.~~

5287 (9) FUNDING; FINANCIAL REVIEW.--The local ~~district~~ family
 5288 care council may apply for, receive, and accept grants, gifts,
 5289 donations, bequests, and other payments from any public or
 5290 private entity or person. Each local ~~district~~ council ~~is shall~~
 5291 ~~be~~ subject to an annual financial review by ~~district~~ staff
 5292 assigned by the agency ~~district~~ administrator. Each local
 5293 ~~district~~ council shall exercise care and prudence in the
 5294 expenditure of funds. The local ~~district~~ family care councils
 5295 shall comply with state expenditure requirements.

5296 Section 84. Section 408.301, Florida Statutes, is amended
 5297 to read:

5298 408.301 Legislative findings.--The Legislature has found
 5299 that access to quality, affordable, health care for all
 5300 Floridians is an important goal for the state. The Legislature
 5301 recognizes that there are Floridians with special health care
 5302 and social needs which require particular attention. The people
 5303 served by the Department of Children and Family Services, the
 5304 Agency for Persons with Disabilities, ~~and~~ the Department of
 5305 Health, and the Department of Elderly Affairs are examples of
 5306 citizens with special needs. The Legislature further recognizes
 5307 that the Medicaid program is an intricate part of the service

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5308 | delivery system for the special needs citizens ~~served by or~~
 5309 | ~~through the Department of Children and Family Services and the~~
 5310 | ~~Department of Health.~~ However, the Agency for Health Care
 5311 | Administration is not a service provider and does not develop or
 5312 | direct programs for the special needs citizens ~~served by or~~
 5313 | ~~through the Department of Children and Family Services and the~~
 5314 | ~~Department of Health.~~ Therefore, it is the intent of the
 5315 | Legislature that the Agency for Health Care Administration work
 5316 | closely with the Department of Children and Family Services, the
 5317 | Agency for Persons with Disabilities, ~~and~~ the Department of
 5318 | Health, and the Department of Elderly Affairs in developing
 5319 | plans for assuring access to all Floridians in order to assure
 5320 | that the needs of special citizens are met.

5321 | Section 85. Section 408.302, Florida Statutes, is amended
 5322 | to read:

5323 | 408.302 Interagency agreement.--

5324 | (1) The Agency for Health Care Administration shall enter
 5325 | into an interagency agreement with the Department of Children
 5326 | and Family Services, the Agency for Persons with Disabilities,
 5327 | ~~and~~ the Department of Health, and the Department of Elderly
 5328 | Affairs to assure coordination and cooperation in serving
 5329 | special needs citizens. The agreement shall include the
 5330 | requirement that the secretaries or directors ~~secretary~~ of the
 5331 | Department of Children and Family Services, the Agency for
 5332 | Persons with Disabilities, ~~and the secretary of~~ the Department
 5333 | of Health, and the Department of Elderly Affairs approve, prior
 5334 | to adoption, any rule developed by the Agency for Health Care
 5335 | Administration where such rule has a direct impact on the

5336 mission of the respective state agencies ~~Department of Children~~
 5337 ~~and Family Services and the Department of Health~~, their
 5338 programs, or their budgets.

5339 (2) For rules which indirectly impact on the mission of
 5340 the Department of Children and Family Services, the Agency for
 5341 Persons with Disabilities, ~~and~~ the Department of Health, and the
 5342 Department of Elderly Affairs, their programs, or their budgets,
 5343 the concurrence of the respective secretaries or directors
 5344 ~~secretary of the Department of Children and Family Services and~~
 5345 ~~the secretary of the Department of Health~~ on the rule is
 5346 required.

5347 (3) For all other rules developed by the Agency for Health
 5348 Care Administration, coordination with the Department of
 5349 Children and Family Services, the Agency for Persons with
 5350 Disabilities, ~~and~~ the Department of Health, and the Department
 5351 of Elderly Affairs is encouraged.

5352 (4) The interagency agreement shall also include any other
 5353 provisions necessary to ensure a continued cooperative working
 5354 relationship between the Agency for Health Care Administration
 5355 and the Department of Children and Family Services, the Agency
 5356 for Persons with Disabilities, ~~and~~ the Department of Health, and
 5357 the Department of Elderly Affairs as each strives to meet the
 5358 needs of the citizens of Florida.

5359 Section 86. Subsection (13) of section 409.906, Florida
 5360 Statutes, is amended to read:

5361 409.906 Optional Medicaid services.--Subject to specific
 5362 appropriations, the agency may make payments for services which
 5363 are optional to the state under Title XIX of the Social Security

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5364 Act and are furnished by Medicaid providers to recipients who
 5365 are determined to be eligible on the dates on which the services
 5366 were provided. Any optional service that is provided shall be
 5367 provided only when medically necessary and in accordance with
 5368 state and federal law. Optional services rendered by providers
 5369 in mobile units to Medicaid recipients may be restricted or
 5370 prohibited by the agency. Nothing in this section shall be
 5371 construed to prevent or limit the agency from adjusting fees,
 5372 reimbursement rates, lengths of stay, number of visits, or
 5373 number of services, or making any other adjustments necessary to
 5374 comply with the availability of moneys and any limitations or
 5375 directions provided for in the General Appropriations Act or
 5376 chapter 216. If necessary to safeguard the state's systems of
 5377 providing services to elderly and disabled persons and subject
 5378 to the notice and review provisions of s. 216.177, the Governor
 5379 may direct the Agency for Health Care Administration to amend
 5380 the Medicaid state plan to delete the optional Medicaid service
 5381 known as "Intermediate Care Facilities for the Developmentally
 5382 Disabled." Optional services may include:

5383 (13) HOME AND COMMUNITY-BASED SERVICES.--The agency may
 5384 pay for home-based or community-based services that are rendered
 5385 to a recipient in accordance with a federally approved waiver
 5386 program. The agency may limit or eliminate coverage for certain
 5387 ~~Project AIDS Care Waiver~~ services, preauthorize high-cost or
 5388 highly utilized services, or make any other adjustments
 5389 necessary to comply with any limitations or directions provided
 5390 for in the General Appropriations Act.

5391 Section 87. Sections 393.14, 393.165, 393.166, and
 5392 393.505, Florida Statutes, are repealed.

5393 Section 88. (1) Effective October 1, 2004, the
 5394 developmental disabilities program and the developmental
 5395 services institutions in the Department of Children and Family
 5396 Services shall be transferred to the Agency for Persons with
 5397 Disabilities by a type two transfer pursuant to s. 20.06,
 5398 Florida Statutes. Prior to that date:

5399 (a) The Agency for Persons with Disabilities and the
 5400 Department of Children and Family Services, in consultation with
 5401 the Department of Management Services, shall determine the
 5402 number of positions and resources within the department
 5403 dedicated to the developmental disabilities program which shall
 5404 be transferred to the agency and will develop an agreement that
 5405 delineates who within the Department of Children and Family
 5406 Services will provide administrative support to the agency.

5407 (b) The Director of the Agency for Persons with
 5408 Disabilities, in consultation with the Secretaries of the
 5409 Department of Children and Family Services and the Agency for
 5410 Health Care Administration or their designees, shall prepare a
 5411 transition plan that must address, at a minimum, building
 5412 leases, information support systems, cash ownership and
 5413 transfer, administrative support functions, inventory and
 5414 transfers of equipment and structures, expenditure transfers,
 5415 budget authority and positions, and certifications forward. This
 5416 plan shall be submitted by September 1, 2004, to the Executive
 5417 Office of the Governor, the President of the Senate, and the
 5418 Speaker of the House of Representatives.

5419 (c) The Agency for Persons with Disabilities and the
 5420 Department of Children and Family Services shall work with the
 5421 Agency for Health Care Administration to develop a plan that
 5422 ensures that all of the necessary electronic and paper-based
 5423 data of the Developmental Disabilities program is accessible to
 5424 the Medicaid program and that all electronic records will be
 5425 migrated to a new data system that is compatible with the
 5426 Florida Medicaid Management Information System.

5427 (d) The Agency for Persons with Disabilities and the
 5428 Agency for Health Care Administration shall develop a plan for
 5429 the orderly relocation of the noncentral-office staff of the
 5430 Agency for Persons with Disabilities to the area offices of the
 5431 Agency for Health Care Administration. Such plan shall include a
 5432 schedule that takes into consideration the availability of
 5433 space, the expiration of current leases, and the initiation of
 5434 new leases that can accommodate the relocated staff, as well as
 5435 appropriate reimbursement for collocation costs, including
 5436 office space and other operating expenses.

5437 (2) Effective October 1, 2004, the agency shall enter into
 5438 an interagency agreement with the Department of Children and
 5439 Family Services for the provision of the necessary day-to-day
 5440 administrative and operational needs of the agency, including,
 5441 but not limited to, personnel, purchasing, information
 5442 technology support, legal support, and other related services.
 5443 This interagency agreement shall continue until the agency no
 5444 longer requires the provision of services through such
 5445 agreement.

5446 (3) This act does not affect the validity of any judicial
 5447 or administrative proceeding pending on October 30, 2004, and
 5448 the Agency for Persons with Disabilities is substituted as a
 5449 real party in interest with respect to any proceeding pending on
 5450 that date which involves the developmental services programs of
 5451 the Department of Children and Family Services.

5452 Section 89. The Office of Program Policy Analysis and
 5453 Government Accountability shall identify and evaluate statewide
 5454 entities receiving state funding for the purpose of addressing
 5455 the interests of, but not directly providing services for,
 5456 persons with disabilities.

5457 (1) The purpose of the analysis shall be to provide
 5458 information with respect to:

5459 (a) The extent to which activities of these entities are
 5460 coordinated;

5461 (b) The similarities and differences in the organizational
 5462 missions of these entities; and

5463 (c) The amount of state funds provided to these entities
 5464 for the purpose of addressing the interests of persons with
 5465 disabilities, the uses of these funds, and whether they
 5466 duplicate the efforts of other private or federally funded
 5467 entities.

5468 (2) The report shall be completed and provided to the
 5469 Governor and Legislature by December 2005.

5470 Section 90. Subsection (1) of section 92.53, Florida
 5471 Statutes, is amended to read:

5472 92.53 Videotaping of testimony of victim or witness under
 5473 age 16 or person with mental retardation.--

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5474 (1) On motion and hearing in camera and a finding that
 5475 there is a substantial likelihood that a victim or witness who
 5476 is under the age of 16 or who is a person with mental
 5477 retardation as defined in s. 393.063~~(42)~~ would suffer at least
 5478 moderate emotional or mental harm due to the presence of the
 5479 defendant if the child or person with mental retardation is
 5480 required to testify in open court, or that such victim or
 5481 witness is otherwise unavailable as defined in s. 90.804(1), the
 5482 trial court may order the videotaping of the testimony of the
 5483 victim or witness in a case, whether civil or criminal in
 5484 nature, in which videotaped testimony is to be utilized at trial
 5485 in lieu of trial testimony in open court.

5486 Section 91. Subsections (1), (2), and (3), paragraph (i)
 5487 of subsection (4), and subsections (5), (8), (9), (10), (11),
 5488 (12), (13), (14), and (17) of 393.067, Florida Statutes, are
 5489 amended to read:

5490 393.067 Licensure of residential facilities and
 5491 comprehensive transitional education programs.--

5492 (1) The agency ~~department~~ shall provide through its
 5493 licensing authority a system of provider qualifications,
 5494 standards, training criteria for meeting standards, and
 5495 monitoring for residential facilities and comprehensive
 5496 transitional education programs.

5497 (2) The agency ~~department~~ shall conduct inspections and
 5498 reviews of residential facilities and comprehensive transitional
 5499 education programs annually.

5500 (3) An application for a license for a residential
 5501 facility or a comprehensive transitional education program shall

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5502 | be made to the agency ~~Department of Children and Family Services~~
 5503 | on a form furnished by it and shall be accompanied by the
 5504 | appropriate license fee.

5505 | (4) The application shall be under oath and shall contain
 5506 | the following:

5507 | (i) Such other information as the agency ~~department~~
 5508 | determines is necessary to carry out the provisions of this
 5509 | chapter.

5510 | (5) The applicant shall submit evidence which establishes
 5511 | the good moral character of the manager or supervisor of the
 5512 | facility or program and the direct service providers in the
 5513 | facility or program and its component centers or units. A
 5514 | license may be issued if all the screening materials have been
 5515 | timely submitted; however, a license may not be issued or
 5516 | renewed if any of the direct service providers have failed the
 5517 | screening required by s. 393.0655.

5518 | (a)1. A licensed residential facility or comprehensive
 5519 | transitional education program which applies for renewal of its
 5520 | license shall submit to the agency ~~department~~ a list of direct
 5521 | service providers who have worked on a continuous basis at the
 5522 | applicant facility or program since submitting fingerprints to
 5523 | the agency or the Department of Children and Family Services,
 5524 | identifying those direct service providers for whom a written
 5525 | assurance of compliance was provided by the agency or department
 5526 | and identifying those direct service providers who have recently
 5527 | begun working at the facility or program and are awaiting the
 5528 | results of the required fingerprint check along with the date of
 5529 | the submission of those fingerprints for processing. The agency

5530 ~~department~~ shall by rule determine the frequency of requests to
 5531 the Department of Law Enforcement to run state criminal records
 5532 checks for such direct service providers except for those direct
 5533 service providers awaiting the results of initial fingerprint
 5534 checks for employment at the applicant facility or program. The
 5535 agency ~~department~~ shall review the records of the direct service
 5536 providers at the applicant facility or program with respect to
 5537 the crimes specified in s. 393.0655 and shall notify the
 5538 facility or program of its findings. When disposition
 5539 information is missing on a criminal record, it is ~~shall be~~ the
 5540 responsibility of the person being screened, upon request of the
 5541 agency ~~department~~, to obtain and supply within 30 days the
 5542 missing disposition information to the agency ~~department~~.
 5543 Failure to supply the missing information within 30 days or to
 5544 show reasonable efforts to obtain such information shall result
 5545 in automatic disqualification.

5546 2. The applicant shall sign an affidavit under penalty of
 5547 perjury stating that all new direct service providers have been
 5548 fingerprinted and that the facility's or program's remaining
 5549 direct service providers have worked at the applicant facility
 5550 or program on a continuous basis since being initially screened
 5551 at that facility or program or have a written assurance of
 5552 compliance from the agency or department.

5553 (b) As a prerequisite for issuance of the initial license
 5554 to a residential facility or comprehensive transitional
 5555 education program:

5556 1. The applicant shall submit to the agency ~~department~~ a
 5557 complete set of fingerprints, taken by an authorized law

5558 enforcement agency or an employee of the agency ~~department~~ who
 5559 is trained to take fingerprints, for the manager, supervisor, or
 5560 direct service providers of the facility or program;

5561 2. The agency ~~department~~ shall submit the fingerprints to
 5562 the Department of Law Enforcement for state processing and for
 5563 federal processing by the Federal Bureau of Investigation; and

5564 3. The agency ~~department~~ shall review the record of the
 5565 manager or supervisor with respect to the crimes specified in s.
 5566 393.0655(1) and shall notify the applicant of its findings. When
 5567 disposition information is missing on a criminal record, it is
 5568 ~~shall be~~ the responsibility of the manager or supervisor, upon
 5569 request of the agency ~~department~~, to obtain and supply within 30
 5570 days the missing disposition information to the agency
 5571 ~~department~~. Failure to supply the missing information within 30
 5572 days or to show reasonable efforts to obtain such information
 5573 shall result in automatic disqualification.

5574 (c) The agency ~~department~~ or a residential facility or
 5575 comprehensive transitional education program may not use the
 5576 criminal records or juvenile records of a person obtained under
 5577 this subsection for any purpose other than determining if that
 5578 person meets the minimum standards for good moral character for
 5579 a manager or supervisor of, or direct service provider in, such
 5580 a facility or program. The criminal records or juvenile records
 5581 obtained by the agency ~~department~~ or a residential facility or
 5582 comprehensive transitional education program for determining the
 5583 moral character of a manager, supervisor, or direct service
 5584 provider are exempt from s. 119.07(1).

5585 (8) The agency ~~department~~ shall adopt ~~promulgate~~ rules
 5586 establishing minimum standards for licensure of residential
 5587 facilities and comprehensive transitional education programs,
 5588 including rules requiring facilities and programs to train staff
 5589 to detect and prevent sexual abuse of residents and clients,
 5590 minimum standards of quality and adequacy of care, and uniform
 5591 firesafety standards established by the State Fire Marshal which
 5592 are appropriate to the size of the facility or of the component
 5593 centers or units of the program.

5594 (9) The agency ~~department~~ and the Agency for Health Care
 5595 Administration, after consultation with the Department of
 5596 Community Affairs, shall adopt rules for residential facilities
 5597 under the respective regulatory jurisdiction of each
 5598 establishing minimum standards for the preparation and annual
 5599 update of a comprehensive emergency management plan. At a
 5600 minimum, the rules must provide for plan components that address
 5601 emergency evacuation transportation; adequate sheltering
 5602 arrangements; postdisaster activities, including emergency
 5603 power, food, and water; postdisaster transportation; supplies;
 5604 staffing; emergency equipment; individual identification of
 5605 residents and transfer of records; and responding to family
 5606 inquiries. The comprehensive emergency management plan for all
 5607 comprehensive transitional education programs and for homes
 5608 serving individuals who have complex medical conditions is
 5609 subject to review and approval by the local emergency management
 5610 agency. During its review, the local emergency management agency
 5611 shall ensure that the following agencies, at a minimum, are
 5612 given the opportunity to review the plan: the Agency for Health

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5613 Care Administration, the Agency for Persons with Disabilities
 5614 ~~Department of Children and Family Services~~, and the Department
 5615 of Community Affairs. Also, appropriate volunteer organizations
 5616 must be given the opportunity to review the plan. The local
 5617 emergency management agency shall complete its review within 60
 5618 days and either approve the plan or advise the facility of
 5619 necessary revisions.

5620 (10) The agency ~~department~~ may conduct unannounced
 5621 inspections to determine compliance by residential facilities
 5622 and comprehensive transitional education programs with the
 5623 applicable provisions of this chapter and the rules adopted
 5624 pursuant hereto, including the rules adopted for training staff
 5625 of a facility or a program to detect and prevent sexual abuse of
 5626 residents and clients. The facility or program shall make copies
 5627 of inspection reports available to the public upon request.

5628 (11) An alternative living center and an independent
 5629 living education center, as defined in s. 393.063~~(8)~~, shall be
 5630 subject to the provisions of s. 419.001, except that such
 5631 centers shall be exempt from the 1,000-foot-radius requirement
 5632 of s. 419.001(2) if:

5633 (a) Such centers are located on a site zoned in a manner
 5634 so that all the component centers of a comprehensive transition
 5635 education center may be located thereon; or

5636 (b) There are no more than three such centers within said
 5637 radius of 1,000 feet.

5638 (12) Each residential facility or comprehensive
 5639 transitional education program licensed by the agency ~~department~~
 5640 shall forward annually to the agency ~~department~~ a true and

5641 accurate sworn statement of its costs of providing care to
5642 clients funded by the agency ~~department~~.

5643 (13) The agency ~~department~~ may audit the records of any
5644 residential facility or comprehensive transitional education
5645 program that ~~which~~ it has reason to believe may not be in full
5646 compliance with the provisions of this section; provided that,
5647 any financial audit of such facility or program shall be limited
5648 to the records of clients funded by the agency ~~department~~.

5649 (14) The agency ~~department~~ shall establish, for the
5650 purpose of control of licensure costs, a uniform management
5651 information system and a uniform reporting system with uniform
5652 definitions and reporting categories.

5653 (17) The agency ~~department~~ shall not be required to
5654 contract with new facilities licensed after October 1, 1989,
5655 pursuant to this chapter. Pursuant to chapter 287, the agency
5656 ~~department~~ shall continue to contract within available resources
5657 for residential services with facilities licensed prior to
5658 October 1, 1989, if such facilities comply with the provisions
5659 of this chapter and all other applicable laws and regulations.

5660 Section 92. Subsection (9) of section 397.405, Florida
5661 Statutes, is amended to read:

5662 397.405 Exemptions from licensure.--The following are
5663 exempt from the licensing provisions of this chapter:

5664 (9) Facilities licensed under s. 393.063~~(8)~~ that, in
5665 addition to providing services to persons who are
5666 developmentally disabled as defined therein, also provide
5667 services to persons developmentally at risk as a consequence of

5668 exposure to alcohol or other legal or illegal drugs while in
5669 utero.

5670
5671 The exemptions from licensure in this section do not apply to
5672 any service provider that receives an appropriation, grant, or
5673 contract from the state to operate as a service provider as
5674 defined in this chapter or to any substance abuse program
5675 regulated pursuant to s. 397.406. Furthermore, this chapter may
5676 not be construed to limit the practice of a physician licensed
5677 under chapter 458 or chapter 459, a psychologist licensed under
5678 chapter 490, or a psychotherapist licensed under chapter 491 who
5679 provides substance abuse treatment, so long as the physician,
5680 psychologist, or psychotherapist does not represent to the
5681 public that he or she is a licensed service provider and does
5682 not provide services to clients pursuant to part V of this
5683 chapter. Failure to comply with any requirement necessary to
5684 maintain an exempt status under this section is a misdemeanor of
5685 the first degree, punishable as provided in s. 775.082 or s.
5686 775.083.

5687 Section 93. Paragraph (b) of subsection (5) of section
5688 400.464, Florida Statutes, is amended to read:

5689 400.464 Home health agencies to be licensed; expiration of
5690 license; exemptions; unlawful acts; penalties.--

5691 (5) The following are exempt from the licensure
5692 requirements of this part:

5693 (b) Home health services provided by a state agency,
5694 either directly or through a contractor with:

5695 1. The Department of Elderly Affairs.

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5696 | 2. The Department of Health, a community health center, or
5697 | a rural health network that furnishes home visits for the
5698 | purpose of providing environmental assessments, case management,
5699 | health education, personal care services, family planning, or
5700 | followup treatment, or for the purpose of monitoring and
5701 | tracking disease.

5702 | 3. Services provided to persons who have developmental
5703 | disabilities, as defined in s. 393.063~~(12)~~.

5704 | 4. Companion and sitter organizations that were registered
5705 | under s. 400.509(1) on January 1, 1999, and were authorized to
5706 | provide personal services under s. 393.063(33) under a
5707 | developmental services provider certificate on January 1, 1999,
5708 | may continue to provide such services to past, present, and
5709 | future clients of the organization who need such services,
5710 | notwithstanding the provisions of this act.

5711 | 5. The Department of Children and Family Services.

5712 | Section 94. Paragraph (d) of subsection (1) of section
5713 | 419.001, Florida Statutes, is amended to read:

5714 | 419.001 Site selection of community residential homes.--

5715 | (1) For the purposes of this section, the following
5716 | definitions shall apply:

5717 | (d) "Resident" means any of the following: a frail elder
5718 | as defined in s. 400.618; a physically disabled or handicapped
5719 | person as defined in s. 760.22(7)(a); a developmentally disabled
5720 | person as defined in s. 393.063~~(12)~~; a nondangerous mentally ill
5721 | person as defined in s. 394.455(18); or a child as defined in s.
5722 | 39.01(14), s. 984.03(9) or (12), or s. 985.03(8).

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5723 Section 95. Section 914.16, Florida Statutes, is amended
5724 to read:

5725 914.16 Child abuse and sexual abuse of victims under age
5726 16 or persons with mental retardation; limits on
5727 interviews.--The chief judge of each judicial circuit, after
5728 consultation with the state attorney and the public defender for
5729 the judicial circuit, the appropriate chief law enforcement
5730 officer, and any other person deemed appropriate by the chief
5731 judge, shall provide by order reasonable limits on the number of
5732 interviews that a victim of a violation of s. 794.011, s.
5733 800.04, or s. 827.03 who is under 16 years of age or a victim of
5734 a violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102
5735 who is a person with mental retardation as defined in s.
5736 393.063~~(42)~~ must submit to for law enforcement or discovery
5737 purposes. The order shall, to the extent possible, protect the
5738 victim from the psychological damage of repeated interrogations
5739 while preserving the rights of the public, the victim, and the
5740 person charged with the violation.

5741 Section 96. Subsection (2) of section 914.17, Florida
5742 Statutes, is amended to read:

5743 914.17 Appointment of advocate for victims or witnesses
5744 who are minors or persons with mental retardation.--

5745 (2) An advocate shall be appointed by the court to
5746 represent a person with mental retardation as defined in s.
5747 393.063~~(42)~~ in any criminal proceeding if the person with mental
5748 retardation is a victim of or witness to abuse or neglect, or if
5749 the person with mental retardation is a victim of a sexual
5750 offense or a witness to a sexual offense committed against a

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5751 minor or person with mental retardation. The court may appoint
5752 an advocate in any other criminal proceeding in which a person
5753 with mental retardation is involved as either a victim or a
5754 witness. The advocate shall have full access to all evidence and
5755 reports introduced during the proceedings, may interview
5756 witnesses, may make recommendations to the court, shall be
5757 noticed and have the right to appear on behalf of the person
5758 with mental retardation at all proceedings, and may request
5759 additional examinations by medical doctors, psychiatrists, or
5760 psychologists. It is the duty of the advocate to perform the
5761 following services:

5762 (a) To explain, in language understandable to the person
5763 with mental retardation, all legal proceedings in which the
5764 person shall be involved;

5765 (b) To act, as a friend of the court, to advise the judge,
5766 whenever appropriate, of the person with mental retardation's
5767 ability to understand and cooperate with any court proceedings;
5768 and

5769 (c) To assist the person with mental retardation and the
5770 person's family in coping with the emotional effects of the
5771 crime and subsequent criminal proceedings in which the person
5772 with mental retardation is involved.

5773 Section 97. Subsection (1) of section 918.16, Florida
5774 Statutes, is amended to read:

5775 918.16 Sex offenses; testimony of person under age 16 or
5776 person with mental retardation; testimony of victim; courtroom
5777 cleared; exceptions.--

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5778 (1) Except as provided in subsection (2), in the trial of
 5779 any case, civil or criminal, when any person under the age of 16
 5780 or any person with mental retardation as defined in s.
 5781 393.063~~(42)~~ is testifying concerning any sex offense, the court
 5782 shall clear the courtroom of all persons except parties to the
 5783 cause and their immediate families or guardians, attorneys and
 5784 their secretaries, officers of the court, jurors, newspaper
 5785 reporters or broadcasters, court reporters, and, at the request
 5786 of the victim, victim or witness advocates designated by the
 5787 state attorney's office.

5788 Section 98. Paragraph (a) of subsection (4) of section
 5789 943.0585, Florida Statutes, is amended to read:

5790 943.0585 Court-ordered expunction of criminal history
 5791 records.--The courts of this state have jurisdiction over their
 5792 own procedures, including the maintenance, expunction, and
 5793 correction of judicial records containing criminal history
 5794 information to the extent such procedures are not inconsistent
 5795 with the conditions, responsibilities, and duties established by
 5796 this section. Any court of competent jurisdiction may order a
 5797 criminal justice agency to expunge the criminal history record
 5798 of a minor or an adult who complies with the requirements of
 5799 this section. The court shall not order a criminal justice
 5800 agency to expunge a criminal history record until the person
 5801 seeking to expunge a criminal history record has applied for and
 5802 received a certificate of eligibility for expunction pursuant to
 5803 subsection (2). A criminal history record that relates to a
 5804 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
 5805 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.

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5806 | 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in
 5807 | s. 907.041 may not be expunged, without regard to whether
 5808 | adjudication was withheld, if the defendant was found guilty of
 5809 | or pled guilty or nolo contendere to the offense, or if the
 5810 | defendant, as a minor, was found to have committed, or pled
 5811 | guilty or nolo contendere to committing, the offense as a
 5812 | delinquent act. The court may only order expunction of a
 5813 | criminal history record pertaining to one arrest or one incident
 5814 | of alleged criminal activity, except as provided in this
 5815 | section. The court may, at its sole discretion, order the
 5816 | expunction of a criminal history record pertaining to more than
 5817 | one arrest if the additional arrests directly relate to the
 5818 | original arrest. If the court intends to order the expunction of
 5819 | records pertaining to such additional arrests, such intent must
 5820 | be specified in the order. A criminal justice agency may not
 5821 | expunge any record pertaining to such additional arrests if the
 5822 | order to expunge does not articulate the intention of the court
 5823 | to expunge a record pertaining to more than one arrest. This
 5824 | section does not prevent the court from ordering the expunction
 5825 | of only a portion of a criminal history record pertaining to one
 5826 | arrest or one incident of alleged criminal activity.
 5827 | Notwithstanding any law to the contrary, a criminal justice
 5828 | agency may comply with laws, court orders, and official requests
 5829 | of other jurisdictions relating to expunction, correction, or
 5830 | confidential handling of criminal history records or information
 5831 | derived therefrom. This section does not confer any right to the
 5832 | expunction of any criminal history record, and any request for

5833 expunction of a criminal history record may be denied at the
5834 sole discretion of the court.

5835 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
5836 criminal history record of a minor or an adult which is ordered
5837 expunged by a court of competent jurisdiction pursuant to this
5838 section must be physically destroyed or obliterated by any
5839 criminal justice agency having custody of such record; except
5840 that any criminal history record in the custody of the
5841 department must be retained in all cases. A criminal history
5842 record ordered expunged that is retained by the department is
5843 confidential and exempt from the provisions of s. 119.07(1) and
5844 s. 24(a), Art. I of the State Constitution and not available to
5845 any person or entity except upon order of a court of competent
5846 jurisdiction. A criminal justice agency may retain a notation
5847 indicating compliance with an order to expunge.

5848 (a) The person who is the subject of a criminal history
5849 record that is expunged under this section or under other
5850 provisions of law, including former s. 893.14, former s. 901.33,
5851 and former s. 943.058, may lawfully deny or fail to acknowledge
5852 the arrests covered by the expunged record, except when the
5853 subject of the record:

- 5854 1. Is a candidate for employment with a criminal justice
5855 agency;
- 5856 2. Is a defendant in a criminal prosecution;
- 5857 3. Concurrently or subsequently petitions for relief under
5858 this section or s. 943.059;
- 5859 4. Is a candidate for admission to The Florida Bar;

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5860 5. Is seeking to be employed or licensed by or to contract
5861 with the Department of Children and Family Services or the
5862 Department of Juvenile Justice or to be employed or used by such
5863 contractor or licensee in a sensitive position having direct
5864 contact with children, the developmentally disabled, the aged,
5865 or the elderly as provided in s. 110.1127(3), s. 393.063~~(15)~~, s.
5866 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
5867 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

5868 6. Is seeking to be employed or licensed by the Office of
5869 Teacher Education, Certification, Staff Development, and
5870 Professional Practices of the Department of Education, any
5871 district school board, or any local governmental entity that
5872 licenses child care facilities.

5873 Section 99. Paragraph (a) of subsection (4) of section
5874 943.059, Florida Statutes, is amended to read:

5875 943.059 Court-ordered sealing of criminal history
5876 records.--The courts of this state shall continue to have
5877 jurisdiction over their own procedures, including the
5878 maintenance, sealing, and correction of judicial records
5879 containing criminal history information to the extent such
5880 procedures are not inconsistent with the conditions,
5881 responsibilities, and duties established by this section. Any
5882 court of competent jurisdiction may order a criminal justice
5883 agency to seal the criminal history record of a minor or an
5884 adult who complies with the requirements of this section. The
5885 court shall not order a criminal justice agency to seal a
5886 criminal history record until the person seeking to seal a
5887 criminal history record has applied for and received a

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5888 certificate of eligibility for sealing pursuant to subsection
 5889 (2). A criminal history record that relates to a violation of s.
 5890 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
 5891 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
 5892 847.0145, s. 893.135, or a violation enumerated in s. 907.041
 5893 may not be sealed, without regard to whether adjudication was
 5894 withheld, if the defendant was found guilty of or pled guilty or
 5895 nolo contendere to the offense, or if the defendant, as a minor,
 5896 was found to have committed or pled guilty or nolo contendere to
 5897 committing the offense as a delinquent act. The court may only
 5898 order sealing of a criminal history record pertaining to one
 5899 arrest or one incident of alleged criminal activity, except as
 5900 provided in this section. The court may, at its sole discretion,
 5901 order the sealing of a criminal history record pertaining to
 5902 more than one arrest if the additional arrests directly relate
 5903 to the original arrest. If the court intends to order the
 5904 sealing of records pertaining to such additional arrests, such
 5905 intent must be specified in the order. A criminal justice agency
 5906 may not seal any record pertaining to such additional arrests if
 5907 the order to seal does not articulate the intention of the court
 5908 to seal records pertaining to more than one arrest. This section
 5909 does not prevent the court from ordering the sealing of only a
 5910 portion of a criminal history record pertaining to one arrest or
 5911 one incident of alleged criminal activity. Notwithstanding any
 5912 law to the contrary, a criminal justice agency may comply with
 5913 laws, court orders, and official requests of other jurisdictions
 5914 relating to sealing, correction, or confidential handling of
 5915 criminal history records or information derived therefrom. This

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5916 | section does not confer any right to the sealing of any criminal
5917 | history record, and any request for sealing a criminal history
5918 | record may be denied at the sole discretion of the court.

5919 | (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
5920 | history record of a minor or an adult which is ordered sealed by
5921 | a court of competent jurisdiction pursuant to this section is
5922 | confidential and exempt from the provisions of s. 119.07(1) and
5923 | s. 24(a), Art. I of the State Constitution and is available only
5924 | to the person who is the subject of the record, to the subject's
5925 | attorney, to criminal justice agencies for their respective
5926 | criminal justice purposes, or to those entities set forth in
5927 | subparagraphs (a)1., 4., 5., and 6. for their respective
5928 | licensing and employment purposes.

5929 | (a) The subject of a criminal history record sealed under
5930 | this section or under other provisions of law, including former
5931 | s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
5932 | deny or fail to acknowledge the arrests covered by the sealed
5933 | record, except when the subject of the record:

- 5934 | 1. Is a candidate for employment with a criminal justice
5935 | agency;
- 5936 | 2. Is a defendant in a criminal prosecution;
- 5937 | 3. Concurrently or subsequently petitions for relief under
5938 | this section or s. 943.0585;
- 5939 | 4. Is a candidate for admission to The Florida Bar;
- 5940 | 5. Is seeking to be employed or licensed by or to contract
5941 | with the Department of Children and Family Services or the
5942 | Department of Juvenile Justice or to be employed or used by such
5943 | contractor or licensee in a sensitive position having direct

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5944 | contact with children, the developmentally disabled, the aged,
5945 | or the elderly as provided in s. 110.1127(3), s. 393.063~~(15)~~, s.
5946 | 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
5947 | 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter
5948 | 400; or

5949 | 6. Is seeking to be employed or licensed by the Office of
5950 | Teacher Education, Certification, Staff Development, and
5951 | Professional Practices of the Department of Education, any
5952 | district school board, or any local governmental entity which
5953 | licenses child care facilities.

5954 | Section 100. Subsections (3) and (4) of section 393.0641,
5955 | Florida Statutes, are amended to read:

5956 | 393.0641 Program for the prevention and treatment of
5957 | severe self-injurious behavior.--

5958 | (3) The agency ~~department~~ may contract for the provision
5959 | of any portion or all of the services required by the program.

5960 | (4) The agency has ~~department shall have~~ the authority to
5961 | license this program and shall adopt ~~promulgate~~ rules to
5962 | implement the program.

5963 | Section 101. Section 393.065, Florida Statutes, is amended
5964 | to read:

5965 | 393.065 Application and eligibility determination.--

5966 | (1) Application for services shall be made in writing to
5967 | the agency ~~Department of Children and Family Services~~, in the
5968 | district in which the applicant resides. Employees of the
5969 | agency's ~~department's~~ developmental services program shall
5970 | review each applicant for eligibility within 45 days after the
5971 | date the application is signed for children under 6 years of age

5972 and within 60 days after the date the application is signed for
 5973 all other applicants. When necessary to definitively identify
 5974 individual conditions or needs, the agency ~~department~~ shall
 5975 provide a comprehensive assessment. Only individuals whose
 5976 domicile is in Florida are ~~shall be~~ eligible for services.
 5977 Information accumulated by other agencies, including
 5978 professional reports and collateral data, shall be considered in
 5979 this process when available.

5980 (2) In order to provide immediate services or crisis
 5981 intervention to applicants, the agency ~~department~~ shall arrange
 5982 for emergency eligibility determination, with a full eligibility
 5983 review to be accomplished within 45 days of the emergency
 5984 eligibility determination.

5985 (3) The agency ~~department~~ shall notify each applicant, in
 5986 writing, of its eligibility decision. Any applicant determined
 5987 by the agency ~~department~~ to be ineligible for developmental
 5988 services has ~~shall have~~ the right to appeal this decision
 5989 pursuant to ss. 120.569 and 120.57.

5990 (4) The agency ~~department~~ shall assess the level of need
 5991 and medical necessity for prospective residents of intermediate-
 5992 care facilities for the developmentally disabled after October
 5993 1, 1999. The agency ~~department~~ may enter into an agreement with
 5994 the Department of Elderly Affairs for its Comprehensive
 5995 Assessment and Review for Long-Term-Care Services (CARES)
 5996 program to conduct assessments to determine the level of need
 5997 and medical necessity for long-term-care services under this
 5998 chapter. To the extent permissible under federal law, the

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5999 | assessments must be funded under Title XIX of the Social
6000 | Security Act.

6001 | Section 102. Section 393.0651, Florida Statutes, is
6002 | amended to read:

6003 | 393.0651 Family or individual support plan.--The agency
6004 | ~~department~~ shall provide for an appropriate family support plan
6005 | for children ages birth to 18 years of age and an individual
6006 | support plan for each client. The parent or guardian of the
6007 | client or, if competent, the client, or, when appropriate, the
6008 | client advocate, shall be consulted in the development of the
6009 | plan and shall receive a copy of the plan. Each plan shall
6010 | include the most appropriate, least restrictive, and most cost-
6011 | beneficial environment for accomplishment of the objectives for
6012 | client progress and a specification of all services authorized.
6013 | The plan shall include provisions for the most appropriate level
6014 | of care for the client. Within the specification of needs and
6015 | services for each client, when residential care is necessary,
6016 | the agency ~~department~~ shall move toward placement of clients in
6017 | residential facilities based within the client's community. The
6018 | ultimate goal of each plan, whenever possible, shall be to
6019 | enable the client to live a dignified life in the least
6020 | restrictive setting, be that in the home or in the community.
6021 | For children under 6 years of age, the family support plan shall
6022 | be developed within the 45-day application period as specified
6023 | in s. 393.065(1); for all applicants 6 years of age or older,
6024 | the family or individual support plan shall be developed within
6025 | the 60-day period as specified in that subsection.

6026 (1) The agency ~~department~~ shall develop and specify by
 6027 rule the core components of support plans to be used by each
 6028 district.

6029 (2)(a) The family or individual support plan shall be
 6030 integrated with the individual education plan (IEP) for all
 6031 clients who are public school students entitled to a free
 6032 appropriate public education under the Individuals with
 6033 Disabilities Education Act, I.D.E.A., as amended. The family or
 6034 individual support plan and IEP shall be implemented to maximize
 6035 the attainment of educational and habilitation goals. If the IEP
 6036 for a student enrolled in a public school program indicates
 6037 placement in a public or private residential program is
 6038 necessary to provide special education and related services to a
 6039 client, the local education agency shall provide for the costs
 6040 of that service in accordance with the requirements of the
 6041 Individuals with Disabilities Education Act, I.D.E.A., as
 6042 amended. This shall not preclude local education agencies and
 6043 the agency ~~department~~ from sharing the residential service costs
 6044 of students who are clients and require residential placement.
 6045 Under no circumstances shall clients entitled to a public
 6046 education or their parents be assessed a fee by the agency
 6047 ~~department~~ under s. 402.33 for placement in a residential
 6048 program.

6049 (b) For clients who are entering or exiting the school
 6050 system, an interdepartmental staffing team composed of
 6051 representatives of the agency ~~department~~ and the local school
 6052 system shall develop a written transitional living and training

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6053 | plan with the participation of the client or with the parent or
6054 | guardian of the client, or the client advocate, as appropriate.

6055 | (3) Each family or individual support plan shall be
6056 | facilitated through case management designed solely to advance
6057 | the individual needs of the client.

6058 | (4) In the development of the family or individual support
6059 | plan, a client advocate may be appointed by the support planning
6060 | team for a client who is a minor or for a client who is not
6061 | capable of express and informed consent when:

6062 | (a) The parent or guardian cannot be identified;

6063 | (b) The whereabouts of the parent or guardian cannot be
6064 | discovered; or

6065 | (c) The state is the only legal representative of the
6066 | client.

6067 |

6068 | Such appointment shall not be construed to extend the powers of
6069 | the client advocate to include any of those powers delegated by
6070 | law to a legal guardian.

6071 | (5) The agency ~~department~~ shall place a client in the most
6072 | appropriate and least restrictive, and cost-beneficial,
6073 | residential facility according to his or her individual
6074 | habilitation plan. The parent or guardian of the client or, if
6075 | competent, the client, or, when appropriate, the client
6076 | advocate, and the administrator of the residential facility to
6077 | which placement is proposed shall be consulted in determining
6078 | the appropriate placement for the client. Considerations for
6079 | placement shall be made in the following order:

6080 (a) Client's own home or the home of a family member or
6081 direct service provider.

6082 (b) Foster care facility.

6083 (c) Group home facility.

6084 (d) Intermediate care facility for the developmentally
6085 disabled.

6086 (e) Other facilities licensed by the agency ~~department~~
6087 which offer special programs for people with developmental
6088 disabilities.

6089 (f) Developmental services institution.

6090 (6) In developing a client's annual family or individual
6091 support plan, the individual or family with the assistance of
6092 the support planning team shall identify measurable objectives
6093 for client progress and shall specify a time period expected for
6094 achievement of each objective.

6095 (7) The individual, family, and support coordinator shall
6096 review progress in achieving the objectives specified in each
6097 client's family or individual support plan, and shall revise the
6098 plan annually, following consultation with the client, if
6099 competent, or with the parent or guardian of the client, or,
6100 when appropriate, the client advocate. The agency ~~department~~
6101 shall annually report in writing to the client, if competent, or
6102 to the parent or guardian of the client, or to the client
6103 advocate, when appropriate, with respect to the client's
6104 habilitative and medical progress.

6105 (8) Any client, or any parent of a minor client, or
6106 guardian, authorized guardian advocate, or client advocate for a
6107 client, who is substantially affected by the client's initial

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6108 family or individual support plan, or the annual review thereof,
 6109 shall have the right to file a notice to challenge the decision
 6110 pursuant to ss. 120.569 and 120.57. Notice of such right to
 6111 appeal shall be included in all support plans provided by the
 6112 agency ~~department~~.

6113 Section 103. Section 393.0673, Florida Statutes, is
 6114 amended to read:

6115 393.0673 Denial, suspension, revocation of license;
 6116 moratorium on admissions; administrative fines; procedures.--

6117 (1) The agency ~~Department of Children and Family Services~~
 6118 may deny, revoke, or suspend a license or impose an
 6119 administrative fine, not to exceed \$1,000 per violation per day,
 6120 for a violation of any provision of s. 393.0655 or s. 393.067 or
 6121 rules adopted pursuant thereto. All hearings shall be held
 6122 within the county in which the licensee or applicant operates or
 6123 applies for a license to operate a facility as defined herein.

6124 (2) The agency ~~department~~, as a part of any final order
 6125 issued by it under the provisions of this chapter, may impose
 6126 such fine as it deems proper, except that such fine may not
 6127 exceed \$1,000 for each violation. Each day a violation of this
 6128 chapter occurs constitutes a separate violation and is subject
 6129 to a separate fine, but in no event may the aggregate amount of
 6130 any fine exceed \$10,000. Fines paid by any facility licensee
 6131 under the provisions of this subsection shall be deposited in
 6132 the Resident Protection Trust Fund and expended as provided in
 6133 s. 400.063.

6134 (3) The agency ~~department~~ may issue an order immediately
 6135 suspending or revoking a license when it determines that any

6136 | condition in the facility presents a danger to the health,
6137 | safety, or welfare of the residents in the facility.

6138 | (4) The agency ~~department~~ may impose an immediate
6139 | moratorium on admissions to any facility when the department
6140 | determines that any condition in the facility presents a threat
6141 | to the health, safety, or welfare of the residents in the
6142 | facility.

6143 | Section 104. Subsections (1) and (3) of section 393.0675,
6144 | Florida Statutes, are amended to read:

6145 | 393.0675 Injunctive proceedings authorized.--

6146 | (1) The agency ~~Department of Children and Family Services~~
6147 | may institute injunctive proceedings in a court of competent
6148 | jurisdiction to:

6149 | (a) Enforce the provisions of this chapter or any minimum
6150 | standard, rule, regulation, or order issued or entered pursuant
6151 | thereto; or

6152 | (b) Terminate the operation of facilities licensed
6153 | pursuant to this chapter when any of the following conditions
6154 | exist:

6155 | 1. Failure by the facility to take preventive or
6156 | corrective measures in accordance with any order of the agency
6157 | ~~department~~.

6158 | 2. Failure by the facility to abide by any final order of
6159 | the agency ~~department~~ once it has become effective and binding.

6160 | 3. Any violation by the facility constituting an emergency
6161 | requiring immediate action as provided in s. 393.0673.

6162 | (3) The agency ~~department~~ may institute proceedings for an
6163 | injunction in a court of competent jurisdiction to terminate the

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6164 operation of a provider of supports or services if such provider
6165 has willfully and knowingly refused to comply with the screening
6166 requirement for direct service providers or has refused to
6167 terminate direct service providers found not to be in compliance
6168 with the requirements for good moral character.

6169 Section 105. Subsection (1), paragraphs (b), (c), and (d)
6170 of subsection (2), and paragraph(e) of subsection (3) of section
6171 393.0678, Florida Statutes, are amended to read:

6172 393.0678 Receivership proceedings.--

6173 (1) The agency ~~department~~ may petition a court of
6174 competent jurisdiction for the appointment of a receiver for an
6175 intermediate care facility for the developmentally disabled, a
6176 residential habilitation center, or a group home facility owned
6177 and operated by a corporation or partnership when any of the
6178 following conditions exist:

6179 (a) Any person is operating a facility without a license
6180 and refuses to make application for a license as required by s.
6181 393.067 or, in the case of an intermediate care facility for the
6182 developmentally disabled, as required by ss. 393.067 and
6183 400.062.

6184 (b) The licensee is closing the facility or has informed
6185 the department that it intends to close the facility; and
6186 adequate arrangements have not been made for relocation of the
6187 residents within 7 days, exclusive of weekends and holidays, of
6188 the closing of the facility.

6189 (c) The agency ~~department~~ determines that conditions exist
6190 in the facility which present an imminent danger to the health,
6191 safety, or welfare of the residents of the facility or which

6192 present a substantial probability that death or serious physical
 6193 harm would result therefrom. Whenever possible, the agency
 6194 ~~department~~ shall facilitate the continued operation of the
 6195 program.

6196 (d) The licensee cannot meet its financial obligations to
 6197 provide food, shelter, care, and utilities. Evidence such as the
 6198 issuance of bad checks or the accumulation of delinquent bills
 6199 for such items as personnel salaries, food, drugs, or utilities
 6200 constitutes prima facie evidence that the ownership of the
 6201 facility lacks the financial ability to operate the home in
 6202 accordance with the requirements of this chapter and all rules
 6203 promulgated thereunder.

6204 (2)

6205 (b) A hearing shall be conducted within 5 days of the
 6206 filing of the petition, at which time all interested parties
 6207 shall have the opportunity to present evidence pertaining to the
 6208 petition. The agency ~~department~~ shall notify the owner or
 6209 operator of the facility named in the petition of its filing and
 6210 the date set for the hearing.

6211 (c) The court shall grant the petition only upon finding
 6212 that the health, safety, or welfare of residents of the facility
 6213 would be threatened if a condition existing at the time the
 6214 petition was filed is permitted to continue. A receiver may not
 6215 be appointed ex parte unless the court determines that one or
 6216 more of the conditions in subsection (1) exist; that the
 6217 facility owner or operator cannot be found; that all reasonable
 6218 means of locating the owner or operator and notifying him or her
 6219 of the petition and hearing have been exhausted; or that the

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6220 owner or operator after notification of the hearing chooses not
6221 to attend. After such findings, the court may appoint any person
6222 qualified by education, training, or experience to carry out the
6223 responsibilities of receiver pursuant to this section, except
6224 that the court may not appoint any owner or affiliate of the
6225 facility which is in receivership. Before the appointment as
6226 receiver of a person who is the operator, manager, or supervisor
6227 of another facility, the court shall determine that the person
6228 can reasonably operate, manage, or supervise more than one
6229 facility. The receiver may be appointed for up to 90 days with
6230 the option of petitioning the court for 30-day extensions. The
6231 receiver may be selected from a list of persons qualified to act
6232 as receivers developed by the agency department and presented to
6233 the court with each petition for receivership. Under no
6234 circumstances may the agency department or designated agency
6235 ~~departmental~~ employee be appointed as a receiver for more than
6236 60 days; however, the agency departmental receiver may petition
6237 the court for 30-day extensions. The court shall grant an
6238 extension upon a showing of good cause. The agency department
6239 may petition the court to appoint a substitute receiver.

6240 (d) During the first 60 days of the receivership, the
6241 agency department may not take action to decertify or revoke the
6242 license of a facility unless conditions causing imminent danger
6243 to the health and welfare of the residents exist and a receiver
6244 has been unable to remove those conditions. After the first 60
6245 days of receivership, and every 60 days thereafter until the
6246 receivership is terminated, the agency department shall submit
6247 to the court the results of an assessment of the ability of the

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6248 facility to assure the safety and care of the residents. If the
6249 conditions at the facility or the intentions of the owner
6250 indicate that the purpose of the receivership is to close the
6251 facility rather than to facilitate its continued operation, the
6252 agency department shall place the residents in appropriate
6253 alternate residential settings as quickly as possible. If, in
6254 the opinion of the court, the agency department has not been
6255 diligent in its efforts to make adequate arrangements for
6256 placement, the court shall find the agency department to be in
6257 contempt and shall order the agency department to submit its
6258 plans for moving the residents.

6259 (3) The receiver shall make provisions for the continued
6260 health, safety, and welfare of all residents of the facility
6261 and:

6262 (e) May use the building, fixtures, furnishings, and any
6263 accompanying consumable goods in the provision of care and
6264 services to residents and to any other persons receiving
6265 services from the facility at the time the petition for
6266 receivership was filed. The receiver shall collect payments for
6267 all goods and services provided to residents or others during
6268 the period of the receivership at the same rate of payment
6269 charged by the owner at the time the petition for receivership
6270 was filed, or at a fair and reasonable rate otherwise approved
6271 by the court for private, paying residents. The receiver may
6272 apply to the agency department for a rate increase for residents
6273 under Title XIX of the Social Security Act if the facility is
6274 not receiving the state reimbursement cap and if expenditures
6275 justify an increase in the rate.

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6276 Section 106. Section 393.071, Florida Statutes, is amended
6277 to read:

6278 393.071 Client fees.--The agency ~~Department of Children~~
6279 ~~and Family Services~~ shall charge fees for services provided to
6280 clients in accordance with s. 402.33.

6281 Section 107. Subsection (2) of section 393.075, Florida
6282 Statutes, is amended to read:

6283 393.075 General liability coverage.--

6284 (2) The Division of Risk Management of the Department of
6285 Financial Services shall provide coverage through the agency
6286 ~~Department of Children and Family Services~~ to any person who
6287 owns or operates a foster care facility or group home facility
6288 solely for the agency ~~Department of Children and Family~~
6289 ~~Services~~, who cares for children placed by developmental
6290 services staff of the agency ~~department~~, and who is licensed
6291 pursuant to s. 393.067 to provide such supervision and care in
6292 his or her place of residence. The coverage shall be provided
6293 from the general liability account of the State Risk Management
6294 Trust Fund. The coverage is limited to general liability claims
6295 arising from the provision of supervision and care of children
6296 in a foster care facility or group home facility pursuant to an
6297 agreement with the agency ~~department~~ and pursuant to guidelines
6298 established through policy, rule, or statute. Coverage shall be
6299 subject to the limits provided in ss. 284.38 and 284.385, and
6300 the exclusions set forth therein, together with other exclusions
6301 as may be set forth in the certificate of coverage issued by the
6302 trust fund. A person covered under the general liability account
6303 pursuant to this subsection shall immediately notify the

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6304 | Division of Risk Management of the Department of Financial
6305 | Services of any potential or actual claim.

6306 | Section 108. Section 393.115, Florida Statutes, is amended
6307 | to read:

6308 | 393.115 Discharge.--

6309 | (1) DISCHARGE AT THE AGE OF MAJORITY.--

6310 | (a) When any residential client reaches his or her 18th
6311 | birthday, the agency ~~department~~ shall give the resident or legal
6312 | guardian the option to continue residential services or to be
6313 | discharged from residential services.

6314 | (b) If the resident appears to meet the criteria for
6315 | involuntary admission to residential services, as defined in s.
6316 | 393.11, the agency ~~department~~ shall file a petition to determine
6317 | the appropriateness of continued residential placement on an
6318 | involuntary basis. The agency ~~department~~ shall file the petition
6319 | for involuntary admission in the county in which the client
6320 | resides. If the resident was originally involuntarily admitted
6321 | to residential services pursuant to s. 393.11, then the agency
6322 | ~~department~~ shall file the petition in the court having
6323 | continuing jurisdiction over the case.

6324 | (c) Nothing in this section shall in any way limit or
6325 | restrict the resident's right to a writ of habeas corpus or the
6326 | right of the agency ~~department~~ to transfer a resident receiving
6327 | residential care to a program of appropriate services provided
6328 | by the agency ~~department~~ when such program is the appropriate
6329 | habilitative setting for the resident.

6330 | (2) DISCHARGE AFTER CRIMINAL OR JUVENILE COMMITMENT.--Any
6331 | person with developmental disabilities committed to the custody

6332 of the agency department pursuant to the provisions of the
 6333 applicable criminal or juvenile court law shall be discharged in
 6334 accordance with the requirements of the applicable criminal or
 6335 juvenile court law.

6336 Section 109. Subsection (3) of section 393.12, Florida
 6337 Statutes, is amended to read:

6338 393.12 Capacity; appointment of guardian advocate.--

6339 (3) COURT COSTS.--In all proceedings under this section,
 6340 no court costs shall be charged against the agency department.

6341 Section 110. Section 393.125, Florida Statutes, is amended
 6342 to read:

6343 393.125 Hearing rights.--

6344 (1) REVIEW OF AGENCY DEPARTMENT DECISIONS.--

6345 (a) Any developmental services applicant or client, or his
 6346 or her parent, guardian, guardian advocate, or authorized
 6347 representative, who has any substantial interest determined by
 6348 the agency department, has ~~shall have~~ the right to request an
 6349 administrative hearing pursuant to ss. 120.569 and 120.57.

6350 (b) Notice of the right to an administrative hearing shall
 6351 be given, both verbally and in writing, to the applicant or
 6352 client, and his or her parent, guardian, guardian advocate, or
 6353 authorized representative, at the same time that the agency
 6354 ~~department~~ gives the applicant or client notice of the agency's
 6355 ~~department's~~ action. The notice shall be given, both verbally
 6356 and in writing, in the language of the client or applicant and
 6357 in English.

6358 (c) A request for a hearing under this section shall be
 6359 made to the agency department, in writing, within 30 days of the
 6360 applicant's or client's receipt of the notice.

6361 (2) REVIEW OF PROVIDER DECISIONS.--The agency department
 6362 shall adopt ~~promulgate~~ rules to establish uniform guidelines for
 6363 the agency department and service providers relevant to
 6364 termination, suspension, or reduction of client services by the
 6365 service provider. The rules shall ensure the due process rights
 6366 of service providers and clients.

6367 Section 111. Subsections (3), (4), (5), and (6) of section
 6368 393.15, Florida Statutes, are amended to read:

6369 393.15 Legislative intent; Community Resources Development
 6370 Trust Fund.--

6371 (3) There is created a Community Resources Development
 6372 Trust Fund in the State Treasury to be used by the agency
 6373 ~~Department of Children and Family Services~~ for the purpose of
 6374 granting loans to eligible programs for the initial costs of
 6375 development of the programs. Loans shall be made only to those
 6376 facilities which are in compliance with the zoning regulations
 6377 of the local community. Costs of development may include
 6378 structural modification, the purchase of equipment and fire and
 6379 safety devices, preoperational staff training, and the purchase
 6380 of insurance. Such costs shall not include the actual
 6381 construction of a facility.

6382 (4) The agency department may grant to an eligible program
 6383 a lump-sum loan in one payment not to exceed the cost to the
 6384 program of providing 2 months' services, care, or maintenance to
 6385 each person who is developmentally disabled to be placed in the

6386 | program by the agency department, or the actual cost of
 6387 | firesafety renovations to a facility required by the state,
 6388 | whichever is greater. Loans granted to programs shall not be in
 6389 | lieu of payment for maintenance, services, or care provided, but
 6390 | shall stand separate and distinct. The agency department shall
 6391 | adopt promulgate rules, as provided in chapter 120, to determine
 6392 | the standards under which a program shall be eligible to receive
 6393 | a loan as provided in this section and criteria for the
 6394 | equitable allocation of loan trust funds when eligible
 6395 | applications exceed the funds available.

6396 | (5) Any loan granted by the agency department under this
 6397 | section shall be repaid by the program within 5 years. A
 6398 | program that ~~which~~ operates as a nonprofit corporation meeting
 6399 | the requirements of s. 501(c)(3) of the Internal Revenue Code,
 6400 | and that ~~which~~ seeks forgiveness of its loan shall submit to the
 6401 | agency department a statement setting forth the service it has
 6402 | provided during the year together with such other information as
 6403 | the agency department by rule shall require, and, upon approval
 6404 | of each such annual statement, the agency department shall
 6405 | forgive 20 percent of the principal of any such loan granted
 6406 | after June 30, 1975.

6407 | (6) If any program that ~~which~~ has received a loan under
 6408 | this section ceases to accept, or provide care, services, or
 6409 | maintenance to persons placed in the program by the department,
 6410 | or if such program files ~~shall file~~ papers of bankruptcy, at
 6411 | that point in time the loan shall become an interest-bearing
 6412 | loan at the rate of 5 percent per annum on the entire amount of
 6413 | the initial loan which shall be repaid within a 1-year period

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6414 from the date on which the program ceases to provide care,
 6415 services, or maintenance, or files papers in bankruptcy, and the
 6416 amount of the loan due plus interest shall constitute a lien in
 6417 favor of the state against all real and personal property of the
 6418 program. The lien shall be perfected by the appropriate officer
 6419 of the agency ~~department~~ by executing and acknowledging a
 6420 statement of the name of the program and the amount due on the
 6421 loan and a copy of the promissory note, which shall be recorded
 6422 by the agency ~~department~~ with the clerk of the circuit court in
 6423 the county wherein the program is located. If the program has
 6424 filed a petition for bankruptcy, the agency ~~department~~ shall
 6425 file and enforce the lien in the bankruptcy proceedings.
 6426 Otherwise, the lien shall be enforced in the manner provided in
 6427 s. 85.011. All funds received by the agency ~~department~~ from the
 6428 enforcement of the lien shall be deposited in the Community
 6429 Resources Development Trust Fund.

6430 Section 112. Subsection (1) of section 393.501, Florida
 6431 Statutes, is amended to read:

6432 393.501 Rulemaking.--

6433 (1) The agency ~~department~~ shall adopt rules to carry out
 6434 the provisions of this chapter.

6435 Section 113. Section 393.503, Florida Statutes, is amended
 6436 to read:

6437 393.503 Respite and family care subsidy expenditures;
 6438 funding.--The agency ~~Department of Children and Family Services~~
 6439 shall determine the amount of expenditures per fiscal year for
 6440 the respite and family care subsidy to families and individuals
 6441 with developmental disabilities living in their own homes. This

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6442 information shall be made available to the family care councils
 6443 and to others requesting the information. The family care
 6444 councils shall review the expenditures and make recommendations
 6445 to the agency ~~department~~ with respect to any new funds that are
 6446 made available for family care.

6447 Section 114. Subsection (2) of section 393.506, Florida
 6448 Statutes, is amended to read:

6449 393.506 Administration of medication.--

6450 (2) Each facility, institution, or program must include in
 6451 its policies and procedures a plan for training designated staff
 6452 to ensure the safe handling, storage, and administration of
 6453 prescription medication. These policies and procedures must be
 6454 approved by the agency ~~department~~ before unlicensed direct care
 6455 services staff assist with medication.

6456 Section 115. (1) In the Department of Children and Family
 6457 Services' Economic Self-Sufficiency Services program, the
 6458 department may provide its eligibility determination functions
 6459 either with department staff or through contract with at least
 6460 two private vendors, with the following restrictions:

6461 (a) With the exception of information technology, no
 6462 contract shall be for a geographic area larger than a combined
 6463 seven districts or combined three zones without the prior
 6464 approval of the Legislative Budget Commission; and

6465 (b) Department employees must provide the functions in at
 6466 least one area of the state if their proposed cost is
 6467 competitive with private vendors.

6468 (2) This section shall take effect upon this act becoming
 6469 a law.

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6470 Section 116. Except as otherwise expressly provided in
6471 this act, this act shall take effect July 1, 2004.