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A bill to be entitled

1 An act relating to administration of the state's social
2 and economic programs; amending s. 39.301, F.S.; revising
3 the requirements of a risk assessment conducted by the
4 Department of Children and Family Services; requiring the
5 department to develop and implement safety and case plans
6 when determined necessary by such assessment; amending s.
7 39.701, F.S.; clarifying intent; eliminating a requirement
8 for a court hearing; providing for citizen reviews;
9 distinguishing a court hearing from a citizen review;
10 amending s. 120.80, F.S.; including certain hearings
11 conducted by the Agency for Health Care Administration in
12 the exception for an administrative law judge to preside
13 over such hearings; amending s. 393.062, F.S.; providing
14 additional legislative intent relating to individuals with
15 developmental disabilities; amending s. 393.0655, F.S.;
16 providing for additional personnel to be included in
17 screening requirements; requiring an employment history
18 check in such screening; amending s. 393.066, F.S.;
19 requiring the developmental services program to provide
20 supports and services to certain individuals; amending s.
21 400.0255, F.S.; renaming the Office of Appeals Hearings
22 and placing it in the agency; providing rulemaking
23 authority; amending s. 408.15, F.S.; authorizing the
24 agency to establish and conduct Medicaid hearings;
25 amending s. 409.91195, F.S.; moving certain duties from
26 the department to the agency; amending s. 410.604, F.S.;
27 eliminating a requirement that the department charge fees
28 for certain services provided to disabled adults; amending
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30 s. 415.102, F.S.; revising a definition; amending s.
 31 415.1113, F.S.; providing for representation by counsel at
 32 certain hearings relating to false report of abuse,
 33 neglect, or exploitation of a vulnerable adult; requiring
 34 notification of this right; amending s. 420.622, F.S.;
 35 correcting the name of a coalition; providing activities
 36 to which funds for homeless housing assistance may be
 37 allocated; amending s. 420.623, F.S.; revising the
 38 submission deadline of an annual report on homeless
 39 programs and services; amending s. 420.625, F.S.;
 40 requiring a consistency statement from the designated lead
 41 agency with respect to homeless assistance services;
 42 providing an effective date.

43

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

45

46 Section 1. Subsection (6) and paragraph (b) of subsection
 47 (9) of section 39.301, Florida Statutes, are amended to read:

48 39.301 Initiation of protective investigations.--

49 (6) For each report accepted by the hotline for protective
 50 investigation, an assessment of risk and the perceived needs for
 51 the child and family shall be conducted. This assessment shall
 52 be initiated immediately upon receipt of the report from the
 53 hotline and shall be conducted in a manner that is sensitive to
 54 the social, economic, and cultural environment of the family.
 55 The ~~This~~ assessment must include a face-to-face interview with
 56 the child, other siblings, parents, and other children and
 57 adults in the household and an onsite assessment of the child's
 58 residence. During the department's involvement with the child

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59 and family as a result of the abuse report, the risk assessment
 60 shall continuously be reviewed and amended to reflect any change
 61 to the risks and needs of the child and family.

62 (9)

63 (b) The onsite child protective investigation to be
 64 performed shall include a face-to-face interview with the child;
 65 other siblings; parents, legal custodians, or caregivers; and
 66 other adults in the household and an onsite assessment of the
 67 child's residence in order to:

68 1. Determine the composition of the family or household,
 69 including the name, address, date of birth, social security
 70 number, sex, and race of each child named in the report; any
 71 siblings or other children in the same household or in the care
 72 of the same adults; the parents, legal custodians, or
 73 caregivers; and any other adults in the same household.

74 2. Determine whether there is indication that any child in
 75 the family or household has been abused, abandoned, or
 76 neglected; the nature and extent of present or prior injuries,
 77 abuse, or neglect, and any evidence thereof; and a determination
 78 as to the person or persons apparently responsible for the
 79 abuse, abandonment, or neglect, including the name, address,
 80 date of birth, social security number, sex, and race of each
 81 such person.

82 3. Determine the immediate and long-term risk to each
 83 child by conducting state and federal records checks, including,
 84 when feasible, the records of the Department of Corrections, on
 85 the parents, legal custodians, or caregivers, and any other
 86 persons in the same household. This information shall be used
 87 solely for purposes supporting the detection, apprehension,

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88 prosecution, pretrial release, posttrial release, or
 89 rehabilitation of criminal offenders or persons accused of the
 90 crimes of child abuse, abandonment, or neglect and shall not be
 91 further disseminated or used for any other purpose. The
 92 department's child protection investigators are hereby
 93 designated a criminal justice agency for the purpose of
 94 accessing criminal justice information to be used for enforcing
 95 this state's laws concerning the crimes of child abuse,
 96 abandonment, and neglect.

97 4. Determine the immediate and long-term risk to each
 98 child through utilization of standardized risk assessment
 99 instruments.

100 5. Based on the information obtained from available
 101 sources, complete the risk assessment instrument within 48 hours
 102 after the initial contact and, if determined necessary by the
 103 assessment needed, develop and implement a safety plan, develop
 104 and implement a case plan, or develop and implement both a
 105 safety plan and a case plan.

106 6. Determine the protective, treatment, and ameliorative
 107 services necessary to safeguard and ensure the child's safety
 108 and well-being and development, and cause the delivery of those
 109 services through the early intervention of the department or its
 110 agent. The training provided to staff members who conduct child
 111 protective investigations must include instruction on how and
 112 when to use the injunction process under s. 39.504 or s. 741.30
 113 to remove a perpetrator of domestic violence from the home as an
 114 intervention to protect the child.

115 Section 2. Section 39.701, Florida Statutes, is amended to
 116 read:

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117 39.701 Judicial review.--

118 (1)(a) The court shall retain ~~have continuing~~ jurisdiction
 119 in accordance with this section and shall review the status of
 120 the child at least once every 6 months as required by this
 121 subsection or more frequently if the court deems it necessary or
 122 desirable.

123 (b) The court shall retain jurisdiction over a child
 124 returned to his or her parents for a minimum period of 6 months
 125 following the reunification, but, at that time, based on a
 126 report of the social service agency and the guardian ad litem,
 127 if one has been appointed, and any other relevant factors, the
 128 court shall make a determination as to whether supervision by
 129 the department and the court's jurisdiction shall continue or be
 130 terminated.

131 (2)(a) ~~The court shall review~~ The status of the child ~~and~~
 132 shall be reviewed ~~hold a hearing as provided in this part~~ at
 133 least every 6 months until the child reaches permanency status.
 134 This review may be conducted by the court or a citizen review
 135 panel authorized by the court.

136 (b) For reviews conducted by the court, the court may
 137 dispense with the attendance of the child at the judicial review
 138 hearing, but may not dispense with the hearing or the presence
 139 of other parties to the review unless before the ~~review a~~
 140 hearing a review is held before a citizen review panel. If the
 141 court conducts the review without the presence of the child, the
 142 court must specifically find whether the department has direct
 143 knowledge of the care the child is receiving.

144 (c)~~(b)~~ ~~Citizen review panels may conduct hearings to~~
 145 ~~review the status of a child.~~ The court shall select the cases

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146 appropriate for referral to the citizen review panels and may
 147 order the attendance of the parties at the reviews ~~review panel~~
 148 ~~hearings~~. However, any party may object to the referral of a
 149 case to a citizen review panel. Whenever ~~such~~ an objection has
 150 been filed with the court, the court shall review the substance
 151 of the objection and may conduct the review itself or refer the
 152 review to a citizen review panel. All parties retain the right
 153 to take exception to the findings or recommendations ~~recommended~~
 154 ~~orders~~ of a citizen review panel in accordance with Rule
 155 1.490(h), Florida Rules of Civil Procedure.

156 ~~(d)(e)~~ Notice of a review ~~hearing~~ by a citizen review
 157 panel must be provided as set forth in subsection (5). At the
 158 conclusion of a citizen review panel review ~~hearing~~, each party
 159 may propose recommendations ~~a recommended order~~ to the
 160 chairperson of the panel. Thereafter, the citizen review panel
 161 shall submit its report, copies of the proposed recommended
 162 orders, and a copy of the panel's recommendations ~~recommended~~
 163 ~~order~~ to the court. The citizen review panel's recommendations
 164 ~~recommended order~~ must be limited to the dispositional options
 165 available to the court in subsection (8). Each party may file
 166 exceptions to the report and recommendations ~~recommended order~~
 167 of the citizen review panel in accordance with Rule 1.490,
 168 Florida Rules of Civil Procedure.

169 (3)(a) The initial judicial review hearing must be held no
 170 later than 90 days after the date of the disposition hearing or
 171 after the date of the hearing at which the court approves the
 172 case plan, whichever comes first, but in no event shall the
 173 review be held later than 6 months after the date the child was
 174 removed from the home. A citizen review panel ~~panels~~ may ~~shall~~

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175 not conduct more than two consecutive reviews without the child
 176 and the parties appearing ~~coming~~ before the court for a judicial
 177 review hearing.

178 (b) If the citizen review panel recommends extending the
 179 goal of reunification for any case plan beyond 12 months from
 180 the date the child was removed from the home or the case plan
 181 was adopted, whichever date came first, the court must schedule
 182 a judicial review hearing to be conducted by the court within 30
 183 days after receiving the recommendation from the citizen review
 184 panel.

185 (c) If the child is placed in the custody of the
 186 department or a licensed child-placing agency for the purpose of
 187 adoptive placement, judicial reviews must be held at least every
 188 6 months until the adoption is finalized.

189 (d) If the department and the court have established a
 190 formal agreement that includes specific authorization for
 191 particular cases, the department may conduct administrative
 192 reviews instead of the judicial reviews for children in out-of-
 193 home care. Notices of ~~such~~ administrative reviews must be
 194 provided to all parties. However, an administrative review may
 195 not be substituted for the first judicial review, and in every
 196 case the court must conduct a judicial review at least every 6
 197 months. Any party dissatisfied with the results of an
 198 administrative review may petition for a judicial review.

199 (e) The clerk of the circuit court shall schedule judicial
 200 review hearings in order to comply with the mandated times cited
 201 in this section.

202 (f) In each case in which a child has been voluntarily
 203 placed with the licensed child-placing agency, the agency shall

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204 notify the clerk of the court in the circuit where the child
 205 resides of the ~~such~~ placement no later than ~~within~~ 5 working
 206 days after the placement. Notification of the court is not
 207 required for any child who will be in out-of-home care no longer
 208 than 30 days unless that child is placed in out-of-home care a
 209 second time within a 12-month period. If the child is returned
 210 to the custody of the parents before the scheduled review or
 211 hearing or if the child is placed for adoption, the child-
 212 placing agency shall notify the court of the child's return or
 213 placement no later than ~~within~~ 5 working days after the return
 214 or placement, and the clerk of the court shall cancel the review
 215 hearing.

216 (4) The court shall schedule the date, time, and location
 217 of the next judicial review hearing or review by the citizen
 218 review panel during the judicial review hearing or the review by
 219 the citizen review panel which ~~and~~ shall be listed ~~list same~~ in
 220 the judicial review order.

221 (5) Notice of a judicial review hearing or a citizen
 222 review panel review ~~hearing~~, and a copy of the motion for
 223 judicial review, if any, must be served by the clerk of the
 224 court upon:

225 (a) The social service agency charged with the supervision
 226 of care, custody, or guardianship of the child, if that agency
 227 is not the movant.

228 (b) The foster parent or legal custodian in whose home the
 229 child resides.

230 (c) The parents.

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231 (d) The guardian ad litem for the child, or the
 232 representative of the guardian ad litem program if the program
 233 has been appointed.

234 (e) Any preadoptive parent.

235 (f) Any ~~Such~~ other person ~~persons~~ as the court may in its
 236 discretion direct.

237
 238 Service of notice is not required on any person ~~of the persons~~
 239 listed in paragraphs (a)-(f) if the person was present at the
 240 previous hearing or review during which the date, time, and
 241 location of the hearing was announced.

242 (6)(a) Before ~~Prior to~~ every judicial review hearing or
 243 citizen review panel review ~~hearing~~, the social service agency
 244 shall make an investigation and social study concerning all
 245 pertinent details relating to the child and shall furnish to the
 246 court ~~or citizen review panel~~ a written report that includes,
 247 but is not limited to:

248 1. A description of the type of placement the child is in
 249 at the time of the hearing or review, including the safety of
 250 the child and the continuing necessity for and appropriateness
 251 of the placement.

252 2. Documentation of the diligent efforts made by all
 253 parties to the case plan to comply with each applicable
 254 provision of the plan.

255 3. The amount of fees assessed and collected during the
 256 period of time being reported.

257 4. The services provided to the foster family or legal
 258 custodian in an effort to address the needs of the child as
 259 indicated in the case plan.

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- 260 5. A statement that either:
- 261 a. The parent, though able to do so, did not comply
- 262 substantially with the provisions of the case plan, and the
- 263 agency recommendations;
- 264 b. The parent did substantially comply with the provisions
- 265 of the case plan; or
- 266 c. The parent has partially complied with the provisions
- 267 of the case plan, with a summary of additional progress needed
- 268 and the agency recommendations.
- 269 6. A statement from the foster parent or legal custodian
- 270 providing any material evidence concerning the return of the
- 271 child to the parent or parents.
- 272 7. A statement concerning the frequency, duration, and
- 273 results of the parent-child visitation, if any, and the agency
- 274 recommendations for an expansion or restriction of future
- 275 visitation.
- 276 8. The number of times a child has been removed from his
- 277 or her home and placed elsewhere, the number and types of
- 278 placements that have occurred, and the reason for the changes in
- 279 placement.
- 280 9. The number of times a child's educational placement has
- 281 been changed, the number and types of educational placements
- 282 which have occurred, and the reason for any change in placement.
- 283 10. Copies of all medical, psychological, and educational
- 284 records that support the terms of the case plan and that have
- 285 been produced concerning the child, parents, or any caregiver
- 286 since the last judicial review hearing or citizen review panel
- 287 review.

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288 (b) A copy of the social service agency's written report
 289 and the written report of the guardian ad litem must be served
 290 on all parties whose whereabouts are known; to the foster
 291 parents or legal custodians; and to the citizen review panel, at
 292 least 72 hours before the judicial review hearing or citizen
 293 review panel review ~~hearing~~. The requirement for providing
 294 parents with a copy of the written report does not apply to
 295 those parents who have voluntarily surrendered their child for
 296 adoption or who have had their parental rights to the child
 297 terminated.

298 (c) In a case in which the child has been permanently
 299 placed with the social service agency, the agency shall furnish
 300 to the court a written report concerning the progress being made
 301 to place the child for adoption. If the child cannot be placed
 302 for adoption, a report on the progress made by the child towards
 303 alternative permanency goals or placements, including, but not
 304 limited to, guardianship, long-term custody, long-term licensed
 305 custody, or independent living, must be submitted to the court.
 306 The report must be submitted to the court at least 72 hours
 307 before each scheduled judicial review hearing.

308 (d) In addition to or in lieu of any written statement
 309 provided to the court, the foster parent or legal custodian, or
 310 any preadoptive parent, shall be given the opportunity to
 311 address the court with any information relevant to the best
 312 interests of the child at any judicial review hearing.

313 (7) The court and any citizen review panel shall take into
 314 consideration the information contained in the social services
 315 study and investigation and all medical, psychological, and
 316 educational records that support the terms of the case plan;

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317 testimony by the social services agency, the parent, the foster
 318 parent or legal custodian, the guardian ad litem if one has been
 319 appointed for the child, and any other person deemed
 320 appropriate; and any relevant and material evidence submitted to
 321 the court, including written and oral reports to the extent of
 322 their probative value. These reports and evidence may be
 323 received by the court in its effort to determine the action to
 324 be taken or recommended with regard to the child and may be
 325 relied upon to the extent of their probative value, even though
 326 not competent in an adjudicatory hearing. In its deliberations,
 327 the court and any citizen review panel shall seek to determine:

328 (a) If the parent was advised of the right to receive
 329 assistance from any person or social service agency in the
 330 preparation of the case plan.

331 (b) If the parent has been advised of the right to have
 332 counsel present at the judicial review hearing or citizen review
 333 panel review ~~hearings~~. If not so advised, the court or citizen
 334 review panel shall advise the parent of this ~~such~~ right.

335 (c) If a guardian ad litem needs to be appointed for the
 336 child in a case in which a guardian ad litem has not previously
 337 been appointed or if there is a need to continue a guardian ad
 338 litem in a case in which a guardian ad litem has been appointed.

339 (d) The compliance or lack of compliance of all parties
 340 with applicable items of the case plan, including the parents'
 341 compliance with child support orders.

342 (e) The compliance or lack of compliance with a visitation
 343 contract between the parent and the social service agency for
 344 contact with the child, including the frequency, duration, and

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345 results of the parent-child visitation and the reason for any
 346 noncompliance.

347 (f) The compliance or lack of compliance of the parent in
 348 meeting specified financial obligations pertaining to the care
 349 of the child, including the reason for failure to comply if such
 350 is the case.

351 (g) The appropriateness of the child's current placement,
 352 including whether the child is in a setting which is as family-
 353 like and as close to the parent's home as possible, consistent
 354 with the child's best interests and special needs, and including
 355 maintaining stability in the child's educational placement.

356 (h) A projected date likely for the child's return home or
 357 other permanent placement.

358 (i) When appropriate, the basis for the unwillingness or
 359 inability of the parent to become a party to a case plan. The
 360 court and the citizen review panel shall determine if the
 361 efforts of the social service agency to secure party
 362 participation in a case plan were sufficient.

363 (8)(a) Based upon the criteria set forth in subsection (7)
 364 and the recommendations ~~recommended order~~ of the citizen review
 365 panel, if any, the court shall determine whether or not the
 366 social service agency shall initiate proceedings to have a child
 367 declared a dependent child, return the child to the parent,
 368 continue the child in out-of-home care for a specified period of
 369 time, or initiate termination of parental rights proceedings for
 370 subsequent placement in an adoptive home. Modifications to the
 371 plan must be handled as prescribed in s. 39.601. If the court
 372 finds that the prevention or reunification efforts of the
 373 department will allow the child to remain safely at home or be

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374 safely returned to the home, the court shall allow the child to
375 remain in or return to the home after making a specific finding
376 of fact that the reasons for the creation of the case plan have
377 been remedied to the extent that the child's safety, well-being,
378 and physical, mental, and emotional health will not be
379 endangered.

380 (b) The court shall return the child to the custody of the
381 parents at any time it determines that the parents ~~they~~ have
382 substantially complied with the case plan, if the court is
383 satisfied that reunification will not be detrimental to the
384 child's safety, well-being, and physical, mental, and emotional
385 health.

386 (c) If, in the opinion of the court, the social service
387 agency has not complied with its obligations as specified in the
388 written case plan, the court may find the social service agency
389 in contempt, shall order the social service agency to submit its
390 plans for compliance with the agreement, and shall require the
391 social service agency to show why the child could not safely be
392 returned to the home of the parents.

393 (d) The court may extend the time limitation of the case
394 plan, or may modify the terms of the plan, based upon
395 information provided by the social service agency, and the
396 guardian ad litem, if one has been appointed, the parent or
397 parents, and the foster parents or legal custodian, and any
398 other competent information on record demonstrating the need for
399 the amendment. If the court extends the time limitation of the
400 case plan, the court must make specific findings concerning the
401 frequency of past parent-child visitation, if any, and the court
402 may authorize the expansion or restriction of future visitation.

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403 Modifications to the plan must be handled as prescribed in s.
 404 39.601. Any extension of a case plan must comply with the time
 405 requirements and other requirements specified by this chapter.

406 (e) If, at any judicial review, the court finds that the
 407 parents have failed to substantially comply with the case plan
 408 to the degree that further reunification efforts are without
 409 merit and not in the best interest of the child, it may
 410 authorize the filing of a petition for termination of parental
 411 rights, whether or not the time period as contained in the case
 412 plan for substantial compliance has elapsed.

413 (f) No later than 12 months after the date that the child
 414 was placed in shelter care, the court shall conduct a judicial
 415 review to plan for the child's permanency. At this hearing, if
 416 the child is not returned to the physical custody of the
 417 parents, the case plan may be extended with the same goals only
 418 if the court finds that the situation of the child is so
 419 extraordinary that the plan should be extended. The case plan
 420 must document steps the department is taking to find an adoptive
 421 parent or other permanent living arrangement for the child.

422 (g) The court may issue a protective order in assistance,
 423 or as a condition, of any other order made under this part. In
 424 addition to the requirements included in the case plan, the
 425 protective order may set forth requirements relating to
 426 reasonable conditions of behavior to be observed for a specified
 427 period of time by a person or agency who is before the court;
 428 and the ~~such~~ order may require the ~~any such~~ person or agency to
 429 make periodic reports to the court containing such information
 430 as the court prescribes ~~in its discretion may prescribe~~.

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431 Section 3. Subsection (7) of section 120.80, Florida
 432 Statutes, is amended to read:

433 120.80 Exceptions and special requirements; agencies.--

434 (7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND AGENCY
 435 FOR HEALTH CARE ADMINISTRATION.--Notwithstanding s.

436 120.57(1)(a), hearings conducted within the Department of
 437 Children and Family Services and the Agency for Health Care
 438 Administration in the execution of those social and economic
 439 programs administered by the former Division of Family Services
 440 of the former Department of Health and Rehabilitative Services
 441 prior to the reorganization effected by chapter 75-48, Laws of
 442 Florida, need not be conducted by an administrative law judge
 443 assigned by the division.

444 Section 4. Section 393.062, Florida Statutes, is amended
 445 to read:

446 393.062 Legislative findings and declaration of
 447 intent.--The Legislature finds and declares that existing state
 448 programs for the treatment of individuals who are
 449 developmentally disabled, which often unnecessarily place
 450 clients in institutions, are unreasonably costly, are
 451 ineffective in bringing the individual client to his or her
 452 maximum potential, and are in fact debilitating to a great
 453 majority of clients. A redirection in state treatment programs
 454 for individuals who are developmentally disabled is necessary if
 455 any significant amelioration of the problems faced by these ~~such~~
 456 individuals is ever to take place. This ~~Such~~ redirection should
 457 place primary emphasis on programs that have the potential to
 458 prevent or reduce the severity of developmental disabilities.
 459 Further, the Legislature declares that greatest priority shall

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460 be given to the development and implementation of community-
 461 based residential placements, services, and treatment programs
 462 for individuals who are developmentally disabled which will
 463 enable these ~~such~~ individuals to achieve their greatest
 464 potential for independent and productive living, which will
 465 enable them to live in their own homes or in residences located
 466 in their own communities, and which will permit them to be
 467 diverted or removed from unnecessary institutional placements.
 468 The Legislature finds that the eligibility criteria for
 469 intermediate-care facilities for the developmentally disabled
 470 which are specified in the Medicaid state plan in effect on the
 471 effective date of this act are essential to the system of
 472 residential services. The Legislature declares that the goal of
 473 this act, to improve the quality of life of all developmentally
 474 disabled persons by the development and implementation of
 475 community-based residential placements, services, and treatment,
 476 cannot be met without ensuring the availability of community
 477 residential opportunities for developmentally disabled persons
 478 in the residential areas of this state. The Legislature,
 479 therefore, declares that all persons with developmental
 480 disabilities who live in licensed community homes shall have a
 481 family living environment comparable to other Floridians. The
 482 Legislature intends that these ~~such~~ residences shall be
 483 considered and treated as a functional equivalent of a family
 484 unit and not as an institution, business, or boarding home. The
 485 Legislature declares that, in developing community-based
 486 programs and services for individuals who are developmentally
 487 disabled, private businesses, not-for-profit corporations, units
 488 of local government, and other organizations capable of

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489 providing needed services to clients in a cost-efficient manner
 490 shall be given preference in lieu of operation of programs
 491 directly by state agencies. The Legislature intends that an
 492 individual with developmental disabilities be able to live as
 493 independently as possible and to reach his or her maximum
 494 potential. To that end, the Legislature declares that it shall
 495 be a priority of the Department of Children and Family Services
 496 to support each individual enrolled in the Medicaid home and
 497 community-based waiver program or the Medicaid consumer-directed
 498 care waiver program to become and remain employed. Therefore,
 499 the Developmental Disabilities Program Office of the Department
 500 of Children and Family Services shall consider employment as a
 501 priority outcome for an individual with developmental
 502 disabilities receiving services before other alternatives for
 503 supporting meaningful day activities. Finally, it is the intent
 504 of the Legislature that all caretakers unrelated to individuals
 505 with developmental disabilities receiving care shall be of good
 506 moral character.

507 Section 5. Subsection (1) of section 393.0655, Florida
 508 Statutes, is amended to read:

509 393.0655 Screening of direct service providers.--

510 (1) MINIMUM STANDARDS.--The department shall require level
 511 2 employment screening pursuant to chapter 435, ~~using the level~~
 512 ~~2 standards for screening set forth in that chapter,~~ for direct
 513 service providers, including support coordinators and managers
 514 and supervisors of residential facilities or comprehensive
 515 transitional education programs licensed under s. 393.967 and
 516 any other person who provides care or services, who has access
 517 to a client's areas, or who has access to a client's funds or

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518 personal property ~~who are unrelated to their clients.~~ Background
 519 screening shall include employment history checks as provided in
 520 s. 435.03.

521 Section 6. Subsection (6) is added to section 393.066,
 522 Florida Statutes, to read:

523 393.066 Community services and treatment for persons who
 524 are developmentally disabled.--

525 (6) To promote independence and productivity, the
 526 developmental services program shall provide supports and
 527 services, within available resources, to assist individuals
 528 enrolled in Medicaid waivers who choose to pursue gainful
 529 employment.

530 Section 7. Subsections (8), (15), and (16) of section
 531 400.0255, Florida Statutes, are amended to read:

532 400.0255 Resident transfer or discharge; requirements and
 533 procedures; hearings.--

534 (8) The notice required by subsection (7) must be in
 535 writing and must contain all information required by state and
 536 federal law, rules, or regulations applicable to Medicaid or
 537 Medicare cases. The agency shall develop a standard document to
 538 be used by all facilities licensed under this part for purposes
 539 of notifying residents of a discharge or transfer. The ~~Such~~
 540 document must include a means for a resident to request the
 541 local long-term care ombudsman council to review the notice and
 542 request information about or assistance with initiating a fair
 543 hearing with the agency's ~~department's~~ Office of Fair Appeals
 544 Hearings. In addition to any other pertinent information
 545 included, the form shall specify the reason allowed under
 546 federal or state law that the resident is being discharged or

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547 transferred, with an explanation to support this action.
 548 Further, the form shall state the effective date of the
 549 discharge or transfer and the location to which the resident is
 550 being discharged or transferred. The form shall clearly describe
 551 the resident's appeal rights and the procedures for filing an
 552 appeal, including the right to request the local ombudsman
 553 council to review the notice of discharge or transfer. A copy of
 554 the notice must be placed in the resident's clinical record, and
 555 a copy must be transmitted to the resident's legal guardian or
 556 representative and to the local ombudsman council within 5
 557 business days after signature by the resident or resident
 558 designee.

559 (15)(a) The agency's ~~department's~~ Office of Fair Appeals
 560 Hearings shall conduct hearings under this section. The office
 561 shall notify the facility of a resident's request for a hearing.

562 (b) The agency ~~department~~ shall adopt, by rule, ~~establish~~
 563 procedures to be used for fair hearings requested by residents.
 564 These procedures shall be equivalent to the procedures used for
 565 fair hearings for other Medicaid cases, chapter 65-2 ~~10-2~~, part
 566 VI, Florida Administrative Code. The burden of proof must be
 567 clear and convincing evidence. A hearing decision must be
 568 rendered within 90 days after receipt of the request for
 569 hearing.

570 (c) If the hearing decision is favorable to the resident
 571 who has been transferred or discharged, the resident must be
 572 readmitted to the facility's first available bed.

573 (d) The decision of the hearing officer is ~~shall be~~ final.
 574 Any aggrieved party may appeal the decision to the district
 575 court of appeal in the appellate district where the facility is

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576 located. Appeal ~~Review~~ procedures shall be conducted in
 577 accordance with the Florida Rules of Appellate Procedure.

578 (16) The agency ~~department~~ may adopt rules ~~necessary~~ to
 579 administer this section.

580 Section 8. Subsection (13) is added to section 408.15,
 581 Florida Statutes, to read:

582 408.15 Powers of the agency.--In addition to the powers
 583 granted to the agency elsewhere in this chapter, the agency is
 584 authorized to:

585 (13) Establish and conduct Medicaid fair hearings that are
 586 unrelated to eligibility determinations and comply with 42
 587 C.F.R. s. 431.200 and other applicable federal and state laws
 588 and regulations.

589 Section 9. Subsection (11) of section 409.91195, Florida
 590 Statutes, is amended to read:

591 409.91195 Medicaid Pharmaceutical and Therapeutics
 592 Committee.--There is created a Medicaid Pharmaceutical and
 593 Therapeutics Committee within the Agency for Health Care
 594 Administration for the purpose of developing a preferred drug
 595 formulary pursuant to 42 U.S.C. s. 1396r-8.

596 (11) Medicaid recipients may appeal agency preferred drug
 597 formulary decisions using the Medicaid fair hearing process
 598 administered by the Agency for Health Care Administration
 599 ~~Department of Children and Family Services.~~

600 Section 10. Subsections (7) through (10) of section
 601 410.604, Florida Statutes, are renumbered as subsections (6)
 602 through (9), respectively, and subsection (6) of said section is
 603 amended to read:

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604 410.604 Community care for disabled adults program; powers
605 and duties of the department.--

606 ~~(6) The department and providers shall charge fees for~~
607 ~~services that the department provides a disabled adult whose~~
608 ~~income is above the existing institutional care program~~
609 ~~eligibility standard, either directly or through its agencies or~~
610 ~~contractors. The department shall establish by rule, by January~~
611 ~~1, 1989, a schedule of fees based on the disabled adult's~~
612 ~~ability to pay. Services of a specified value may be accepted in~~
613 ~~lieu of a monetary contribution.~~

614 Section 11. Subsection (15) of section 415.102, Florida
615 Statutes, is amended to read:

616 415.102 Definitions of terms used in ss. 415.101-
617 415.113.--As used in ss. 415.101-415.113, the term:

618 (15) "Neglect" means the failure or omission on the part
619 of the caregiver or vulnerable adult to provide the care,
620 supervision, and services necessary to maintain the physical and
621 mental health of the vulnerable adult, including, but not
622 limited to, food, clothing, medicine, shelter, supervision, and
623 medical services, that a prudent person would consider essential
624 for the well-being of a vulnerable adult. The term "neglect"
625 also means the failure of a caregiver or vulnerable adult to
626 make a reasonable effort to protect a vulnerable adult from
627 abuse, neglect, or exploitation by others. "Neglect" is repeated
628 conduct or a single incident of carelessness which produces or
629 could reasonably be expected to result in serious physical or
630 psychological injury or a substantial risk of death.

631 Section 12. Subsections (6) through (10) of section
632 415.1113, Florida Statutes, are renumbered as subsections (7)

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633 through (11), respectively, present subsection (5) of said
 634 section is renumbered as subsection (6) and amended, and a new
 635 subsection (5) is added to said section, to read:

636 415.1113 Administrative fines for false report of abuse,
 637 neglect, or exploitation of a vulnerable adult.--

638 (5) A person alleged to have filed a false report may be
 639 represented by legal counsel at the administrative hearing. The
 640 notice of intent to impose the administrative fine set forth in
 641 subsection (3) must include notification of the right to be
 642 represented by legal counsel.

643 ~~(6)(5)~~ At the administrative hearing, the department must
 644 prove by clear and convincing evidence that the person knowingly
 645 and willfully filed a false report with the central abuse
 646 hotline. ~~The person has the right to be represented by legal~~
 647 ~~counsel at the hearing.~~

648 Section 13. Subsections (2) and (5) of section 420.622,
 649 Florida Statutes, are amended to read:

650 420.622 State Office on Homelessness; Council on
 651 Homelessness.--

652 (2) The Council on Homelessness is created to consist of a
 653 15-member council of public and private agency representatives
 654 who shall develop policy and advise the State Office on
 655 Homelessness. The council members shall be: the Secretary of
 656 Children and Family Services, or his or her designee; the
 657 Secretary of Community Affairs, or his or her designee; the
 658 Secretary of Health, or his or her designee; the Executive
 659 Director of Veterans' Affairs, or his or her designee; the
 660 Secretary of Corrections, or his or her designee; the Director
 661 of Workforce Florida, Inc., or his or her designee; one

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662 representative of the Florida Association of Counties; one
 663 representative of the Florida ~~Coalition for~~ Supportive Housing
 664 Coalition; the Executive Director of the Florida Housing Finance
 665 Corporation, or his or her designee; one representative of the
 666 Florida Coalition for the Homeless; one representative of the
 667 Florida State Rural Development Council; and four members
 668 appointed by the Governor. The council members shall be
 669 volunteer, nonpaid persons and shall be reimbursed for travel
 670 expenses only. The appointed members of the council shall serve
 671 staggered 2-year terms, and the council shall meet at least four
 672 times per year. The importance of minority, gender, and
 673 geographic representation must be considered when appointing
 674 members to the council.

675 (5) The State Office on Homelessness, with the concurrence
 676 of the Council on Homelessness, may administer moneys
 677 appropriated to it to provide homeless housing assistance grants
 678 annually to lead agencies for local homeless assistance
 679 continuum of care, as recognized by the State Office on
 680 Homelessness, to construct or rehabilitate transitional or
 681 permanent housing units for homeless persons. These moneys shall
 682 consist of any sums that the state may appropriate, as well as
 683 money received from donations, gifts, bequests, or otherwise
 684 from any public or private source, which money is intended to
 685 construct or rehabilitate transitional or permanent housing
 686 units for homeless persons.

687 (a) Grant applicants shall be ranked competitively.
 688 Preference must be given to applicants who leverage additional
 689 private funds and public funds, particularly federal funds
 690 designated for the construction and rehabilitation of

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691 transitional or permanent housing for homeless persons, who
 692 build or rehabilitate the greatest number of units, and who
 693 build or rehabilitate in catchment areas having the greatest
 694 need for housing for the homeless relative to the population of
 695 the catchment area.

696 (b) Funding for any particular project may not exceed
 697 \$750,000.

698 (c) Construction or rehabilitative activities, and
 699 associated and related costs, to which funds available under
 700 this subsection may be applied include, but are not limited to:

- 701 1. Site preparation and demolition.
- 702 2. Professional fees of architects, surveyors, or
 703 engineers.
- 704 3. Local government building permits and impact fees.
- 705 4. Utilities and special district fees.
- 706 5. Labor, materials, and tools.
- 707 6. Other costs associated with the construction or
 708 rehabilitation of the building.

709
 710 Any construction or rehabilitation activity or cost eligible for
 711 funding under this subsection may be funded if the activity or
 712 cost cannot be contributed, absorbed, or waived.

713 (d)+(e) Projects must reserve, for a minimum of 10 years,
 714 the number of units constructed or rehabilitated through
 715 homeless housing assistance grant funding to serve persons who
 716 are homeless at the time they assume tenancy.

717 (e)+(d) No more than two grants may be awarded annually in
 718 any given local homeless assistance continuum of care catchment
 719 area.

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720 ~~(f)(e)~~ A project may not be funded which is not included
 721 in the local homeless assistance continuum of care plan, as
 722 recognized by the State Office on Homelessness, for the
 723 catchment area in which the project is located.

724 ~~(g)(f)~~ The maximum percentage of funds that the State
 725 Office on Homelessness and each applicant may spend on
 726 administrative costs is 5 percent.

727 Section 14. Subsection (4) of section 420.623, Florida
 728 Statutes, is amended to read:

729 420.623 Local coalitions for the homeless.--

730 (4) ANNUAL REPORTS.--The department shall submit to the
 731 Governor, the Speaker of the House of Representatives, and the
 732 President of the Senate, by December 31 ~~June 30~~, an annual
 733 report consisting of a compilation of data collected by local
 734 coalitions, progress made in the development and implementation
 735 of local homeless assistance continuums of care plans in each
 736 district, local spending plans, programs and resources available
 737 at the local level, and recommendations for programs and
 738 funding.

739 Section 15. Subsection (5) of section 420.625, Florida
 740 Statutes, is amended to read:

741 420.625 Grant-in-aid program.--

742 (5) SPENDING PLANS.--The department shall develop
 743 guidelines for the development of spending plans and for the
 744 evaluation and approval by district administrators of spending
 745 plans, based upon such factors as:

746 (a) The demonstrated level of need for the program.

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747 (b) The demonstrated ability of the local agency or
748 agencies seeking assistance to deliver the services and to
749 assure that identified needs will be met.

750 (c) The ability of the local agency or agencies seeking
751 assistance to deliver a wide range of services as enumerated in
752 subsection (3).

753 (d) The adequacy and reasonableness of proposed budgets
754 and planned expenditures, and the demonstrated capacity of the
755 local agency or agencies to administer the funds sought.

756 (e) A statement from the local coalition for the homeless
757 as to the steps to be taken to assure coordination and
758 integration of services in the district to avoid unnecessary
759 duplication and costs.

760 (f) A statement from the designated lead agency of the
761 homeless assistance continuum of care catchment area in which
762 the services proposed will be provided, assuring the department
763 that the services are contained in, and consistent with, the
764 coalition's written plan for its continuum of care.

765 (g)~~(f)~~ Assurances by the local coalition for the homeless
766 that alternative funding strategies for meeting needs through
767 the reallocation of existing resources, utilization of
768 volunteers, and local government or private agency funding have
769 been explored.

770 (h)~~(g)~~ The existence of an evaluation component designed
771 to measure program outcomes and determine the overall
772 effectiveness of the local programs for the homeless for which
773 funding is sought.

774 Section 16. This act shall take effect upon becoming a
775 law.