

By Senator Lynn

7-1435B-04

1 A bill to be entitled
2 An act relating to the Department of Children
3 and Family Services; amending s. 39.301, F.S.;
4 requiring a risk assessment of the child and
5 family to be commenced immediately upon receipt
6 of the abuse report; providing for a continuous
7 review of the risk assessment; providing for
8 the development and implementation of a safety
9 plan, a case plan, or both; amending s. 39.701,
10 F.S.; providing for a review of the status of
11 the child by the circuit court or a citizen
12 review panel; authorizing reviews by a citizen
13 review panel in lieu of court hearings;
14 requiring the court to specifically find if the
15 department has direct knowledge of the care the
16 child is receiving; providing for
17 recommendations from the citizen review panels
18 in place of recommended orders; amending s.
19 120.80, F.S.; exempting hearings of the Agency
20 for Health Care Administration from the
21 requirement of being conducted by an
22 administrative law judge; amending s. 393.062,
23 F.S.; providing legislative intent with respect
24 to supporting individuals with developmental
25 disabilities to become and remain employed;
26 amending s. 393.0655, F.S.; requiring the
27 department to include employment history checks
28 in the employment screening of direct service
29 providers; amending s. 393.066, F.S.; directing
30 the department to make employment-related
31 services available to certain individuals with

1 developmental disabilities; amending s.
2 393.067, F.S.; providing that a license issued
3 to a residential facility or a comprehensive
4 transitional education program does not create
5 a property right in the recipient; amending s.
6 400.0255, F.S.; providing for certain hearings
7 relating to resident transfer or discharge to
8 be conducted by the agency's Office of Fair
9 Hearings; amending s. 408.15, F.S.; authorizing
10 the agency to establish and conduct Medicaid
11 fair hearings; amending s. 409.91195, F.S.;
12 authorizing a Medicaid recipient to appeal a
13 decision concerning the preferred drug
14 formulary through the agency; amending s.
15 409.912, F.S.; requiring the department to
16 enter into contracts with certain providers for
17 the providers to supply services in any
18 provider network for prepaid behavioral health
19 services; amending s. 415.102, F.S.; adding
20 self-neglect to the definition of the term
21 "neglect" for purposes of adult protective
22 services; amending s. 415.1113, F.S.; requiring
23 notification of the right to be represented by
24 legal counsel at an administrative hearing
25 regarding an allegation of filing a false
26 report; amending s. 420.622, F.S.;
27 redesignating the Florida Coalition for
28 Supportive Housing; providing that grant moneys
29 for homeless persons may be used for certain
30 eligible construction and rehabilitation costs;
31 amending s. 420.623, F.S.; changing the date

1 for the department to submit an annual report
2 to the Governor and Legislature; amending s.
3 420.625, F.S.; requiring that spending plans
4 for funds from the grant-in-aid program include
5 assurances to the department that the services
6 are consistent with the continuum-of-care plan;
7 creating ss. 393.135, 394.4593, and 916.1075,
8 F.S.; defining the terms "employee," "sexual
9 activity," and "sexual misconduct"; providing
10 that it is a second-degree felony for an
11 employee to engage in sexual misconduct with
12 certain developmentally disabled clients,
13 certain mental health patients, or certain
14 forensic clients; providing certain exceptions;
15 prohibiting certain employment, and providing
16 for dismissal from employment, of a person who
17 has engaged in sexual misconduct with certain
18 developmentally disabled clients, certain
19 mental health patients, or certain forensic
20 clients; requiring certain employees to report
21 sexual misconduct to the central abuse hotline
22 of the department and to law enforcement;
23 providing for notification to the inspector
24 general of the department; providing that it is
25 a first-degree misdemeanor to knowingly and
26 willfully fail to make a report as required, or
27 to prevent another from doing so, or to submit
28 inaccurate or untruthful information; providing
29 that it is a third-degree felony to coerce or
30 threaten another person to alter testimony or a
31 report with respect to an incident of sexual

1 misconduct; providing criminal penalties;
2 amending s. 435.03, F.S.; expanding level 1
3 screening standards to include criminal
4 offenses related to sexual misconduct with
5 certain developmentally disabled clients,
6 mental health patients, or forensic clients and
7 the reporting of such sexual misconduct;
8 amending s. 435.04, F.S.; expanding level 2
9 screening standards to include the offenses
10 related to sexual misconduct with certain
11 developmentally disabled clients, mental health
12 patients, or forensic clients and the reporting
13 of such sexual misconduct; amending s.
14 943.0585, F.S., relating to court-ordered
15 expunction of criminal history records, for the
16 purpose of incorporating the amendment to s.
17 943.059, F.S., in a reference thereto;
18 providing that certain criminal history records
19 relating to sexual misconduct with
20 developmentally disabled clients, mental health
21 patients, or forensic clients, or the reporting
22 of such sexual misconduct, shall not be
23 expunged; providing that the application for
24 eligibility for expunction certify that the
25 criminal history record does not relate to an
26 offense involving sexual misconduct with
27 certain developmentally disabled clients,
28 mental health patients, or forensic clients, or
29 the reporting of such sexual misconduct;
30 amending s. 943.059, F.S., relating to
31 court-ordered sealing of criminal history

1 records, for the purpose of incorporating the
2 amendment to s. 943.0585, F.S., in a reference
3 thereto; providing that certain criminal
4 history records relating to sexual misconduct
5 with developmentally disabled clients, mental
6 health patients, or forensic clients, or the
7 reporting of such sexual misconduct, shall not
8 be sealed; providing that the application for
9 eligibility for sealing certify that the
10 criminal history record does not relate to an
11 offense involving sexual misconduct with
12 certain developmentally disabled clients,
13 mental health patients, or forensic clients, or
14 the reporting of such sexual misconduct;
15 amending s. 400.215, F.S., and reenacting
16 paragraphs (b) and (c) of subsection (2) and
17 subsection (3), relating to background
18 screening requirements for certain nursing home
19 personnel, for the purpose of incorporating the
20 amendments to ss. 435.03 and 435.04, F.S., in
21 references thereto; correcting a
22 cross-reference; amending s. 400.964, F.S., and
23 reenacting subsections (1), (2), and (7),
24 relating to background screening requirements
25 for certain personnel employed by intermediate
26 care facilities for the developmentally
27 disabled, for the purpose of incorporating the
28 amendments to ss. 435.03 and 435.04, F.S., in
29 references thereto; correcting a
30 cross-reference; amending s. 435.045, F.S., and
31 reenacting paragraph (a) of subsection (1),

1 relating to requirements for the placement of
2 dependent children, for the purpose of
3 incorporating the amendment to s. 435.04, F.S.,
4 in a reference thereto; correcting a
5 cross-reference; reenacting ss. 400.414(1)(f)
6 and (g), 400.4174, 400.509(4)(a), (b), (c),
7 (d), (f), and (g), 400.556(2)(c), 400.6065(1),
8 (2), and (4), 400.980(4)(a), (b), (c), (d),
9 (f), and (g), 409.175(2)(k), 409.907(8)(d),
10 435.05(1) and (3), 744.3135, and 985.04(2),
11 F.S., relating to denial, revocation, or
12 suspension of license to operate an assisted
13 living facility; background screening
14 requirements for certain personnel employed by
15 assisted living facilities; registration of
16 particular home health care service providers;
17 denial, suspension, or revocation of license to
18 operate adult day care centers; background
19 screening requirements for certain hospice
20 personnel; background screening requirements
21 for registrants of the health care service
22 pools; the definition of "screening" in
23 connection with the licensure of family foster
24 homes, residential child-caring agencies, and
25 child-placing agencies; background screening
26 requirements of Medicaid providers; employment
27 of persons in positions requiring background
28 screening; credit and criminal investigations
29 of guardians; and oaths, records, and
30 confidential information pertaining to juvenile
31 offenders, respectively, for the purpose of

1 incorporating the amendments to ss. 435.03 and
2 435.04, F.S., in references thereto; reenacting
3 ss. 400.512, 400.619(4), 400.6194(1), 400.953,
4 409.912(32), 435.07(4), 464.018(1)(e),
5 744.309(3), 744.474(12), and 985.407(4), F.S.,
6 relating to background screening of home health
7 agency personnel, nurse registry personnel,
8 companions, and homemakers; application and
9 renewal of adult family-care home provider
10 licenses; denial, revocation, or suspension of
11 adult family-care home provider license;
12 background screening of home medical equipment
13 provider personnel and background screening
14 requirements for certain persons responsible
15 for managed care plans; exemptions from
16 disqualification from employment; denial of
17 nursing license and disciplinary actions
18 against such licensees; disqualification of
19 guardians; removal of guardians; and background
20 screening requirements for certain Department
21 of Juvenile Justice personnel, respectively,
22 for the purpose of incorporating the amendment
23 to s. 435.03, F.S., in references thereto;
24 reenacting ss. 39.001(2)(b), 39.821(1),
25 110.1127(3)(a) and (c), 112.0455(12)(a),
26 381.0059(1), (2), and (4), 381.60225(1)(a),
27 (b), (c), (d), (f), and (g), 383.305(7)(a),
28 (b), (c), (d), (f), and (g), 390.015(3)(a),
29 (b), (c), (d), (f), and (g), 393.0655(1),
30 393.067(6)(a), (b), (c), (d), (f), and (g),
31 394.875(13)(a), (b), (c), (d), (f), and (g),

1 395.0055(1), (2), (3), (4), (6), and (8),
2 395.0199(4)(a), (b), (c), (d), (f), and (g),
3 397.451(1)(a), 400.071(4)(a), (b), (c), (d),
4 and (f), 400.471(4)(a), (b), (c), (d), (f), and
5 (g), 400.506(2)(a), (b), (c), (d), (f), and
6 (g), 400.5572, 400.607(3)(a), 400.801(4)(a),
7 (b), (c), (d), (f), and (g), 400.805(3)(a),
8 (b), (c), (d), (f), and (g), 400.906(5)(a),
9 (b), (c), (d), (f), and (g), 400.931(5)(a),
10 (b), (c), (e), and (f), 400.962(10)(a), (b),
11 (c), (d), and (f), 400.991(7)(b) and (d),
12 402.302(2)(e), 402.305(2)(a), 402.3054(3),
13 483.30(2)(a), (b), (c), (d), (f), and (g),
14 483.101(2)(a), (b), (c), (d), (f), and (g),
15 744.1085(5), 984.01(2)(b), 985.01(2)(b),
16 1002.36(7)(a) and (b), F.S., relating to
17 background screening requirements for certain
18 Department of Children and Family Services
19 personnel; qualifications of guardians ad
20 litem; security checks of certain public
21 officers and employees; background screening
22 requirements of certain laboratory personnel in
23 connection with the Drug-Free Workplace Act;
24 background screening requirements for school
25 health services personnel; background screening
26 of certain personnel of the public health
27 system; background screening and licensure of
28 birth center personnel; background screening
29 and licensure of abortion clinic personnel;
30 background screening of direct service
31 providers; background screening and licensure

1 of personnel of intermediate care facilities
2 for the developmentally disabled; background
3 screening of mental health personnel;
4 background screening and licensure of personnel
5 of crisis stabilization units, residential
6 treatment facilities, and residential treatment
7 centers for children and adolescents;
8 background screening and licensure of personnel
9 of hospitals, ambulatory surgical centers, and
10 mobile surgical facilities; background
11 screening of certain personnel in connection
12 with registration for private utilization
13 reviews; background screening of certain
14 service provider personnel; background
15 screening and licensure of certain long-term
16 care facility personnel; background screening
17 and licensure of certain home health agency
18 personnel; background screening and licensure
19 of nurse registry applicants; background
20 screening of certain adult day care center
21 personnel; denial or revocation of hospice
22 license; background screening and licensure of
23 certain transitional living facility personnel;
24 background screening and licensure of certain
25 prescribed pediatric extended care center
26 personnel; background screening and licensure
27 of certain home medical equipment provider
28 personnel; background screening and licensure
29 of certain personnel of intermediate care
30 facilities for the developmentally disabled;
31 background screening and licensure of health

1 care clinic personnel; the definition of "child
2 care facility" in connection with background
3 screening of operators; background screening
4 requirements for personnel of child care
5 facilities; background screening requirements
6 for child enrichment service providers;
7 background screening and licensure of certain
8 personnel of multiphasic health testing
9 centers; background screening and licensure of
10 certain clinical laboratory personnel;
11 regulation of professional guardians;
12 background screening of certain Department of
13 Juvenile Justice and Department of Children and
14 Family Services personnel in connection with
15 programs for children and families in need of
16 services; and background screening of certain
17 Department of Juvenile Justice and Department
18 of Children and Family Services personnel in
19 connection with juvenile justice programs,
20 background screening of personnel of the
21 Florida School for the Deaf and the Blind,
22 respectively, for the purposes of incorporating
23 the amendment to s. 435.04, F.S., in references
24 thereto; amending s. 394.4572, F.S.; requiring
25 the department and the agency to check the
26 employment history of a person when screening
27 mental health personnel for employment;
28 reenacting s. 943.0582(2)(a) and (6), F.S.,
29 relating to prearrest, postarrest, or teen
30 court diversion program expunction for the
31 purpose of incorporating the amendments to ss.

1 943.0585 and 943.059, F.S., in references
2 thereto; reenacting s. 943.053(7), (8), and
3 (9), F.S., relating to dissemination of
4 criminal justice information, for the purpose
5 of incorporating the amendment to s. 943.059,
6 F.S., in references thereto; providing
7 applicability; directing the Department of
8 Children and Family Services to competitively
9 bid the eligibility determination activities of
10 certain public assistance programs; providing
11 for implementation in two districts by a
12 specified date; allowing current employees the
13 opportunity to present an offer to continue to
14 perform eligibility determination services;
15 directing the department to assist the
16 employees, if requested; authorizing the
17 department to use state funds to compensate
18 consultants who help current employees prepare
19 a bid response; requiring prior approval from
20 the Technology Review Workgroup before certain
21 changes are made; requiring an assessment prior
22 to implementation beyond the two districts;
23 specifying elements to be included in the
24 assessment; requiring reports to the Governor
25 and Legislature by specified dates; directing
26 the Governor to direct the department regarding
27 further implementation unless countermanded by
28 the Legislature; requiring semiannual reports
29 if implementation is continued beyond June 30,
30 2005; repealing s. 410.604(6), F.S., relating
31 to fees charged by the department and its

1 providers for services delivered to a disabled
2 adult whose income is above the eligibility
3 standard for institutional care; providing an
4 effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Subsection (6) and paragraph (b) of
9 subsection (9) of section 39.301, Florida Statutes, are
10 amended to read:

11 39.301 Initiation of protective investigations.--

12 (6) For each report accepted by the hotline for
13 protective investigation,an assessment of risk and the
14 perceived needs for the child and family shall be conducted.
15 This assessment shall be initiated immediately upon receipt of
16 the report from the hotline and shall be conducted in a manner
17 that is sensitive to the social, economic, and cultural
18 environment of the family. The ~~This~~ assessment must include a
19 face-to-face interview with the child, other siblings,
20 parents, and other children and adults in the household and an
21 onsite assessment of the child's residence. During the
22 department's involvement with the child and family as a result
23 of the abuse report, the risk assessment shall continuously be
24 reviewed and amended to reflect any change to the risks and
25 needs of the child and family.

26 (9)

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

1 1. Determine the composition of the family or
2 household, including the name, address, date of birth, social
3 security number, sex, and race of each child named in the
4 report; any siblings or other children in the same household
5 or in the care of the same adults; the parents, legal
6 custodians, or caregivers; and any other adults in the same
7 household.

8 2. Determine whether there is indication that any
9 child in the family or household has been abused, abandoned,
10 or neglected; the nature and extent of present or prior
11 injuries, abuse, or neglect, and any evidence thereof; and a
12 determination as to the person or persons apparently
13 responsible for the abuse, abandonment, or neglect, including
14 the name, address, date of birth, social security number, sex,
15 and race of each ~~such~~ person.

16 3. Determine the immediate and long-term risk to each
17 child by conducting state and federal records checks,
18 including, when feasible, the records of the Department of
19 Corrections, on the parents, legal custodians, or caregivers,
20 and any other persons in the same household. This information
21 shall be used solely for purposes supporting the detection,
22 apprehension, prosecution, pretrial release, posttrial
23 release, or rehabilitation of criminal offenders or persons
24 accused of the crimes of child abuse, abandonment, or neglect
25 and shall not be further disseminated or used for any other
26 purpose. The department's child protection investigators are
27 hereby designated a criminal justice agency for the purpose of
28 accessing criminal justice information to be used for
29 enforcing this state's laws concerning the crimes of child
30 abuse, abandonment, and neglect.

31

1 4. Determine the immediate and long-term risk to each
2 child through utilization of standardized risk assessment
3 instruments.

4 5. Based on the information obtained from available
5 sources, complete the risk assessment instrument within 48
6 hours after the initial contact and, if determined necessary
7 by the assessment needed, develop and implement a safety plan,
8 develop and implement a case plan, or develop and implement
9 both a safety plan and a case plan.

10 6. Determine the protective, treatment, and
11 ameliorative services necessary to safeguard and ensure the
12 child's safety and well-being and development, and cause the
13 delivery of those services through the early intervention of
14 the department or its agent. The training provided to staff
15 members who conduct child protective investigations must
16 include instruction on how and when to use the injunction
17 process under s. 39.504 or s. 741.30 to remove a perpetrator
18 of domestic violence from the home as an intervention to
19 protect the child.

20 Section 2. Section 39.701, Florida Statutes, is
21 amended to read:

22 39.701 Judicial review.--

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

28 (b) The court shall retain jurisdiction over a child
29 returned to his or her parents for a minimum period of 6
30 months following the reunification, but, at that time, based
31 on a report of the social service agency and the guardian ad

1 litem, if one has been appointed, and any other relevant
2 factors, the court shall make a determination as to whether
3 supervision by the department and the court's jurisdiction
4 shall continue or be terminated.

5 (2)(a) ~~The court shall review~~ The status of the child
6 and shall be reviewed ~~hold a hearing as provided in this part~~
7 at least every 6 months until the child reaches permanency
8 status. This review may be conducted by the court or a citizen
9 review panel authorized by the court, if one has been
10 authorized.

11 (b) For reviews conducted by the court, the court may
12 dispense with the attendance of the child at the judicial
13 review hearing, but may not dispense with the hearing or the
14 presence of other parties to the review unless before the
15 ~~review a hearing~~ a review is held before a citizen review
16 panel. If the court conducts the review without the presence
17 of the child, the court must specifically find whether the
18 department has direct knowledge of the care the child is
19 receiving.

20 (c)(b) ~~Citizen review panels may conduct hearings to~~
21 ~~review the status of a child.~~ The court shall select the cases
22 appropriate for referral to the citizen review panels and may
23 order the attendance of the parties at the reviews ~~review~~
24 ~~panel hearings.~~ However, any party may object to the referral
25 of a case to a citizen review panel. Whenever ~~such~~ an
26 objection has been filed with the court, the court shall
27 review the substance of the objection and may conduct the
28 review itself or refer the review to a citizen review panel.
29 All parties retain the right to take exception to the findings
30 or recommendations ~~recommended orders~~ of a citizen review
31

1 panel in accordance with Rule 1.490(h), Florida Rules of Civil
2 Procedure.

3 ~~(d)(c)~~ Notice of a review hearing by a citizen review
4 panel must be provided as set forth in subsection (5). At the
5 conclusion of a citizen review panel review hearing, each
6 party may propose recommendations ~~a recommended order~~ to the
7 chairperson of the panel. Thereafter, the citizen review panel
8 shall submit its report, copies of the proposed
9 recommendations ~~recommended orders~~, and a copy of the panel's
10 recommendations ~~recommended order~~ to the court. The citizen
11 review panel's recommendations ~~recommended order~~ must be
12 limited to the dispositional options available to the court in
13 subsection (8). Each party may file exceptions to the report
14 and recommendations ~~recommended order~~ of the citizen review
15 panel in accordance with Rule 1.490, Florida Rules of Civil
16 Procedure.

17 (3)(a) The initial judicial review hearing must be
18 held no later than 90 days after the date of the disposition
19 hearing or after the date of the hearing at which the court
20 approves the case plan, whichever comes first, but in no event
21 shall the review be held later than 6 months after the date
22 the child was removed from the home. A citizen review panel
23 ~~panels may shall~~ not conduct more than two consecutive reviews
24 without the child and the parties appearing ~~coming~~ before the
25 court for a judicial review hearing.

26 (b) If the citizen review panel recommends extending
27 the goal of reunification for any case plan beyond 12 months
28 from the date the child was removed from the home or the case
29 plan was adopted, whichever date came first, the court must
30 schedule a judicial review hearing to be conducted by the
31

1 court within 30 days after receiving the recommendation from
2 the citizen review panel.

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

7 (d) If the department and the court have established a
8 formal agreement that includes specific authorization for
9 particular cases, the department may conduct administrative
10 reviews instead of the judicial reviews for children in
11 out-of-home care. Notices of ~~such~~ administrative reviews must
12 be provided to all parties. However, an administrative review
13 may not be substituted for the first judicial review, and in
14 every case the court must conduct a judicial review at least
15 every 6 months. Any party dissatisfied with the results of an
16 administrative review may petition for a judicial review.

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

20 (f) In each case in which a child has been voluntarily
21 placed with the licensed child-placing agency, the agency
22 shall notify the clerk of the court in the circuit where the
23 child resides of the ~~such~~ placement no later than ~~within~~ 5
24 working days after the placement. Notification of the court is
25 not required for any child who will be in out-of-home care no
26 longer than 30 days unless that child is placed in out-of-home
27 care a second time within a 12-month period. If the child is
28 returned to the custody of the parents before the scheduled
29 review or hearing or if the child is placed for adoption, the
30 child-placing agency shall notify the court of the child's
31 return or placement no later than ~~within~~ 5 working days after

1 the return or placement, and the clerk of the court shall
2 cancel the review hearing.

3 (4) The court shall schedule the date, time, and
4 location of the next judicial review hearing or review by the
5 citizen review panel during the judicial review hearing or the
6 review by the citizen review panel which ~~and~~ shall be listed
7 ~~list same~~ in the judicial review order.

8 (5) Notice of a judicial review hearing or a citizen
9 review panel review hearing, and a copy of the motion for
10 judicial review, if any, must be served by the clerk of the
11 court upon:

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

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

17 (c) The parents.

18 (d) The guardian ad litem for the child, or the
19 representative of the guardian ad litem program if the program
20 has been appointed.

21 (e) Any preadoptive parent.

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

24

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

29 (6)(a) Before ~~Prior to~~ every judicial review hearing
30 or citizen review panel review hearing, the social service
31 agency shall make an investigation and social study concerning

1 all pertinent details relating to the child and shall furnish
2 to the court ~~or citizen review panel~~ a written report that
3 includes, but is not limited to:

4 1. A description of the type of placement the child is
5 in at the time of the hearing or review, including the safety
6 of the child and the continuing necessity for and
7 appropriateness of the placement.

8 2. Documentation of the diligent efforts made by all
9 parties to the case plan to comply with each applicable
10 provision of the plan.

11 3. The amount of fees assessed and collected during
12 the period of time being reported.

13 4. The services provided to the foster family or legal
14 custodian in an effort to address the needs of the child as
15 indicated in the case plan.

16 5. A statement that either:

17 a. The parent, though able to do so, did not comply
18 substantially with the provisions of the case plan, and the
19 agency recommendations;

20 b. The parent did substantially comply with the
21 provisions of the case plan; or

22 c. The parent has partially complied with the
23 provisions of the case plan, with a summary of additional
24 progress needed and the agency recommendations.

25 6. A statement from the foster parent or legal
26 custodian providing any material evidence concerning the
27 return of the child to the parent or parents.

28 7. A statement concerning the frequency, duration, and
29 results of the parent-child visitation, if any, and the agency
30 recommendations for an expansion or restriction of future
31 visitation.

1 8. The number of times a child has been removed from
2 his or her home and placed elsewhere, the number and types of
3 placements that have occurred, and the reason for the changes
4 in placement.

5 9. The number of times a child's educational placement
6 has been changed, the number and types of educational
7 placements which have occurred, and the reason for any change
8 in placement.

9 10. Copies of all medical, psychological, and
10 educational records that support the terms of the case plan
11 and that have been produced concerning the child, parents, or
12 any caregiver since the last judicial review hearing or
13 citizen review panel review.

14 (b) A copy of the social service agency's written
15 report and the written report of the guardian ad litem must be
16 served on all parties whose whereabouts are known; to the
17 foster parents or legal custodians; and to the citizen review
18 panel, at least 72 hours before the judicial review hearing or
19 citizen review panel review ~~hearing~~. The requirement for
20 providing parents with a copy of the written report does not
21 apply to those parents who have voluntarily surrendered their
22 child for adoption or who have had their parental rights to
23 the child terminated.

24 (c) In a case in which the child has been permanently
25 placed with the social service agency, the agency shall
26 furnish to the court a written report concerning the progress
27 being made to place the child for adoption. If the child
28 cannot be placed for adoption, a report on the progress made
29 by the child towards alternative permanency goals or
30 placements, including, but not limited to, guardianship,
31 long-term custody, long-term licensed custody, or independent

1 living, must be submitted to the court. The report must be
2 submitted to the court at least 72 hours before each scheduled
3 judicial review hearing.

4 (d) In addition to or in lieu of any written statement
5 provided to the court, the foster parent or legal custodian,
6 or any preadoptive parent, shall be given the opportunity to
7 address the court with any information relevant to the best
8 interests of the child at any judicial review hearing.

9 (7) The court and any citizen review panel shall take
10 into consideration the information contained in the social
11 services study and investigation and all medical,
12 psychological, and educational records that support the terms
13 of the case plan; testimony by the social services agency, the
14 parent, the foster parent or legal custodian, the guardian ad
15 litem if one has been appointed for the child, and any other
16 person deemed appropriate; and any relevant and material
17 evidence submitted to the court, including written and oral
18 reports to the extent of their probative value. These reports
19 and evidence may be received by the court in its effort to
20 determine the action to be taken or recommended with regard to
21 the child and may be relied upon to the extent of their
22 probative value, even though not competent in an adjudicatory
23 hearing. In its deliberations, the court and any citizen
24 review panel shall seek to determine:

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

28 (b) If the parent has been advised of the right to
29 have counsel present at the judicial review hearing or citizen
30 review panel review ~~hearings~~. If not so advised, the court or
31

1 citizen review panel shall advise the parent of this ~~such~~
2 right.

3 (c) If a guardian ad litem needs to be appointed for
4 the child in a case in which a guardian ad litem has not
5 previously been appointed or if there is a need to continue a
6 guardian ad litem in a case in which a guardian ad litem has
7 been appointed.

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

11 (e) The compliance or lack of compliance with a
12 visitation contract between the parent and the social service
13 agency for contact with the child, including the frequency,
14 duration, and results of the parent-child visitation and the
15 reason for any noncompliance.

16 (f) The compliance or lack of compliance of the parent
17 in meeting specified financial obligations pertaining to the
18 care of the child, including the reason for failure to comply
19 if such is the case.

20 (g) The appropriateness of the child's current
21 placement, including whether the child is in a setting which
22 is as family-like and as close to the parent's home as
23 possible, consistent with the child's best interests and
24 special needs, and including maintaining stability in the
25 child's educational placement.

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

28 (i) When appropriate, the basis for the unwillingness
29 or inability of the parent to become a party to a case plan.
30 The court and the citizen review panel shall determine if the
31

1 efforts of the social service agency to secure party
2 participation in a case plan were sufficient.

3 (8)(a) Based upon the criteria set forth in subsection
4 (7) and the recommendations ~~recommended order~~ of the citizen
5 review panel, if any, the court shall determine whether or not
6 the social service agency shall initiate proceedings to have a
7 child declared a dependent child, return the child to the
8 parent, continue the child in out-of-home care for a specified
9 period of time, or initiate termination of parental rights
10 proceedings for subsequent placement in an adoptive home.

11 Modifications to the plan must be handled as prescribed in s.
12 39.601. If the court finds that the prevention or
13 reunification efforts of the department will allow the child
14 to remain safely at home or be safely returned to the home,
15 the court shall allow the child to remain in or return to the
16 home after making a specific finding of fact that the reasons
17 for the creation of the case plan have been remedied to the
18 extent that the child's safety, well-being, and physical,
19 mental, and emotional health will not be endangered.

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

26 (c) If, in the opinion of the court, the social
27 service agency has not complied with its obligations as
28 specified in the written case plan, the court may find the
29 social service agency in contempt, shall order the social
30 service agency to submit its plans for compliance with the
31 agreement, and shall require the social service agency to show

1 why the child could not safely be returned to the home of the
2 parents.

3 (d) The court may extend the time limitation of the
4 case plan, or may modify the terms of the plan, based upon
5 information provided by the social service agency, and the
6 guardian ad litem, if one has been appointed, the parent or
7 parents, and the foster parents or legal custodian, and any
8 other competent information on record demonstrating the need
9 for the amendment. If the court extends the time limitation of
10 the case plan, the court must make specific findings
11 concerning the frequency of past parent-child visitation, if
12 any, and the court may authorize the expansion or restriction
13 of future visitation. Modifications to the plan must be
14 handled as prescribed in s. 39.601. Any extension of a case
15 plan must comply with the time requirements and other
16 requirements specified by this chapter.

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

24 (f) No later than 12 months after the date that the
25 child was placed in shelter care, the court shall conduct a
26 judicial review to plan for the child's permanency. At this
27 hearing, if the child is not returned to the physical custody
28 of the parents, the case plan may be extended with the same
29 goals only if the court finds that the situation of the child
30 is so extraordinary that the plan should be extended. The case
31 plan must document steps the department is taking to find an

1 adoptive parent or other permanent living arrangement for the
2 child.

3 (g) The court may issue a protective order in
4 assistance, or as a condition, of any other order made under
5 this part. In addition to the requirements included in the
6 case plan, the protective order may set forth requirements
7 relating to reasonable conditions of behavior to be observed
8 for a specified period of time by a person or agency who is
9 before the court; and the ~~such~~ order may require the ~~any such~~
10 person or agency to make periodic reports to the court
11 containing any ~~such~~ information ~~as~~ the court prescribes ~~in its~~
12 ~~discretion may prescribe~~.

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

15 120.80 Exceptions and special requirements;
16 agencies.--

17 (7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND
18 AGENCY FOR HEALTH CARE ADMINISTRATION.--Notwithstanding s.
19 120.57(1)(a), hearings conducted within the Department of
20 Children and Family Services and the Agency for Health Care
21 Administration in the execution of those social and economic
22 programs administered by the former Division of Family
23 Services of the former Department of Health and Rehabilitative
24 Services prior to the reorganization effected by chapter
25 75-48, Laws of Florida, need not be conducted by an
26 administrative law judge assigned by the division.

27 Section 4. Section 393.062, Florida Statutes, is
28 amended to read:

29 393.062 Legislative findings and declaration of
30 intent.--The Legislature finds and declares that existing
31 state programs for the treatment of individuals who are

1 | developmentally disabled, which often unnecessarily place
2 | clients in institutions, are unreasonably costly, are
3 | ineffective in bringing the individual client to his or her
4 | maximum potential, and are in fact debilitating to a great
5 | majority of clients. A redirection in state treatment
6 | programs for individuals who are developmentally disabled is
7 | necessary if any significant amelioration of the problems
8 | faced by these ~~such~~ individuals is ever to take place. This
9 | ~~Such~~ redirection should place primary emphasis on programs
10 | that have the potential to prevent or reduce the severity of
11 | developmental disabilities. Further, the Legislature declares
12 | that greatest priority shall be given to the development and
13 | implementation of community-based residential placements,
14 | services, and treatment programs for individuals who are
15 | developmentally disabled which will enable these ~~such~~
16 | individuals to achieve their greatest potential for
17 | independent and productive living, which will enable them to
18 | live in their own homes or in residences located in their own
19 | communities, and which will permit them to be diverted or
20 | removed from unnecessary institutional placements. The
21 | Legislature finds that the eligibility criteria for
22 | intermediate-care facilities for the developmentally disabled
23 | which are specified in the Medicaid state plan in effect on
24 | the effective date of this act are essential to the system of
25 | residential services. The Legislature declares that the goal
26 | of this act, to improve the quality of life of all
27 | developmentally disabled persons by the development and
28 | implementation of community-based residential placements,
29 | services, and treatment, cannot be met without ensuring the
30 | availability of community residential opportunities for
31 | developmentally disabled persons in the residential areas of

1 this state. The Legislature, therefore, declares that all
2 persons with developmental disabilities who live in licensed
3 community homes shall have a family living environment
4 comparable to other Floridians. The Legislature intends that
5 these ~~such~~ residences shall be considered and treated as a
6 functional equivalent of a family unit and not as an
7 institution, business, or boarding home. The Legislature
8 declares that, in developing community-based programs and
9 services for individuals who are developmentally disabled,
10 private businesses, not-for-profit corporations, units of
11 local government, and other organizations capable of providing
12 needed services to clients in a cost-efficient manner shall be
13 given preference in lieu of operation of programs directly by
14 state agencies. The Legislature intends that an individual
15 with developmental disabilities be able to live as
16 independently as possible and to reach his or her maximum
17 potential. To that end, the Legislature declares that it shall
18 be a priority of the Department of Children and Family
19 Services to support each individual enrolled in the Medicaid
20 home and community-based waiver program or the Medicaid
21 consumer-directed care waiver program to become and remain
22 employed. Therefore, the Developmental Disabilities Program
23 Office of the Department of Children and Family Services shall
24 consider employment as a priority outcome for an individual
25 with developmental disabilities receiving services before
26 other alternatives for supporting meaningful day activities.
27 Finally, it is the intent of the Legislature that all
28 caretakers unrelated to individuals with developmental
29 disabilities receiving care shall be of good moral character.
30 Section 5. Subsection (1) of section 393.0655, Florida
31 Statutes, is amended to read:

1 393.0655 Screening of direct service providers.--
2 (1) MINIMUM STANDARDS.--The department shall require
3 employment screening pursuant to chapter 435, using the level
4 2 standards for screening set forth in that chapter, for
5 direct service providers who are unrelated to their clients.
6 For the purposes of this chapter, employment screening of
7 direct service providers must also include, but is not limited
8 to, employment history checks as provided in chapter 435 for
9 the level 1 screening standards.

10 Section 6. Subsection (1) of section 393.066, Florida
11 Statutes, is amended to read:

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

14 (1) The Department of Children and Family Services
15 shall plan, develop, organize, and implement its programs of
16 services and treatment for persons who are developmentally
17 disabled along district lines. The goal of these such
18 programs shall be to allow clients to live as independently as
19 possible in their own homes or communities and to achieve
20 productive lives as close to normal as possible. Toward the
21 goal of assisting individuals to achieve independence and
22 productivity, the department shall assess the capabilities and
23 wishes of each individual enrolled in the Medicaid home and
24 community-based waiver program or the Medicaid
25 consumer-directed care waiver program to pursue gainful
26 employment. Subject to availability of resources, for those
27 individuals who have the potential and desire to become
28 gainfully employed, the department shall make available
29 employment-related services to support their efforts.

30 Section 7. Subsection (3) of section 393.067, Florida
31 Statutes, is amended to read:

1 393.067 Licensure of residential facilities and
2 comprehensive transitional education programs.--

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

16 Section 8. Subsections (8), (15), and (16) of section
17 400.0255, Florida Statutes, are amended to read:

18 400.0255 Resident transfer or discharge; requirements
19 and procedures; hearings.--

20 (8) The notice required by subsection (7) must be in
21 writing and must contain all information required by state and
22 federal law, rules, or regulations applicable to Medicaid or
23 Medicare cases. The agency shall develop a standard document
24 to be used by all facilities licensed under this part for
25 purposes of notifying residents of a discharge or transfer.
26 The ~~Such~~ document must include a means for a resident to
27 request the local long-term care ombudsman council to review
28 the notice and request information about or assistance with
29 initiating a fair hearing with the agency's ~~department's~~
30 Office of Fair Appeals Hearings. In addition to any other
31 pertinent information included, the form shall specify the

1 reason allowed under federal or state law that the resident is
2 being discharged or transferred, with an explanation to
3 support this action. Further, the form shall state the
4 effective date of the discharge or transfer and the location
5 to which the resident is being discharged or transferred. The
6 form shall clearly describe the resident's appeal rights and
7 the procedures for filing an appeal, including the right to
8 request the local ombudsman council to review the notice of
9 discharge or transfer. A copy of the notice must be placed in
10 the resident's clinical record, and a copy must be transmitted
11 to the resident's legal guardian or representative and to the
12 local ombudsman council within 5 business days after signature
13 by the resident or resident designee.

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

18 (b) The agency ~~department~~ shall adopt, ~~by rule~~,
19 ~~establish~~ procedures to be used for fair hearings requested by
20 residents. These procedures shall be equivalent to the
21 procedures used for fair hearings for other Medicaid cases,
22 chapter 65-2 ~~10-2~~, part VI, Florida Administrative Code. The
23 burden of proof must be clear and convincing evidence. A
24 hearing decision must be rendered within 90 days after receipt
25 of the request for hearing.

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

29 (d) The decision of the hearing officer is ~~shall be~~
30 final. Any aggrieved party may appeal the decision to the
31 district court of appeal in the appellate district where the

1 facility is located. Appeal ~~Review~~ procedures shall be
2 conducted in accordance with the Florida Rules of Appellate
3 Procedure.

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

6 Section 9. Subsection (13) is added to section 408.15,
7 Florida Statutes, to read:

8 408.15 Powers of the agency.--In addition to the
9 powers granted to the agency elsewhere in this chapter, the
10 agency is authorized to:

11 (13) Establish and conduct Medicaid fair hearings that
12 are unrelated to eligibility determinations, complying with 42
13 C.F.R. s. 431.200 and other applicable federal and state laws
14 and regulations.

15 Section 10. Subsection (11) of section 409.91195,
16 Florida Statutes, is amended to read:

17 409.91195 Medicaid Pharmaceutical and Therapeutics
18 Committee.--There is created a Medicaid Pharmaceutical and
19 Therapeutics Committee within the Agency for Health Care
20 Administration for the purpose of developing a preferred drug
21 formulary pursuant to 42 U.S.C. s. 1396r-8.

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

26 Section 11. Paragraph (b) of subsection (4) of section
27 409.912, Florida Statutes, is amended to read:

28 409.912 Cost-effective purchasing of health care.--The
29 agency shall purchase goods and services for Medicaid
30 recipients in the most cost-effective manner consistent with
31 the delivery of quality medical care. The agency shall

1 maximize the use of prepaid per capita and prepaid aggregate
2 fixed-sum basis services when appropriate and other
3 alternative service delivery and reimbursement methodologies,
4 including competitive bidding pursuant to s. 287.057, designed
5 to facilitate the cost-effective purchase of a case-managed
6 continuum of care. The agency shall also require providers to
7 minimize the exposure of recipients to the need for acute
8 inpatient, custodial, and other institutional care and the
9 inappropriate or unnecessary use of high-cost services. The
10 agency may establish prior authorization requirements for
11 certain populations of Medicaid beneficiaries, certain drug
12 classes, or particular drugs to prevent fraud, abuse, overuse,
13 and possible dangerous drug interactions. The Pharmaceutical
14 and Therapeutics Committee shall make recommendations to the
15 agency on drugs for which prior authorization is required. The
16 agency shall inform the Pharmaceutical and Therapeutics
17 Committee of its decisions regarding drugs subject to prior
18 authorization.

19 (4) The agency may contract with:

20 (b) An entity that is providing comprehensive
21 behavioral health care services to certain Medicaid recipients
22 through a capitated, prepaid arrangement under ~~pursuant to~~ the
23 federal waiver provided for by s. 409.905(5). The ~~Such an~~
24 entity must be licensed under chapter 624, chapter 636, or
25 chapter 641 and must possess the clinical systems and
26 operational competence to manage risk and provide
27 comprehensive behavioral health care to Medicaid recipients.
28 As used in this paragraph, the term "comprehensive behavioral
29 health care services" means covered mental health and
30 substance abuse treatment services that are available to
31 Medicaid recipients. The secretary of the Department of

1 Children and Family Services shall approve provisions of
2 procurements related to children in the department's care or
3 custody before ~~prior to~~ enrolling the ~~such~~ children in a
4 prepaid behavioral health plan. Any contract awarded under
5 this paragraph must be competitively procured. In developing
6 the behavioral health care prepaid plan procurement document,
7 the agency shall ensure that the procurement document requires
8 the contractor to develop and implement a plan to ensure
9 compliance with s. 394.4574 related to services provided to
10 residents of licensed assisted living facilities that hold a
11 limited mental health license. The agency shall seek federal
12 approval to contract with a single entity meeting these
13 requirements to provide comprehensive behavioral health care
14 services to all Medicaid recipients in an AHCA area. Each
15 entity must offer sufficient choice of providers in its
16 network to ensure recipient access to care and the opportunity
17 to select a provider with whom they are satisfied. The network
18 shall include all public mental health hospitals. To ensure
19 unimpaired access to behavioral health care services by
20 Medicaid recipients, all contracts issued under ~~pursuant to~~
21 this paragraph shall require 80 percent of the capitation paid
22 to the managed care plan, including health maintenance
23 organizations, to be expended for the provision of behavioral
24 health care services. In the event the managed care plan
25 expends less than 80 percent of the capitation paid under
26 ~~pursuant to~~ this paragraph for the provision of behavioral
27 health care services, the difference shall be returned to the
28 agency. The agency shall provide the managed care plan with a
29 certification letter indicating the amount of capitation paid
30 during each calendar year for the provision of behavioral
31 health care services under ~~pursuant to~~ this section. The

1 agency may reimburse for substance abuse treatment services on
2 a fee-for-service basis until the agency finds that adequate
3 funds are available for capitated, prepaid arrangements.

4 1. By January 1, 2001, the agency shall modify the
5 contracts with the entities providing comprehensive inpatient
6 and outpatient mental health care services to Medicaid
7 recipients in Hillsborough, Highlands, Hardee, Manatee, and
8 Polk Counties, to include substance abuse treatment services.

9 2. By July 1, 2003, the agency and the Department of
10 Children and Family Services shall execute a written agreement
11 that requires collaboration and joint development of all
12 policy, budgets, procurement documents, contracts, and
13 monitoring plans that have an impact on the state and Medicaid
14 community mental health and targeted case management programs.

15 3. By July 1, 2006, the agency and the Department of
16 Children and Family Services shall contract with managed care
17 entities in each AHCA area except area 6 or arrange to provide
18 comprehensive inpatient and outpatient mental health and
19 substance abuse services through capitated prepaid
20 arrangements to all Medicaid recipients who are eligible to
21 participate in such plans under federal law and regulation. In
22 AHCA areas where eligible individuals number less than
23 150,000, the agency shall contract with a single managed care
24 plan. The agency may contract with more than one plan in AHCA
25 areas where the eligible population exceeds 150,000. Contracts
26 awarded pursuant to this section shall be competitively
27 procured. Both for-profit and not-for-profit corporations
28 shall be eligible to compete.

29 4. By October 1, 2003, the agency and the department
30 shall submit a plan to the Governor, the President of the
31 Senate, and the Speaker of the House of Representatives which

1 provides for the full implementation of capitated prepaid
2 behavioral health care in all areas of the state. The plan
3 shall include provisions which ensure that children and
4 families receiving foster care and other related services are
5 appropriately served and that these services assist the
6 community-based care lead agencies in meeting the goals and
7 outcomes of the child welfare system. The plan will be
8 developed with the participation of community-based lead
9 agencies, community alliances, sheriffs, and community
10 providers serving dependent children.

11 a. Implementation shall begin in 2003 in those AHCA
12 areas of the state where the agency is able to establish
13 sufficient capitation rates.

14 b. If the agency determines that the proposed
15 capitation rate in any area is insufficient to provide
16 appropriate services, the agency may adjust the capitation
17 rate to ensure that care will be available. The agency and the
18 department may use existing general revenue to address any
19 additional required match but may not over-obligate existing
20 funds on an annualized basis.

21 c. Subject to any limitations provided for in the
22 General Appropriations Act, the agency, in compliance with
23 appropriate federal authorization, shall develop policies and
24 procedures that allow for certification of local and state
25 funds.

26 5. Children residing in a statewide inpatient
27 psychiatric program, or in a Department of Juvenile Justice or
28 a Department of Children and Family Services residential
29 program approved as a Medicaid behavioral health overlay
30 services provider may ~~shall~~ not be included in a behavioral
31

1 health care prepaid health plan under ~~pursuant to~~ this
2 paragraph.

3 6. In converting to a prepaid system of delivery, the
4 agency shall in its procurement document require an entity
5 providing comprehensive behavioral health care services to
6 prevent the displacement of indigent care patients by
7 enrollees in the Medicaid prepaid health plan providing
8 behavioral health care services from facilities receiving
9 state funding to provide indigent behavioral health care, to
10 facilities licensed under chapter 395 which do not receive
11 state funding for indigent behavioral health care, or
12 reimburse the unsubsidized facility for the cost of behavioral
13 health care provided to the displaced indigent care patient.

14 7. Traditional community mental health and
15 substance-abuse treatment providers under contract with the
16 Department of Children and Family Services under ~~pursuant to~~
17 part IV of chapter 394, child welfare providers under contract
18 with the Department of Children and Family Services, and
19 inpatient mental health providers licensed under ~~pursuant to~~
20 chapter 395 must receive contracts to provide services ~~be~~
21 ~~offered an opportunity to accept or decline a contract to~~
22 ~~participate~~ in any provider network for prepaid behavioral
23 health services.

24 Section 12. Subsection (15) of section 415.102,
25 Florida Statutes, is amended to read:

26 415.102 Definitions of terms used in ss.

27 415.101-415.113.--As used in ss. 415.101-415.113, the term:

28 (15) "Neglect" means the failure or omission on the
29 part of the caregiver or vulnerable adult to provide the care,
30 supervision, and services necessary to maintain the physical
31 and mental health of the vulnerable adult, including, but not

1 limited to, food, clothing, medicine, shelter, supervision,
2 and medical services, that a prudent person would consider
3 essential for the well-being of a vulnerable adult. The term
4 "neglect" also means the failure of a caregiver or vulnerable
5 adult to make a reasonable effort to protect a vulnerable
6 adult from abuse, neglect, or exploitation by others.
7 "Neglect" is repeated conduct or a single incident of
8 carelessness which produces or could reasonably be expected to
9 result in serious physical or psychological injury or a
10 substantial risk of death.

11 Section 13. Subsection (5) of section 415.1113,
12 Florida Statutes, is amended and redesignated as subsection
13 (6), present subsections (6), (7), (8), (9), and (10) are
14 redesignated as subsections (7), (8), (9), (10), and (11),
15 respectively, and a new subsection (5) is added to that
16 section to read:

17 415.1113 Administrative fines for false report of
18 abuse, neglect, or exploitation of a vulnerable adult.--

19 (5) A person alleged to have filed a false report may
20 be represented by legal counsel at the administrative hearing.
21 The notice of intent to impose the administrative fine set
22 forth in subsection (3) must include notification of the right
23 to be represented by legal counsel.

24 ~~(6)(5) At the administrative hearing, the department~~
25 ~~must prove by clear and convincing evidence that the person~~
26 ~~knowingly and willfully filed a false report with the central~~
27 ~~abuse hotline. The person has the right to be represented by~~
28 ~~legal counsel at the hearing.~~

29 Section 14. Subsections (2) and (5) of section
30 420.622, Florida Statutes, are amended to read:

31

1 420.622 State Office on Homelessness; Council on
2 Homelessness.--

3 (2) The Council on Homelessness is created to consist
4 of a 15-member council of public and private agency
5 representatives who shall develop policy and advise the State
6 Office on Homelessness. The council members shall be: the
7 Secretary of Children and Family Services, or his or her
8 designee; the Secretary of Community Affairs, or his or her
9 designee; the Secretary of Health, or his or her designee; the
10 Executive Director of Veterans' Affairs, or his or her
11 designee; the Secretary of Corrections, or his or her
12 designee; the Director of Workforce Florida, Inc., or his or
13 her designee; one representative of the Florida Association of
14 Counties; one representative of the Florida ~~Coalition for~~
15 Supportive Housing Coalition; the Executive Director of the
16 Florida Housing Finance Corporation, or his or her designee;
17 one representative of the Florida Coalition for the Homeless;
18 one representative of the Florida State Rural Development
19 Council; and four members appointed by the Governor. The
20 council members shall be volunteer, nonpaid persons and shall
21 be reimbursed for travel expenses only. The appointed members
22 of the council shall serve staggered 2-year terms, and the
23 council shall meet at least four times per year. The
24 importance of minority, gender, and geographic representation
25 must be considered when appointing members to the council.

26 (5) The State Office on Homelessness, with the
27 concurrence of the Council on Homelessness, may administer
28 moneys appropriated to it to provide homeless housing
29 assistance grants annually to lead agencies for local homeless
30 assistance continuum of care, as recognized by the State
31 Office on Homelessness, to construct or rehabilitate

1 transitional or permanent housing units for homeless persons.
2 These moneys shall consist of any sums that the state may
3 appropriate, as well as money received from donations, gifts,
4 bequests, or otherwise from any public or private source,
5 which money is intended to construct or rehabilitate
6 transitional or permanent housing units for homeless persons.

7 (a) Grant applicants shall be ranked competitively.
8 Preference must be given to applicants who leverage additional
9 private funds and public funds, particularly federal funds
10 designated for the construction and rehabilitation of
11 transitional or permanent housing for homeless persons, who
12 build or rehabilitate the greatest number of units, and who
13 build or rehabilitate in catchment areas having the greatest
14 need for housing for the homeless relative to the population
15 of the catchment area.

16 (b) Funding for any particular project may not exceed
17 \$750,000.

18 (c) Construction or rehabilitation activities, and
19 associated and related costs, to which funds available under
20 this subsection may be applied include, but are not limited
21 to:

- 22 1. Site preparation and demolition;
- 23 2. Professional fees of architects, surveyors, or
24 engineers;
- 25 3. Local government building permits and impact fees;
- 26 4. Utilities and special district fees;
- 27 5. Labor, materials, and tools; and
- 28 6. Other costs associated with the construction or
29 rehabilitation of the building.

30
31

1 Any construction or rehabilitation activity or cost eligible
2 for funding under this subsection may be funded if the
3 activity or cost cannot be contributed, absorbed, or waived.

4 (d)~~(c)~~ Projects must reserve, for a minimum of 10
5 years, the number of units constructed or rehabilitated
6 through homeless housing assistance grant funding to serve
7 persons who are homeless at the time they assume tenancy.

8 (e)~~(d)~~ No more than two grants may be awarded annually
9 in any given local homeless assistance continuum of care
10 catchment area.

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

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

18 Section 15. Subsection (4) of section 420.623, Florida
19 Statutes, is amended to read:

20 420.623 Local coalitions for the homeless.--

21 (4) ANNUAL REPORTS.--The department shall submit to
22 the Governor, the Speaker of the House of Representatives, and
23 the President of the Senate, by December 31 ~~June 30~~, an annual
24 report consisting of a compilation of data collected by local
25 coalitions, progress made in the development and
26 implementation of local homeless assistance continuums of care
27 plans in each district, local spending plans, programs and
28 resources available at the local level, and recommendations
29 for programs and funding.

30 Section 16. Subsection (5) of section 420.625, Florida
31 Statutes, is amended to read:

1 420.625 Grant-in-aid program.--
2 (5) SPENDING PLANS.--The department shall develop
3 guidelines for the development of spending plans and for the
4 evaluation and approval by district administrators of spending
5 plans, based upon such factors as:
6 (a) The demonstrated level of need for the program.
7 (b) The demonstrated ability of the local agency or
8 agencies seeking assistance to deliver the services and to
9 assure that identified needs will be met.
10 (c) The ability of the local agency or agencies
11 seeking assistance to deliver a wide range of services as
12 enumerated in subsection (3).
13 (d) The adequacy and reasonableness of proposed
14 budgets and planned expenditures, and the demonstrated
15 capacity of the local agency or agencies to administer the
16 funds sought.
17 (e) A statement from the local coalition for the
18 homeless as to the steps to be taken to assure coordination
19 and integration of services in the district to avoid
20 unnecessary duplication and costs.
21 (f) A statement from the designated lead agency of the
22 homeless assistance continuum of care catchment area in which
23 the services proposed will be provided, assuring the
24 department that the services are contained in, and consistent
25 with, the coalition's written plan for its continuum of care.
26 (g)~~(f)~~ Assurances by the local coalition for the
27 homeless that alternative funding strategies for meeting needs
28 through the reallocation of existing resources, utilization of
29 volunteers, and local government or private agency funding
30 have been explored.

31

1 ~~(h)(g)~~ The existence of an evaluation component
2 designed to measure program outcomes and determine the overall
3 effectiveness of the local programs for the homeless for which
4 funding is sought.

5 Section 17. Section 393.135, Florida Statutes, is
6 created to read:

7 393.135 Sexual misconduct prohibited; reporting
8 required; penalties.--

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

10 (a) "Employee" includes any person under contract with
11 the agency or the department and any paid staff member,
12 volunteer, or intern of the agency or the department or any
13 person under contract with the agency or the department or any
14 person providing care or support to a client on behalf of the
15 department or its providers.

16 (b) "Sexual activity" means:

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

20 2. Intentionally touching in a lewd or lascivious
21 manner the breasts, genitals, the genital area, or buttocks,
22 or the clothing covering them, of a person, or forcing or
23 enticing a person to touch the perpetrator;

24 3. Intentionally masturbating in the presence of
25 another person;

26 4. Intentionally exposing the genitals in a lewd or
27 lascivious manner in the presence of another person; or

28 5. Intentionally committing any other sexual act that
29 does not involve actual physical or sexual contact with the
30 victim, including, but not limited to, sadomasochistic abuse,
31

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

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

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

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

11 (b) Resides in a residential facility, including any
12 comprehensive transitional education program, developmental
13 services institution, foster care facility, group home
14 facility, intermediate care facility for the developmentally
15 disabled, or residential habilitation center; or

16 (c) Receives services from a family care program

17
18 commits a felony of the second degree, punishable as provided
19 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
20 found guilty of violating this subsection without having
21 committed the crime of sexual battery.

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

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

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

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

29 (5) Notwithstanding prosecution, any violation of this
30 subsection, as determined by the Public Employees Relations
31 Commission, constitutes sufficient cause under s. 110.227 for

1 dismissal from employment, and such person may not again be
2 employed in any capacity in connection with the developmental
3 services system.

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

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

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

30 (c) Any person who knowingly or willfully coerces or
31 threatens any other person with the intent to alter testimony

1 or a written report regarding an incident of sexual misconduct
2 commits a felony of the third degree, punishable as provided
3 in s. 775.082, s. 775.083, or s. 775.084.

4 Section 18. Section 394.4593, Florida Statutes, is
5 created to read:

6 394.4593 Sexual misconduct prohibited; reporting
7 required; penalties.--

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

9 (a) "Employee" includes any person under contract with
10 the department and any paid staff member, volunteer, or intern
11 of the department or any person under contract with the
12 department or any person providing care or support to a
13 patient on behalf of the department or its providers.

14 (b) "Sexual activity" means:

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

18 2. Intentionally touching in a lewd or lascivious
19 manner the breasts, genitals, the genital area, or buttocks,
20 or the clothing covering them, of a person, or forcing or
21 enticing a person to touch the perpetrator;

22 3. Intentionally masturbating in the presence of
23 another person;

24 4. Intentionally exposing the genitals in a lewd or
25 lascivious manner in the presence of another person; or

26 5. Intentionally committing any other sexual act that
27 does not involve actual physical or sexual contact with the
28 victim, including, but not limited to, sadomasochistic abuse,
29 sexual bestiality, or the simulation of any act involving
30 sexual activity in the presence of a victim.

31

1 (c) "Sexual misconduct" means sexual activity
2 between an employee and a patient, regardless of the consent
3 of the patient. The term does not include an act done for a
4 bona fide medical purpose or an internal search conducted in
5 the lawful performance of duty by an employee.

6 (2) An employee who engages in sexual misconduct with
7 a patient who:

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

9 (b) Resides in a receiving facility as defined in s.
10 394.455(26) or a treatment facility as defined in s.
11 394.455(30),

12
13 commits a felony of the second degree, punishable as provided
14 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
15 found guilty of violating this subsection without having
16 committed the crime of sexual battery.

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

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

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

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

24 (5) Notwithstanding prosecution, any violation of this
25 subsection, as determined by the Public Employees Relations
26 Commission, constitutes sufficient cause under s. 110.227 for
27 dismissal from employment, and such person may not again be
28 employed in any capacity in connection with the mental health
29 services system.

30 (6) An employee who witnesses sexual misconduct, or
31 who otherwise knows or has reasonable cause to suspect that a

1 person has engaged in sexual misconduct, shall immediately
2 report the incident to the department's central abuse hotline
3 and to law enforcement. Such employee shall also prepare,
4 date, and sign an independent report that specifically
5 describes the nature of the sexual misconduct, the location
6 and time of the incident, and the persons involved. The
7 employee shall deliver the report to the supervisor or program
8 director, who is responsible for providing copies to the
9 department's inspector general. The inspector general shall
10 immediately conduct an appropriate administrative
11 investigation, and, if there is probable cause to believe that
12 sexual misconduct has occurred, the inspector general shall
13 notify the state attorney in the circuit in which the incident
14 occurred.

15 (7)(a) Any person who is required to make a report
16 under this section and who knowingly or willfully fails to do
17 so, or who knowingly or willfully prevents another person from
18 doing so, commits a misdemeanor of the first degree,
19 punishable as provided in s. 775.082 or s. 775.083.

20 (b) Any person who knowingly or willfully submits
21 inaccurate, incomplete, or untruthful information with respect
22 to a report required under this section commits a misdemeanor
23 of the first degree, punishable as provided in s. 775.082 or
24 s. 775.083.

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

30 Section 19. Section 916.1075, Florida Statutes, is
31 created to read:

1 916.1075 Sexual misconduct prohibited; reporting
2 required; penalties.--

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

4 (a) "Employee" includes any person under contract with
5 the department and any paid staff member, volunteer, or intern
6 of the department or any person under contract with the
7 department or any person providing care or support to a client
8 on behalf of the department or its providers.

9 (b) "Sexual activity" means:

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

13 2. Intentionally touching in a lewd or lascivious
14 manner the breasts, genitals, the genital area, or buttocks,
15 or the clothing covering them, of a person, or forcing or
16 enticing a person to touch the perpetrator;

17 3. Intentionally masturbating in the presence of
18 another person;

19 4. Intentionally exposing the genitals in a lewd or
20 lascivious manner in the presence of another person; or

21 5. Intentionally committing any other sexual act that
22 does not involve actual physical or sexual contact with the
23 victim, including, but not limited to, sadomasochistic abuse,
24 sexual bestiality, or the simulation of any act involving
25 sexual activity in the presence of a victim.

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

31

1 (2) An employee who engages in sexual misconduct with
2 a client who resides in a civil or forensic facility commits a
3 felony of the second degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084. An employee may be found
5 guilty of violating this subsection without having committed
6 the crime of sexual battery.

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

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

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

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

14 (5) Notwithstanding prosecution, any violation of this
15 subsection, as determined by the Public Employees Relations
16 Commission, constitutes sufficient cause under s. 110.227 for
17 dismissal from employment, and such person may not again be
18 employed in any capacity in connection with the
19 developmentally disabled or mental health services systems.

20 (6) An employee who witnesses sexual misconduct, or
21 who otherwise knows or has reasonable cause to suspect that a
22 person has engaged in sexual misconduct, shall immediately
23 report the incident to the department's central abuse hotline
24 or law enforcement. Such employee shall also prepare, date,
25 and sign an independent report that specifically describes the
26 nature of the sexual misconduct, the location and time of the
27 incident, and the persons involved. The employee shall deliver
28 the report to the supervisor or program director, who is
29 responsible for providing copies to the department's inspector
30 general. The inspector general shall immediately conduct an
31 appropriate administrative investigation, and, if there is

1 probable cause to believe that sexual misconduct has occurred,
2 the inspector general shall notify the state attorney in the
3 circuit in which the incident occurred.

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

9 (b) Any person who knowingly or willfully submits
10 inaccurate, incomplete, or untruthful information with respect
11 to a report required under this section commits a misdemeanor
12 of the first degree, punishable as provided in s. 775.082 or
13 s. 775.083.

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

19 Section 20. Subsection (2) of section 435.03, Florida
20 Statutes, is amended to read:

21 435.03 Level 1 screening standards.--

22 (2) Any person for whom employment screening is
23 required by statute must not have been found guilty of,
24 regardless of adjudication, or entered a plea of nolo
25 contendere or guilty to, any offense prohibited under any of
26 the following provisions of the Florida Statutes or under any
27 similar statute of another jurisdiction:

28 (a) Section 393.135, relating to sexual misconduct
29 with certain developmentally disabled clients and reporting of
30 such sexual misconduct.

31

1 (b) Section 394.4593, relating to sexual misconduct
2 with certain mental health patients and reporting of such
3 sexual misconduct.
4 (c)~~(a)~~ Section 415.111, relating to abuse, neglect, or
5 exploitation of a vulnerable adult.
6 (d)~~(b)~~ Section 782.04, relating to murder.
7 (e)~~(c)~~ Section 782.07, relating to manslaughter,
8 aggravated manslaughter of an elderly person or disabled
9 adult, or aggravated manslaughter of a child.
10 (f)~~(d)~~ Section 782.071, relating to vehicular
11 homicide.
12 (g)~~(e)~~ Section 782.09, relating to killing of an
13 unborn child by injury to the mother.
14 (h)~~(f)~~ Section 784.011, relating to assault, if the
15 victim of the offense was a minor.
16 (i)~~(g)~~ Section 784.021, relating to aggravated
17 assault.
18 (j)~~(h)~~ Section 784.03, relating to battery, if the
19 victim of the offense was a minor.
20 (k)~~(i)~~ Section 784.045, relating to aggravated
21 battery.
22 (l)~~(j)~~ Section 787.01, relating to kidnapping.
23 (m)~~(k)~~ Section 787.02, relating to false imprisonment.
24 (n)~~(l)~~ Section 794.011, relating to sexual battery.
25 (o)~~(m)~~ Former s. 794.041, relating to prohibited acts
26 of persons in familial or custodial authority.
27 (p)~~(n)~~ Chapter 796, relating to prostitution.
28 (q)~~(o)~~ Section 798.02, relating to lewd and lascivious
29 behavior.
30 (r)~~(p)~~ Chapter 800, relating to lewdness and indecent
31 exposure.

1 (s)~~(q)~~ Section 806.01, relating to arson.
2 (t)~~(r)~~ Chapter 812, relating to theft, robbery, and
3 related crimes, if the offense was a felony.
4 (u)~~(s)~~ Section 817.563, relating to fraudulent sale of
5 controlled substances, only if the offense was a felony.
6 (v)~~(t)~~ Section 825.102, relating to abuse, aggravated
7 abuse, or neglect of an elderly person or disabled adult.
8 (w)~~(u)~~ Section 825.1025, relating to lewd or
9 lascivious offenses committed upon or in the presence of an
10 elderly person or disabled adult.
11 (x)~~(v)~~ Section 825.103, relating to exploitation of an
12 elderly person or disabled adult, if the offense was a felony.
13 (y)~~(w)~~ Section 826.04, relating to incest.
14 (z)~~(x)~~ Section 827.03, relating to child abuse,
15 aggravated child abuse, or neglect of a child.
16 (aa)~~(y)~~ Section 827.04, relating to contributing to
17 the delinquency or dependency of a child.
18 (bb)~~(z)~~ Former s. 827.05, relating to negligent
19 treatment of children.
20 (cc)~~(aa)~~ Section 827.071, relating to sexual
21 performance by a child.
22 (dd)~~(bb)~~ Chapter 847, relating to obscene literature.
23 (ee)~~(cc)~~ Chapter 893, relating to drug abuse
24 prevention and control, only if the offense was a felony or if
25 any other person involved in the offense was a minor.
26 (ff) Section 916.0175, relating to sexual misconduct
27 with certain forensic clients and reporting of such sexual
28 misconduct.
29 Section 21. Subsection (2) of section 435.04, Florida
30 Statutes, is amended to read:
31 435.04 Level 2 screening standards.--

1 (2) The security background investigations under this
2 section must ensure that no persons subject to the provisions
3 of this section have been found guilty of, regardless of
4 adjudication, or entered a plea of nolo contendere or guilty
5 to, any offense prohibited under any of the following
6 provisions of the Florida Statutes or under any similar
7 statute of another jurisdiction:

8 (a) Section 393.135, relating to sexual misconduct
9 with certain developmentally disabled clients and reporting of
10 such sexual misconduct.

11 (b) Section 394.4593, relating to sexual misconduct
12 with certain mental health patients and reporting of such
13 sexual misconduct.

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

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

17 ~~(e)(c)~~ Section 782.07, relating to manslaughter,
18 aggravated manslaughter of an elderly person or disabled
19 adult, or aggravated manslaughter of a child.

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

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

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

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

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

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

1 (l)~~(j)~~ Section 784.075, relating to battery on a
2 detention or commitment facility staff.
3 (m)~~(k)~~ Section 787.01, relating to kidnapping.
4 (n)~~(l)~~ Section 787.02, relating to false imprisonment.
5 (o)~~(m)~~ Section 787.04(2), relating to taking,
6 enticing, or removing a child beyond the state limits with
7 criminal intent pending custody proceedings.
8 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
9 beyond the state lines with criminal intent to avoid producing
10 a child at a custody hearing or delivering the child to the
11 designated person.
12 (q)~~(o)~~ Section 790.115(1), relating to exhibiting
13 firearms or weapons within 1,000 feet of a school.
14 (r)~~(p)~~ Section 790.115(2)(b), relating to possessing
15 an electric weapon or device, destructive device, or other
16 weapon on school property.
17 (s)~~(q)~~ Section 794.011, relating to sexual battery.
18 (t)~~(r)~~ Former s. 794.041, relating to prohibited acts
19 of persons in familial or custodial authority.
20 (u)~~(s)~~ Chapter 796, relating to prostitution.
21 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
22 behavior.
23 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
24 exposure.
25 (x)~~(v)~~ Section 806.01, relating to arson.
26 (y)~~(w)~~ Chapter 812, relating to theft, robbery, and
27 related crimes, if the offense is a felony.
28 (z)~~(x)~~ Section 817.563, relating to fraudulent sale of
29 controlled substances, only if the offense was a felony.
30 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated
31 abuse, or neglect of an elderly person or disabled adult.

1 (bb)~~(z)~~ Section 825.1025, relating to lewd or
2 lascivious offenses committed upon or in the presence of an
3 elderly person or disabled adult.
4 (cc)~~(aa)~~ Section 825.103, relating to exploitation of
5 an elderly person or disabled adult, if the offense was a
6 felony.
7 (dd)~~(bb)~~ Section 826.04, relating to incest.
8 (ee)~~(cc)~~ Section 827.03, relating to child abuse,
9 aggravated child abuse, or neglect of a child.
10 (ff)~~(dd)~~ Section 827.04, relating to contributing to
11 the delinquency or dependency of a child.
12 (gg)~~(ee)~~ Former s. 827.05, relating to negligent
13 treatment of children.
14 (hh)~~(ff)~~ Section 827.071, relating to sexual
15 performance by a child.
16 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest
17 with violence.
18 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
19 enforcement, correctional, or correctional probation officer
20 means of protection or communication.
21 (kk)~~(ii)~~ Section 843.12, relating to aiding in an
22 escape.
23 (ll)~~(jj)~~ Section 843.13, relating to aiding in the
24 escape of juvenile inmates in correctional institutions.
25 (mm)~~(kk)~~ Chapter 847, relating to obscene literature.
26 (nn)~~(ll)~~ Section 874.05(1), relating to encouraging or
27 recruiting another to join a criminal gang.
28 (oo)~~(mm)~~ Chapter 893, relating to drug abuse
29 prevention and control, only if the offense was a felony or if
30 any other person involved in the offense was a minor.
31

1 (pp) Section 916.0175, relating to sexual misconduct
2 with certain forensic clients and reporting of such sexual
3 misconduct.

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

7 ~~(rr)(oo)~~ Section 944.46, relating to harboring,
8 concealing, or aiding an escaped prisoner.

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

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

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

15 Section 22. Section 943.0585, Florida Statutes, is
16 amended to read:

17 943.0585 Court-ordered expunction of criminal history
18 records.--The courts of this state have jurisdiction over
19 their own procedures, including the maintenance, expunction,
20 and correction of judicial records containing criminal history
21 information to the extent such procedures are not inconsistent
22 with the conditions, responsibilities, and duties established
23 by this section. Any court of competent jurisdiction may order
24 a criminal justice agency to expunge the criminal history
25 record of a minor or an adult who complies with the
26 requirements of this section. The court shall not order a
27 criminal justice agency to expunge a criminal history record
28 until the person seeking to expunge a criminal history record
29 has applied for and received a certificate of eligibility for
30 expunction pursuant to subsection (2). A criminal history
31 record that relates to a violation of s. 393.135, s. 394.4593,

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

1 and any request for expunction of a criminal history record
2 may be denied at the sole discretion of the court.

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

6 (a) A certificate of eligibility for expunction issued
7 by the department pursuant to subsection (2).

8 (b) The petitioner's sworn statement attesting that
9 the petitioner:

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

15 2. Has not been adjudicated guilty of, or adjudicated
16 delinquent for committing, any of the acts stemming from the
17 arrest or alleged criminal activity to which the petition
18 pertains.

19 3. Has never secured a prior sealing or expunction of
20 a criminal history record under this section, former s.
21 893.14, former s. 901.33, or former s. 943.058, or from any
22 jurisdiction outside the state.

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

27
28 Any person who knowingly provides false information on such
29 sworn statement to the court commits a felony of the third
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084.

1 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
2 to petitioning the court to expunge a criminal history record,
3 a person seeking to expunge a criminal history record shall
4 apply to the department for a certificate of eligibility for
5 expunction. The department shall, by rule adopted pursuant to
6 chapter 120, establish procedures pertaining to the
7 application for and issuance of certificates of eligibility
8 for expunction. The department shall issue a certificate of
9 eligibility for expunction to a person who is the subject of a
10 criminal history record if that person:

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

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

16 2. That an indictment, information, or other charging
17 document, if filed or issued in the case, was dismissed or
18 nolle prosequi by the state attorney or statewide prosecutor,
19 or was dismissed by a court of competent jurisdiction.

20 3. That the criminal history record does not relate to
21 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
22 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.
23 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
24 s. 893.135, s. 916.1075, or a violation enumerated in s.
25 907.041, where the defendant was found guilty of, or pled
26 guilty or nolo contendere to any such offense, or that the
27 defendant, as a minor, was found to have committed, or pled
28 guilty or nolo contendere to committing, such an offense as a
29 delinquent act, without regard to whether adjudication was
30 withheld.

31

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

4 (c) Has submitted to the department a certified copy
5 of the disposition of the charge to which the petition to
6 expunge pertains.

7 (d) Has never, prior to the date on which the
8 application for a certificate of eligibility is filed, been
9 adjudicated guilty of a criminal offense or comparable
10 ordinance violation or adjudicated delinquent for committing a
11 felony or a misdemeanor specified in s. 943.051(3)(b).

12 (e) Has not been adjudicated guilty of, or adjudicated
13 delinquent for committing, any of the acts stemming from the
14 arrest or alleged criminal activity to which the petition to
15 expunge pertains.

16 (f) Has never secured a prior sealing or expunction of
17 a criminal history record under this section, former s.
18 893.14, former s. 901.33, or former s. 943.058.

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

22 (h) Is not required to wait a minimum of 10 years
23 prior to being eligible for an expunction of such records
24 because all charges related to the arrest or criminal activity
25 to which the petition to expunge pertains were dismissed prior
26 to trial, adjudication, or the withholding of adjudication.
27 Otherwise, such criminal history record must be sealed under
28 this section, former s. 893.14, former s. 901.33, or former s.
29 943.058 for at least 10 years before such record is eligible
30 for expunction.

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

1 (a) In judicial proceedings under this section, a copy
2 of the completed petition to expunge shall be served upon the
3 appropriate state attorney or the statewide prosecutor and
4 upon the arresting agency; however, it is not necessary to
5 make any agency other than the state a party. The appropriate
6 state attorney or the statewide prosecutor and the arresting
7 agency may respond to the court regarding the completed
8 petition to expunge.

9 (b) If relief is granted by the court, the clerk of
10 the court shall certify copies of the order to the appropriate
11 state attorney or the statewide prosecutor and the arresting
12 agency. The arresting agency is responsible for forwarding the
13 order to any other agency to which the arresting agency
14 disseminated the criminal history record information to which
15 the order pertains. The department shall forward the order to
16 expunge to the Federal Bureau of Investigation. The clerk of
17 the court shall certify a copy of the order to any other
18 agency which the records of the court reflect has received the
19 criminal history record from the court.

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

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

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

31

1 (a) The person who is the subject of a criminal
2 history record that is expunged under this section or under
3 other provisions of law, including former s. 893.14, former s.
4 901.33, and former s. 943.058, may lawfully deny or fail to
5 acknowledge the arrests covered by the expunged record, except
6 when the subject of the record:

7 1. Is a candidate for employment with a criminal
8 justice agency;

9 2. Is a defendant in a criminal prosecution;

10 3. Concurrently or subsequently petitions for relief
11 under this section or s. 943.059;

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

13 5. Is seeking to be employed or licensed by or to
14 contract with the Department of Children and Family Services
15 or the Department of Juvenile Justice or to be employed or
16 used by such contractor or licensee in a sensitive position
17 having direct contact with children, the developmentally
18 disabled, the aged, or the elderly as provided in s.
19 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
20 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
21 916.106(10) and (13), s. 985.407, or chapter 400; or

22 6. Is seeking to be employed or licensed by the Office
23 of Teacher Education, Certification, Staff Development, and
24 Professional Practices of the Department of Education, any
25 district school board, or any local governmental entity that
26 licenses child care facilities.

27 (b) Subject to the exceptions in paragraph (a), a
28 person who has been granted an expunction under this section,
29 former s. 893.14, former s. 901.33, or former s. 943.058 may
30 not be held under any provision of law of this state to commit
31 perjury or to be otherwise liable for giving a false statement

1 by reason of such person's failure to recite or acknowledge an
2 expunged criminal history record.

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

23 (5) STATUTORY REFERENCES.--Any reference to any other
24 chapter, section, or subdivision of the Florida Statutes in
25 this section constitutes a general reference under the
26 doctrine of incorporation by reference.

27 Section 23. Section 943.059, Florida Statutes, is
28 amended to read:

29 943.059 Court-ordered sealing of criminal history
30 records.--The courts of this state shall continue to have
31 jurisdiction over their own procedures, including the

1 maintenance, sealing, and correction of judicial records
2 containing criminal history information to the extent such
3 procedures are not inconsistent with the conditions,
4 responsibilities, and duties established by this section. Any
5 court of competent jurisdiction may order a criminal justice
6 agency to seal the criminal history record of a minor or an
7 adult who complies with the requirements of this section. The
8 court shall not order a criminal justice agency to seal a
9 criminal history record until the person seeking to seal a
10 criminal history record has applied for and received a
11 certificate of eligibility for sealing pursuant to subsection
12 (2). A criminal history record that relates to a violation of
13 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
14 s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
15 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
16 916.1075, or a violation enumerated in s. 907.041 may not be
17 sealed, without regard to whether adjudication was withheld,
18 if the defendant was found guilty of or pled guilty or nolo
19 contendere to the offense, or if the defendant, as a minor,
20 was found to have committed or pled guilty or nolo contendere
21 to committing the offense as a delinquent act. The court may
22 only order sealing of a criminal history record pertaining to
23 one arrest or one incident of alleged criminal activity,
24 except as provided in this section. The court may, at its sole
25 discretion, order the sealing of a criminal history record
26 pertaining to more than one arrest if the additional arrests
27 directly relate to the original arrest. If the court intends
28 to order the sealing of records pertaining to such additional
29 arrests, such intent must be specified in the order. A
30 criminal justice agency may not seal any record pertaining to
31 such additional arrests if the order to seal does not

1 articulate the intention of the court to seal records
2 pertaining to more than one arrest. This section does not
3 prevent the court from ordering the sealing of only a portion
4 of a criminal history record pertaining to one arrest or one
5 incident of alleged criminal activity. Notwithstanding any law
6 to the contrary, a criminal justice agency may comply with
7 laws, court orders, and official requests of other
8 jurisdictions relating to sealing, correction, or confidential
9 handling of criminal history records or information derived
10 therefrom. This section does not confer any right to the
11 sealing of any criminal history record, and any request for
12 sealing a criminal history record may be denied at the sole
13 discretion of the court.

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

17 (a) A certificate of eligibility for sealing issued by
18 the department pursuant to subsection (2).

19 (b) The petitioner's sworn statement attesting that
20 the petitioner:

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

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

30 3. Has never secured a prior sealing or expunction of
31 a criminal history record under this section, former s.

1 893.14, former s. 901.33, former s. 943.058, or from any
2 jurisdiction outside the state.

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

7
8 Any person who knowingly provides false information on such
9 sworn statement to the court commits a felony of the third
10 degree, punishable as provided in s. 775.082, s. 775.083, or
11 s. 775.084.

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

22 (a) Has submitted to the department a certified copy
23 of the disposition of the charge to which the petition to seal
24 pertains.

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

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

31

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

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

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

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

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

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

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

1 reflect has received the criminal history record from the
2 court.

3 (c) For an order to seal entered by a court prior to
4 July 1, 1992, the department shall notify the appropriate
5 state attorney or statewide prosecutor of any order to seal
6 which is contrary to law because the person who is the subject
7 of the record has previously been convicted of a crime or
8 comparable ordinance violation or has had a prior criminal
9 history record sealed or expunged. Upon receipt of such
10 notice, the appropriate state attorney or statewide prosecutor
11 shall take action, within 60 days, to correct the record and
12 petition the court to void the order to seal. The department
13 shall seal the record until such time as the order is voided
14 by the court.

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

31

1 (e) An order sealing a criminal history record
2 pursuant to this section does not require that such record be
3 surrendered to the court, and such record shall continue to be
4 maintained by the department and other criminal justice
5 agencies.

6 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
7 criminal history record of a minor or an adult which is
8 ordered sealed by a court of competent jurisdiction pursuant
9 to this section is confidential and exempt from the provisions
10 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
11 and is available only to the person who is the subject of the
12 record, to the subject's attorney, to criminal justice
13 agencies for their respective criminal justice purposes, or to
14 those entities set forth in subparagraphs (a)1., 4., 5., and
15 6. for their respective licensing and employment purposes.

16 (a) The subject of a criminal history record sealed
17 under this section or under other provisions of law, including
18 former s. 893.14, former s. 901.33, and former s. 943.058, may
19 lawfully deny or fail to acknowledge the arrests covered by
20 the sealed record, except when the subject of the record:

- 21 1. Is a candidate for employment with a criminal
22 justice agency;
- 23 2. Is a defendant in a criminal prosecution;
- 24 3. Concurrently or subsequently petitions for relief
25 under this section or s. 943.0585;
- 26 4. Is a candidate for admission to The Florida Bar;
- 27 5. Is seeking to be employed or licensed by or to
28 contract with the Department of Children and Family Services
29 or the Department of Juvenile Justice or to be employed or
30 used by such contractor or licensee in a sensitive position
31 having direct contact with children, the developmentally

1 disabled, the aged, or the elderly as provided in s.
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
4 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
5 or

6 6. Is seeking to be employed or licensed by the Office
7 of Teacher Education, Certification, Staff Development, and
8 Professional Practices of the Department of Education, any
9 district school board, or any local governmental entity which
10 licenses child care facilities.

11 (b) Subject to the exceptions in paragraph (a), a
12 person who has been granted a sealing under this section,
13 former s. 893.14, former s. 901.33, or former s. 943.058 may
14 not be held under any provision of law of this state to commit
15 perjury or to be otherwise liable for giving a false statement
16 by reason of such person's failure to recite or acknowledge a
17 sealed criminal history record.

18 (c) Information relating to the existence of a sealed
19 criminal record provided in accordance with the provisions of
20 paragraph (a) is confidential and exempt from the provisions
21 of s. 119.07(1) and s. 24(a), Art. I of the State
22 Constitution, except that the department shall disclose the
23 sealed criminal history record to the entities set forth in
24 subparagraphs (a)1., 4., 5., and 6. for their respective
25 licensing and employment purposes. It is unlawful for any
26 employee of an entity set forth in subparagraph (a)1.,
27 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
28 to disclose information relating to the existence of a sealed
29 criminal history record of a person seeking employment or
30 licensure with such entity or contractor, except to the person
31 to whom the criminal history record relates or to persons

1 having direct responsibility for employment or licensure
2 decisions. Any person who violates the provisions of this
3 paragraph commits a misdemeanor of the first degree,
4 punishable as provided in s. 775.082 or s. 775.083.

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

9 Section 24. Paragraph (a) of subsection (2) of section
10 400.215, Florida Statutes, is amended, and paragraphs (b) and
11 (c) of subsection (2) and subsection (3) of that section are
12 reenacted for the purpose of incorporating the amendments to
13 sections 435.03 and 435.04, Florida Statutes, in references
14 thereto, to read:

15 400.215 Personnel screening requirement.--

16 (2) Employers and employees shall comply with the
17 requirements of s. 435.05.

18 (a) Notwithstanding the provisions of s. 435.05(1),
19 facilities must have in their possession evidence that level 1
20 screening has been completed before allowing an employee to
21 begin working with patients as provided in subsection (1). All
22 information necessary for conducting background screening
23 using level 1 standards as specified in s. 435.03~~(1)~~ shall be
24 submitted by the nursing facility to the agency. Results of
25 the background screening shall be provided by the agency to
26 the requesting nursing facility.

27 (b) Employees qualified under the provisions of
28 paragraph (a) who have not maintained continuous residency
29 within the state for the 5 years immediately preceding the
30 date of request for background screening must complete level 2
31 screening, as provided in chapter 435. Such employees may work

1 in a conditional status up to 180 days pending the receipt of
2 written findings evidencing the completion of level 2
3 screening. Level 2 screening shall not be required of
4 employees or prospective employees who attest in writing under
5 penalty of perjury that they meet the residency requirement.
6 Completion of level 2 screening shall require the employee or
7 prospective employee to furnish to the nursing facility a full
8 set of fingerprints to enable a criminal background
9 investigation to be conducted. The nursing facility shall
10 submit the completed fingerprint card to the agency. The
11 agency shall establish a record of the request in the database
12 provided for in paragraph (c) and forward the request to the
13 Department of Law Enforcement, which is authorized to submit
14 the fingerprints to the Federal Bureau of Investigation for a
15 national criminal history records check. The results of the
16 national criminal history records check shall be returned to
17 the agency, which shall maintain the results in the database
18 provided for in paragraph (c). The agency shall notify the
19 administrator of the requesting nursing facility or the
20 administrator of any other facility licensed under chapter
21 393, chapter 394, chapter 395, chapter 397, or this chapter,
22 as requested by such facility, as to whether or not the
23 employee has qualified under level 1 or level 2 screening. An
24 employee or prospective employee who has qualified under level
25 2 screening and has maintained such continuous residency
26 within the state shall not be required to complete a
27 subsequent level 2 screening as a condition of employment at
28 another facility.

29 (c) The agency shall establish and maintain a database
30 of background screening information which shall include the
31 results of both level 1 and level 2 screening. The Department

1 of Law Enforcement shall timely provide to the agency,
2 electronically, the results of each statewide screening for
3 incorporation into the database. The agency shall, upon
4 request from any facility, agency, or program required by or
5 authorized by law to screen its employees or applicants,
6 notify the administrator of the facility, agency, or program
7 of the qualifying or disqualifying status of the employee or
8 applicant named in the request.

9 (3) The applicant is responsible for paying the fees
10 associated with obtaining the required screening. Payment for
11 the screening shall be submitted to the agency. The agency
12 shall establish a schedule of fees to cover the costs of level
13 1 and level 2 screening. Facilities may reimburse employees
14 for these costs. The Department of Law Enforcement shall
15 charge the agency for a level 1 or level 2 screening a rate
16 sufficient to cover the costs of such screening pursuant to s.
17 943.053(3). The agency shall, as allowable, reimburse nursing
18 facilities for the cost of conducting background screening as
19 required by this section. This reimbursement will not be
20 subject to any rate ceilings or payment targets in the
21 Medicaid Reimbursement plan.

22 Section 25. For the purpose of incorporating the
23 amendments to sections 435.03 and 435.04, Florida Statutes, in
24 references thereto, subsections (1) and (2) of section
25 400.964, Florida Statutes, are reenacted, and subsection (7)
26 of that section is amended and reenacted, to read:

27 400.964 Personnel screening requirement.--

28 (1) The agency shall require level 2 background
29 screening as provided in chapter 435 for all employees or
30 prospective employees of facilities licensed under this part
31 who are expected to be, or whose responsibilities are such

1 that they would be considered to be, a direct service
2 provider.

3 (2) Employers and employees shall comply with the
4 requirements of chapter 435.

5 (7) All employees must comply with the requirements of
6 this section by October 1, 2000. A person employed by a
7 facility licensed pursuant to this part as of the effective
8 date of this act is not required to submit to rescreening if
9 the facility has in its possession written evidence that the
10 person has been screened and qualified according to level 1
11 standards as specified in s. 435.03~~(1)~~. Any current employee
12 who meets the level 1 requirement but does not meet the 5-year
13 residency requirement must provide to the employing facility
14 written attestation under penalty of perjury that the employee
15 has not been convicted of a disqualifying offense in another
16 state or jurisdiction. All applicants hired on or after
17 October 1, 1999, must comply with the requirements of this
18 section.

19 Section 26. For the purposes of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraph (a) of subsection (1) of section 435.045,
22 Florida Statutes, is amended and reenacted to read:

23 435.045 Requirements for placement of dependent
24 children.--

25 (1)(a) Unless an election provided for in subsection
26 (2) is made with respect to the state, the department is
27 authorized to conduct criminal records checks equivalent to
28 the level 2 screening required in s. 435.04~~(1)~~for any person
29 being considered by the department for placement of a child
30 subject to a placement decision pursuant to chapter 39.
31 Approval shall not be granted:

1 1. In any case in which a record check reveals a
2 felony conviction for child abuse, abandonment, or neglect;
3 for spousal abuse; for a crime against children, including
4 child pornography, or for a crime involving violence,
5 including rape, sexual assault, or homicide but not including
6 other physical assault or battery, if the department finds
7 that a court of competent jurisdiction has determined that the
8 felony was committed at any time; and

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

14 Section 27. For the purpose of incorporating the
15 amendment to sections 435.03 and 435.04, Florida Statutes, in
16 references thereto, paragraphs (f) and (g) of subsection (1)
17 of section 400.414, Florida Statutes, are reenacted to read:

18 400.414 Denial, revocation, or suspension of license;
19 imposition of administrative fine; grounds.--

20 (1) The agency may deny, revoke, or suspend any
21 license issued under this part, or impose an administrative
22 fine in the manner provided in chapter 120, for any of the
23 following actions by an assisted living facility, for the
24 actions of any person subject to level 2 background screening
25 under s. 400.4174, or for the actions of any facility
26 employee:

27 (f) A determination that a person subject to level 2
28 background screening under s. 400.4174(1) does not meet the
29 screening standards of s. 435.04 or that the facility is
30 retaining an employee subject to level 1 background screening
31 standards under s. 400.4174(2) who does not meet the screening

1 standards of s. 435.03 and for whom exemptions from
2 disqualification have not been provided by the agency.

3 (g) A determination that an employee, volunteer,
4 administrator, or owner, or person who otherwise has access to
5 the residents of a facility does not meet the criteria
6 specified in s. 435.03(2), and the owner or administrator has
7 not taken action to remove the person. Exemptions from
8 disqualification may be granted as set forth in s. 435.07. No
9 administrative action may be taken against the facility if the
10 person is granted an exemption.

11
12 Administrative proceedings challenging agency action under
13 this subsection shall be reviewed on the basis of the facts
14 and conditions that resulted in the agency action.

15 Section 28. For the purpose of incorporating the
16 amendment to sections 435.03 and 435.04, Florida Statutes, in
17 references thereto, section 400.4174, Florida Statutes, is
18 reenacted to read:

19 400.4174 Background screening; exemptions.--

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

24 1. The facility owner if an individual, the
25 administrator, and the financial officer.

26 2. An officer or board member if the facility owner is
27 a firm, corporation, partnership, or association, or any
28 person owning 5 percent or more of the facility if the agency
29 has probable cause to believe that such person has been
30 convicted of any offense prohibited by s. 435.04. For each
31 officer, board member, or person owning 5 percent or more who

1 has been convicted of any such offense, the facility shall
2 submit to the agency a description and explanation of the
3 conviction at the time of license application. This
4 subparagraph does not apply to a board member of a
5 not-for-profit corporation or organization if the board member
6 serves solely in a voluntary capacity, does not regularly take
7 part in the day-to-day operational decisions of the
8 corporation or organization, receives no remuneration for his
9 or her services, and has no financial interest and has no
10 family members with a financial interest in the corporation or
11 organization, provided that the board member and facility
12 submit a statement affirming that the board member's
13 relationship to the facility satisfies the requirements of
14 this subparagraph.

15 (b) Proof of compliance with level 2 screening
16 standards which has been submitted within the previous 5 years
17 to meet any facility or professional licensure requirements of
18 the agency or the Department of Health satisfies the
19 requirements of this subsection, provided that such proof is
20 accompanied, under penalty of perjury, by an affidavit of
21 compliance with the provisions of chapter 435. Proof of
22 compliance with the background screening requirements of the
23 Financial Services Commission and the Office of Insurance
24 Regulation for applicants for a certificate of authority to
25 operate a continuing care retirement community under chapter
26 651, submitted within the last 5 years, satisfies the
27 Department of Law Enforcement and Federal Bureau of
28 Investigation portions of a level 2 background check.

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

1 the Department of Law Enforcement background checks, but has
2 not yet received results from the Federal Bureau of
3 Investigation, or when a request for an exemption from
4 disqualification has been submitted to the agency pursuant to
5 s. 435.07, but a response has not been issued.

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

13 (a) Proof of compliance with level 1 screening
14 requirements obtained to meet any professional license
15 requirements in this state is provided and accompanied, under
16 penalty of perjury, by a copy of the person's current
17 professional license and an affidavit of current compliance
18 with the background screening requirements.

19 (b) The person required to be screened has been
20 continuously employed in the same type of occupation for which
21 the person is seeking employment without a breach in service
22 which exceeds 180 days, and proof of compliance with the level
23 1 screening requirement which is no more than 2 years old is
24 provided. Proof of compliance shall be provided directly from
25 one employer or contractor to another, and not from the person
26 screened. Upon request, a copy of screening results shall be
27 provided by the employer retaining documentation of the
28 screening to the person screened.

29 (c) The person required to be screened is employed by
30 a corporation or business entity or related corporation or
31 business entity that owns, operates, or manages more than one

1 facility or agency licensed under this chapter, and for whom a
2 level 1 screening was conducted by the corporation or business
3 entity as a condition of initial or continued employment.

4 Section 29. For the purpose of incorporating the
5 amendment to sections 435.03 and 435.04, Florida Statutes, in
6 references thereto, paragraphs (a), (b), (c), (d), (f), and
7 (g) of subsection (4) of section 400.509, Florida Statutes,
8 are reenacted to read:

9 400.509 Registration of particular service providers
10 exempt from licensure; certificate of registration; regulation
11 of registrants.--

12 (4) Each applicant for registration must comply with
13 the following requirements:

14 (a) Upon receipt of a completed, signed, and dated
15 application, the agency shall require background screening, in
16 accordance with the level 1 standards for screening set forth
17 in chapter 435, of every individual who will have contact with
18 the client. The agency shall require background screening of
19 the managing employee or other similarly titled individual who
20 is responsible for the operation of the entity, and of the
21 financial officer or other similarly titled individual who is
22 responsible for the financial operation of the entity,
23 including billings for client services in accordance with the
24 level 2 standards for background screening as set forth in
25 chapter 435.

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

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

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

27 (f) Each applicant must submit to the agency a
28 description and explanation of any conviction of an offense
29 prohibited under the level 2 standards of chapter 435 which
30 was committed by a member of the board of directors of the
31 applicant, its officers, or any individual owning 5 percent or

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

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

21 Section 30. For the purpose of incorporating the
22 amendment to sections 435.03 and 435.04, Florida Statutes, in
23 references thereto, paragraph (c) of subsection (2) of section
24 400.556, Florida Statutes, is reenacted to read:

25 400.556 Denial, suspension, revocation of license;
26 administrative fines; investigations and inspections.--

27 (2) Each of the following actions by the owner of an
28 adult day care center or by its operator or employee is a
29 ground for action by the agency against the owner of the
30 center or its operator or employee:

31

1 (c) A failure of persons subject to level 2 background
2 screening under s. 400.4174(1) to meet the screening standards
3 of s. 435.04, or the retention by the center of an employee
4 subject to level 1 background screening standards under s.
5 400.4174(2) who does not meet the screening standards of s.
6 435.03 and for whom exemptions from disqualification have not
7 been provided by the agency.

8 Section 31. For the purpose of incorporating the
9 amendment to sections 435.03 and 435.04, Florida Statutes, in
10 references thereto, subsections (1), (2), and (4) of section
11 400.6065, Florida Statutes, are reenacted to read:

12 400.6065 Background screening.--

13 (1) Upon receipt of a completed application under s.
14 400.606, the agency shall require level 2 background screening
15 on each of the following persons, who shall be considered
16 employees for the purposes of conducting screening under
17 chapter 435:

18 (a) The hospice administrator and financial officer.

19 (b) An officer or board member if the hospice is a
20 firm, corporation, partnership, or association, or any person
21 owning 5 percent or more of the hospice if the agency has
22 probable cause to believe that such officer, board member, or
23 owner has been convicted of any offense prohibited by s.
24 435.04. For each officer, board member, or person owning 5
25 percent or more who has been convicted of any such offense,
26 the hospice shall submit to the agency a description and
27 explanation of the conviction at the time of license
28 application. This paragraph does not apply to a board member
29 of a not-for-profit corporation or organization if the board
30 member serves solely in a voluntary capacity, does not
31 regularly take part in the day-to-day operational decisions of

1 the corporation or organization, receives no remuneration for
2 his or her services, and has no financial interest and has no
3 family members with a financial interest in the corporation or
4 organization, provided that the board member and the
5 corporation or organization submit a statement affirming that
6 the board member's relationship to the corporation or
7 organization satisfies the requirements of this paragraph.

8 (2) Proof of compliance with level 2 screening
9 standards which has been submitted within the previous 5 years
10 to meet any facility or professional licensure requirements of
11 the agency or the Department of Health satisfies the
12 requirements of this section.

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

17 Section 32. For the purpose of incorporating the
18 amendment to sections 435.03 and 435.04, Florida Statutes, in
19 references thereto, paragraphs (a), (b), (c), (d), (f), and
20 (g) of subsection (4) of section 400.980, Florida Statutes,
21 are reenacted to read:

22 400.980 Health care services pools.--

23 (4) Each applicant for registration must comply with
24 the following requirements:

25 (a) Upon receipt of a completed, signed, and dated
26 application, the agency shall require background screening, in
27 accordance with the level 1 standards for screening set forth
28 in chapter 435, of every individual who will have contact with
29 patients. The agency shall require background screening of the
30 managing employee or other similarly titled individual who is
31 responsible for the operation of the entity, and of the

1 financial officer or other similarly titled individual who is
2 responsible for the financial operation of the entity,
3 including billings for services in accordance with the level 2
4 standards for background screening as set forth in chapter
5 435.

6 (b) The agency may require background screening of any
7 other individual who is affiliated with the applicant if the
8 agency has a reasonable basis for believing that he or she has
9 been convicted of a crime or has committed any other offense
10 prohibited under the level 2 standards for screening set forth
11 in chapter 435.

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

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

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

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

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

31

1 Section 33. For the purpose of incorporating the
2 amendment to sections 435.03 and 435.04, Florida Statutes, in
3 references thereto, paragraph (k) of subsection (2) of section
4 409.175, Florida Statutes, is reenacted to read:

5 409.175 Licensure of family foster homes, residential
6 child-caring agencies, and child-placing agencies; public
7 records exemption.--

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

9 (k) "Screening" means the act of assessing the
10 background of personnel and includes, but is not limited to,
11 employment history checks as provided in chapter 435, using
12 the level 2 standards for screening set forth in that chapter.
13 Screening for employees and volunteers in summer day camps and
14 summer 24-hour camps and screening for all volunteers included
15 under the definition of "personnel" shall be conducted as
16 provided in chapter 435, using the level 1 standards set forth
17 in that chapter.

18 Section 34. For the purpose of incorporating the
19 amendment to sections 435.03 and 435.04, Florida Statutes, in
20 references thereto, paragraph (d) of subsection (8) of section
21 409.907, Florida Statutes, is reenacted to read:

22 409.907 Medicaid provider agreements.--The agency may
23 make payments for medical assistance and related services
24 rendered to Medicaid recipients only to an individual or
25 entity who has a provider agreement in effect with the agency,
26 who is performing services or supplying goods in accordance
27 with federal, state, and local law, and who agrees that no
28 person shall, on the grounds of handicap, race, color, or
29 national origin, or for any other reason, be subjected to
30 discrimination under any program or activity for which the
31 provider receives payment from the agency.

1 (8)

2 (d) Proof of compliance with the requirements of level
3 2 screening under s. 435.04 conducted within 12 months prior
4 to the date that the Medicaid provider application is
5 submitted to the agency shall fulfill the requirements of this
6 subsection. Proof of compliance with the requirements of level
7 1 screening under s. 435.03 conducted within 12 months prior
8 to the date that the Medicaid provider application is
9 submitted to the agency shall meet the requirement that the
10 Department of Law Enforcement conduct a state criminal history
11 record check.

12 Section 35. For the purpose of incorporating the
13 amendment to sections 435.03 and 435.04, Florida Statutes, in
14 references thereto, subsections (1) and (3) of section 435.05,
15 Florida Statutes, are reenacted to read:

16 435.05 Requirements for covered employees.--Except as
17 otherwise provided by law, the following requirements shall
18 apply to covered employees:

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

24 (b) For level 1 screening, the employer must submit
25 the information necessary for screening to the Florida
26 Department of Law Enforcement within 5 working days after
27 receiving it. The Florida Department of Law Enforcement will
28 conduct a search of its records and will respond to the
29 employer agency. The employer will inform the employee whether
30 screening has revealed any disqualifying information.

31

1 (c) For level 2 screening, the employer or licensing
2 agency must submit the information necessary for screening to
3 the Florida Department of Law Enforcement within 5 working
4 days after receiving it. The Florida Department of Law
5 Enforcement will conduct a search of its criminal and juvenile
6 records and will request that the Federal Bureau of
7 Investigation conduct a search of its records for each
8 employee for whom the request is made. The Florida Department
9 of Law Enforcement will respond to the employer or licensing
10 agency, and the employer or licensing agency will inform the
11 employee whether screening has revealed disqualifying
12 information.

13 (d) The person whose background is being checked must
14 supply any missing criminal or other necessary information to
15 the employer within 30 days after the employer makes a request
16 for the information or be subject to automatic
17 disqualification.

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

23 Section 36. For the purpose of incorporating the
24 amendment to sections 435.03 and 435.04, Florida Statutes, in
25 references thereto, section 744.3135, Florida Statutes, as
26 amended by chapter 2003-402, Laws of Florida, is reenacted to
27 read:

28 744.3135 Credit and criminal investigation.--The court
29 may require a nonprofessional guardian and shall require a
30 professional or public guardian, and all employees of a
31 professional guardian who have a fiduciary responsibility to a

1 ward, to submit, at their own expense, to an investigation of
2 the guardian's credit history and to undergo level 2
3 background screening as required under s. 435.04. The clerk of
4 the court shall obtain fingerprint cards from the Federal
5 Bureau of Investigation and make them available to guardians.
6 Any guardian who is so required shall have his or her
7 fingerprints taken and forward the proper fingerprint card
8 along with the necessary fee to the Florida Department of Law
9 Enforcement for processing. The professional guardian shall
10 pay to the clerk of the court a fee of up to \$7.50 for
11 handling and processing professional guardian files. The
12 results of the fingerprint checks shall be forwarded to the
13 clerk of court who shall maintain the results in a guardian
14 file and shall make the results available to the court. If
15 credit or criminal investigations are required, the court must
16 consider the results of the investigations in appointing a
17 guardian. Professional guardians and all employees of a
18 professional guardian who have a fiduciary responsibility to a
19 ward, so appointed, must resubmit, at their own expense, to an
20 investigation of credit history, and undergo level 1
21 background screening as required under s. 435.03, at least
22 every 2 years after the date of their appointment. At any
23 time, the court may require guardians or their employees to
24 submit to an investigation of credit history and undergo level
25 1 background screening as required under s. 435.03. The court
26 must consider the results of these investigations in
27 reappointing a guardian. This section shall not apply to a
28 professional guardian, or to the employees of a professional
29 guardian, that is a trust company, a state banking corporation
30 or state savings association authorized and qualified to
31 exercise fiduciary powers in this state, or a national banking

1 association or federal savings and loan association authorized
2 and qualified to exercise fiduciary powers in this state

3 Section 37. For the purpose of incorporating the
4 amendment to sections 435.03 and 435.04, Florida Statutes, in
5 references thereto, subsection (2) of section 985.04, Florida
6 Statutes, is reenacted to read:

7 985.04 Oaths; records; confidential information.--

8 (2) Records maintained by the Department of Juvenile
9 Justice, including copies of records maintained by the court,
10 which pertain to a child found to have committed a delinquent
11 act which, if committed by an adult, would be a crime
12 specified in ss. 435.03 and 435.04 may not be destroyed
13 pursuant to this section for a period of 25 years after the
14 youth's final referral to the department, except in cases of
15 the death of the child. Such records, however, shall be sealed
16 by the court for use only in meeting the screening
17 requirements for personnel in s. 402.3055 and the other
18 sections cited above, or pursuant to departmental rule;
19 however, current criminal history information must be obtained
20 from the Department of Law Enforcement in accordance with s.
21 943.053. The information shall be released to those persons
22 specified in the above cited sections for the purposes of
23 complying with those sections. The court may punish by
24 contempt any person who releases or uses the records for any
25 unauthorized purpose.

26 Section 38. For the purpose of incorporating the
27 amendment to section 435.03, Florida Statutes, in references
28 thereto, section 400.512, Florida Statutes, is reenacted to
29 read:

30 400.512 Screening of home health agency personnel;
31 nurse registry personnel; and companions and homemakers.--The

1 agency shall require employment or contractor screening as
2 provided in chapter 435, using the level 1 standards for
3 screening set forth in that chapter, for home health agency
4 personnel; persons referred for employment by nurse
5 registries; and persons employed by companion or homemaker
6 services registered under s. 400.509.

7 (1)(a) The Agency for Health Care Administration may,
8 upon request, grant exemptions from disqualification from
9 employment or contracting under this section as provided in s.
10 435.07, except for health care practitioners licensed by the
11 Department of Health or a regulatory board within that
12 department.

13 (b) The appropriate regulatory board within the
14 Department of Health, or that department itself when there is
15 no board, may, upon request of the licensed health care
16 practitioner, grant exemptions from disqualification from
17 employment or contracting under this section as provided in s.
18 435.07.

19 (2) The administrator of each home health agency, the
20 managing employee of each nurse registry, and the managing
21 employee of each companion or homemaker service registered
22 under s. 400.509 must sign an affidavit annually, under
23 penalty of perjury, stating that all personnel hired,
24 contracted with, or registered on or after October 1, 1994,
25 who enter the home of a patient or client in their service
26 capacity have been screened and that its remaining personnel
27 have worked for the home health agency or registrant
28 continuously since before October 1, 1994.

29 (3) As a prerequisite to operating as a home health
30 agency, nurse registry, or companion or homemaker service
31 under s. 400.509, the administrator or managing employee,

1 respectively, must submit to the agency his or her name and
2 any other information necessary to conduct a complete
3 screening according to this section. The agency shall submit
4 the information to the Department of Law Enforcement for state
5 processing. The agency shall review the record of the
6 administrator or manager with respect to the offenses
7 specified in this section and shall notify the owner of its
8 findings. If disposition information is missing on a criminal
9 record, the administrator or manager, upon request of the
10 agency, must obtain and supply within 30 days the missing
11 disposition information to the agency. Failure to supply
12 missing information within 30 days or to show reasonable
13 efforts to obtain such information will result in automatic
14 disqualification.

15 (4) Proof of compliance with the screening
16 requirements of chapter 435 shall be accepted in lieu of the
17 requirements of this section if the person has been
18 continuously employed or registered without a breach in
19 service that exceeds 180 days, the proof of compliance is not
20 more than 2 years old, and the person has been screened by the
21 Department of Law Enforcement. A home health agency, nurse
22 registry, or companion or homemaker service registered under
23 s. 400.509 shall directly provide proof of compliance to
24 another home health agency, nurse registry, or companion or
25 homemaker service registered under s. 400.509. The recipient
26 home health agency, nurse registry, or companion or homemaker
27 service registered under s. 400.509 may not accept any proof
28 of compliance directly from the person who requires screening.
29 Proof of compliance with the screening requirements of this
30 section shall be provided upon request to the person screened
31

1 by the home health agencies; nurse registries; or companion or
2 homemaker services registered under s. 400.509.

3 (5) There is no monetary liability on the part of, and
4 no cause of action for damages arises against, a licensed home
5 health agency, licensed nurse registry, or companion or
6 homemaker service registered under s. 400.509, that, upon
7 notice that the employee or contractor has been found guilty
8 of, regardless of adjudication, or entered a plea of nolo
9 contendere or guilty to, any offense prohibited under s.
10 435.03 or under any similar statute of another jurisdiction,
11 terminates the employee or contractor, whether or not the
12 employee or contractor has filed for an exemption with the
13 agency in accordance with chapter 435 and whether or not the
14 time for filing has expired.

15 (6) The costs of processing the statewide
16 correspondence criminal records checks must be borne by the
17 home health agency; the nurse registry; or the companion or
18 homemaker service registered under s. 400.509, or by the
19 person being screened, at the discretion of the home health
20 agency, nurse registry, or s. 400.509 registrant.

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

24 1. Fail, by false statement, misrepresentation,
25 impersonation, or other fraudulent means, to disclose in any
26 application for voluntary or paid employment a material fact
27 used in making a determination as to such person's
28 qualifications to be an employee under this section;

29 2. Operate or attempt to operate an entity licensed or
30 registered under this part with persons who do not meet the
31

1 minimum standards for good moral character as contained in
2 this section; or

3 3. Use information from the criminal records obtained
4 under this section for any purpose other than screening that
5 person for employment as specified in this section or release
6 such information to any other person for any purpose other
7 than screening for employment under this section.

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

14 Section 39. For the purpose of incorporating the
15 amendment to section 435.03, Florida Statutes, in references
16 thereto, subsection (4) of section 400.619, Florida Statutes,
17 is reenacted to read:

18 400.619 Licensure application and renewal.--

19 (4) Upon receipt of a completed license application or
20 license renewal, and the fee, the agency shall initiate a
21 level 1 background screening as provided under chapter 435 on
22 the adult family-care home provider, the designated relief
23 person, all adult household members, and all staff members.
24 The agency shall conduct an onsite visit to the home that is
25 to be licensed.

26 (a) Proof of compliance with level 1 screening
27 standards which has been submitted within the previous 5 years
28 to meet any facility or professional licensure requirements of
29 the agency or the Department of Health satisfies the
30 requirements of this subsection. Such proof must be
31 accompanied, under penalty of perjury, by a copy of the

1 person's current professional license and an affidavit of
2 current compliance with the background screening requirements.

3 (b) The person required to be screened must have been
4 continuously employed in the same type of occupation for which
5 the person is seeking employment without a breach in service
6 that exceeds 180 days, and proof of compliance with the level
7 1 screening requirement which is no more than 2 years old must
8 be provided. Proof of compliance shall be provided directly
9 from one employer or contractor to another, and not from the
10 person screened. Upon request, a copy of screening results
11 shall be provided to the person screened by the employer
12 retaining documentation of the screening.

13 Section 40. For the purpose of incorporating the
14 amendment to section 435.03, Florida Statutes, in references
15 thereto, subsection (1) of section 400.6194, Florida Statutes,
16 is reenacted to read:

17 400.6194 Denial, revocation, or suspension of a
18 license.--The agency may deny, suspend, or revoke a license
19 for any of the following reasons:

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

24 Section 41. For the purpose of incorporating the
25 amendment to section 435.03, Florida Statutes, in references
26 thereto, section 400.953, Florida Statutes, is reenacted to
27 read:

28 400.953 Background screening of home medical equipment
29 provider personnel.--The agency shall require employment
30 screening as provided in chapter 435, using the level 1
31

1 standards for screening set forth in that chapter, for home
2 medical equipment provider personnel.

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

6 (2) The general manager of each home medical equipment
7 provider must sign an affidavit annually, under penalty of
8 perjury, stating that all home medical equipment provider
9 personnel hired on or after July 1, 1999, who enter the home
10 of a patient in the capacity of their employment have been
11 screened and that its remaining personnel have worked for the
12 home medical equipment provider continuously since before July
13 1, 1999.

14 (3) Proof of compliance with the screening
15 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
16 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
17 985.407 or this part must be accepted in lieu of the
18 requirements of this section if the person has been
19 continuously employed in the same type of occupation for which
20 he or she is seeking employment without a breach in service
21 that exceeds 180 days, the proof of compliance is not more
22 than 2 years old, and the person has been screened by the
23 Department of Law Enforcement. An employer or contractor shall
24 directly provide proof of compliance to another employer or
25 contractor, and a potential employer or contractor may not
26 accept any proof of compliance directly from the person
27 requiring screening. Proof of compliance with the screening
28 requirements of this section shall be provided, upon request,
29 to the person screened by the home medical equipment provider.

30 (4) There is no monetary liability on the part of, and
31 no cause of action for damages arising against, a licensed

1 home medical equipment provider that, upon notice that an
2 employee has been found guilty of, regardless of adjudication,
3 or entered a plea of nolo contendere or guilty to, any offense
4 prohibited under s. 435.03 or under any similar statute of
5 another jurisdiction, terminates the employee, whether or not
6 the employee has filed for an exemption with the agency and
7 whether or not the time for filing has expired.

8 (5) The costs of processing the statewide
9 correspondence criminal records checks must be borne by the
10 home medical equipment provider or by the person being
11 screened, at the discretion of the home medical equipment
12 provider.

13 (6) Neither the agency nor the home medical equipment
14 provider may use the criminal records or juvenile records of a
15 person for any purpose other than determining whether that
16 person meets minimum standards of good moral character for
17 home medical equipment provider personnel.

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

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

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

30 3. Use information from the criminal records obtained
31 under this section for any purpose other than screening that

1 person for employment as specified in this section, or release
2 such information to any other person for any purpose other
3 than screening for employment under this section.

4 (b) It is a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084, for any
6 person willfully, knowingly, or intentionally to use
7 information from the juvenile records of a person obtained
8 under this section for any purpose other than screening for
9 employment under this section.

10 Section 42. For the purpose of incorporating the
11 amendment to section 435.03, Florida Statutes, in references
12 thereto, subsection (32) of section 409.912, Florida Statutes,
13 is reenacted to read:

14 409.912 Cost-effective purchasing of health care.--The
15 agency shall purchase goods and services for Medicaid
16 recipients in the most cost-effective manner consistent with
17 the delivery of quality medical care. The agency shall
18 maximize the use of prepaid per capita and prepaid aggregate
19 fixed-sum basis services when appropriate and other
20 alternative service delivery and reimbursement methodologies,
21 including competitive bidding pursuant to s. 287.057, designed
22 to facilitate the cost-effective purchase of a case-managed
23 continuum of care. The agency shall also require providers to
24 minimize the exposure of recipients to the need for acute
25 inpatient, custodial, and other institutional care and the
26 inappropriate or unnecessary use of high-cost services. The
27 agency may establish prior authorization requirements for
28 certain populations of Medicaid beneficiaries, certain drug
29 classes, or particular drugs to prevent fraud, abuse, overuse,
30 and possible dangerous drug interactions. The Pharmaceutical
31 and Therapeutics Committee shall make recommendations to the

1 agency on drugs for which prior authorization is required. The
2 agency shall inform the Pharmaceutical and Therapeutics
3 Committee of its decisions regarding drugs subject to prior
4 authorization.

5 (32) Each managed care plan that is under contract
6 with the agency to provide health care services to Medicaid
7 recipients shall annually conduct a background check with the
8 Florida Department of Law Enforcement of all persons with
9 ownership interest of 5 percent or more or executive
10 management responsibility for the managed care plan and shall
11 submit to the agency information concerning any such person
12 who has been found guilty of, regardless of adjudication, or
13 has entered a plea of nolo contendere or guilty to, any of the
14 offenses listed in s. 435.03.

15 Section 43. For the purpose of incorporating the
16 amendment to section 435.03, Florida Statutes, in references
17 thereto, subsection (4) of section 435.07, Florida Statutes,
18 is reenacted to read:

19 435.07 Exemptions from disqualification.--Unless
20 otherwise provided by law, the provisions of this section
21 shall apply to exemptions from disqualification.

22 (4) Disqualification from employment under subsection
23 (1) may not be removed from, nor may an exemption be granted
24 to, any personnel who is found guilty of, regardless of
25 adjudication, or who has entered a plea of nolo contendere or
26 guilty to, any felony covered by s. 435.03 solely by reason of
27 any pardon, executive clemency, or restoration of civil
28 rights.

29 Section 44. For the purpose of incorporating the
30 amendment to section 435.03, Florida Statutes, in references
31

1 thereto, paragraph (e) of subsection (1) of section 464.018,
2 Florida Statutes, is reenacted to read:

3 464.018 Disciplinary actions.--

4 (1) The following acts constitute grounds for denial
5 of a license or disciplinary action, as specified in s.
6 456.072(2):

7 (e) Having been found guilty of, regardless of
8 adjudication, or entered a plea of nolo contendere or guilty
9 to, any offense prohibited under s. 435.03 or under any
10 similar statute of another jurisdiction; or having committed
11 an act which constitutes domestic violence as defined in s.
12 741.28.

13 Section 45. For the purpose of incorporating the
14 amendment to section 435.03, Florida Statutes, in references
15 thereto, subsection (3) of section 744.309, Florida Statutes,
16 is reenacted to read:

17 744.309 Who may be appointed guardian of a resident
18 ward.--

19 (3) ~~DISQUALIFIED PERSONS.~~--No person who has been
20 convicted of a felony or who, from any incapacity or illness,
21 is incapable of discharging the duties of a guardian, or who
22 is otherwise unsuitable to perform the duties of a guardian,
23 shall be appointed to act as guardian. Further, no person who
24 has been judicially determined to have committed abuse,
25 abandonment, or neglect against a child as defined in s. 39.01
26 or s. 984.03(1), (2), and (37), or who has been found guilty
27 of, regardless of adjudication, or entered a plea of nolo
28 contendere or guilty to, any offense prohibited under s.
29 435.03 or under any similar statute of another jurisdiction,
30 shall be appointed to act as a guardian. Except as provided in
31 subsection (5) or subsection (6), a person who provides

1 substantial services to the proposed ward in a professional or
2 business capacity, or a creditor of the proposed ward, may not
3 be appointed guardian and retain that previous professional or
4 business relationship. A person may not be appointed a
5 guardian if he or she is in the employ of any person, agency,
6 government, or corporation that provides service to the
7 proposed ward in a professional or business capacity, except
8 that a person so employed may be appointed if he or she is the
9 spouse, adult child, parent, or sibling of the proposed ward
10 or the court determines that the potential conflict of
11 interest is insubstantial and that the appointment would
12 clearly be in the proposed ward's best interest. The court may
13 not appoint a guardian in any other circumstance in which a
14 conflict of interest may occur.

15 Section 46. For the purpose of incorporating the
16 amendment to section 435.03, Florida Statutes, in references
17 thereto, subsection (12) of section 744.474, Florida Statutes,
18 is reenacted to read:

19 744.474 Reasons for removal of guardian.--A guardian
20 may be removed for any of the following reasons, and the
21 removal shall be in addition to any other penalties prescribed
22 by law:

23 (12) Having been found guilty of, regardless of
24 adjudication, or entered a plea of nolo contendere or guilty
25 to, any offense prohibited under s. 435.03 or under any
26 similar statute of another jurisdiction.

27 Section 47. For the purpose of incorporating the
28 amendment to section 435.03, Florida Statutes, in references
29 thereto, subsection (4) of section 985.407, Florida Statutes,
30 is reenacted to read:

31

1 985.407 Departmental contracting powers; personnel
2 standards and screening.--

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

7 Section 48. For the purpose of incorporating the
8 amendment to section 435.04, Florida Statutes, in references
9 thereto, paragraph (b) of subsection (2) of section 39.001,
10 Florida Statutes, is reenacted to read:

11 39.001 Purposes and intent; personnel standards and
12 screening.--

13 (2) DEPARTMENT CONTRACTS.--The department may contract
14 with the Federal Government, other state departments and
15 agencies, county and municipal governments and agencies,
16 public and private agencies, and private individuals and
17 corporations in carrying out the purposes of, and the
18 responsibilities established in, this chapter.

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

24 Section 49. For the purpose of incorporating the
25 amendment to section 435.04, Florida Statutes, in references
26 thereto, subsection (1) of section 39.821, Florida Statutes,
27 is reenacted to read:

28 39.821 Qualifications of guardians ad litem.--

29 (1) Because of the special trust or responsibility
30 placed in a guardian ad litem, the Guardian Ad Litem Program
31 may use any private funds collected by the program, or any

1 state funds so designated, to conduct a security background
2 investigation before certifying a volunteer to serve. A
3 security background investigation must include, but need not
4 be limited to, employment history checks, checks of
5 references, local criminal records checks through local law
6 enforcement agencies, and statewide criminal records checks
7 through the Department of Law Enforcement. Upon request, an
8 employer shall furnish a copy of the personnel record for the
9 employee or former employee who is the subject of a security
10 background investigation conducted under this section. The
11 information contained in the personnel record may include, but
12 need not be limited to, disciplinary matters and the reason
13 why the employee was terminated from employment. An employer
14 who releases a personnel record for purposes of a security
15 background investigation is presumed to have acted in good
16 faith and is not liable for information contained in the
17 record without a showing that the employer maliciously
18 falsified the record. A security background investigation
19 conducted under this section must ensure that a person is not
20 certified as a guardian ad litem if the person has been
21 convicted of, regardless of adjudication, or entered a plea of
22 nolo contendere or guilty to, any offense prohibited under the
23 provisions of the Florida Statutes specified in s. 435.04(2)
24 or under any similar law in another jurisdiction. Before
25 certifying an applicant to serve as a guardian ad litem, the
26 chief judge of the circuit court may request a federal
27 criminal records check of the applicant through the Federal
28 Bureau of Investigation. In analyzing and evaluating the
29 information obtained in the security background investigation,
30 the program must give particular emphasis to past activities
31 involving children, including, but not limited to,

1 child-related criminal offenses or child abuse. The program
2 has the sole discretion in determining whether to certify a
3 person based on his or her security background investigation.
4 The information collected pursuant to the security background
5 investigation is confidential and exempt from s. 119.07(1).

6 Section 50. For the purpose of incorporating the
7 amendment to section 435.04, Florida Statutes, in references
8 thereto, paragraphs (a) and (c) of subsection (3) of section
9 110.1127, Florida Statutes, are reenacted to read:

10 110.1127 Employee security checks.--

11 (3)(a) All positions in programs providing care to
12 children, the developmentally disabled, or vulnerable adults
13 for 15 hours or more per week; all permanent and temporary
14 employee positions of the central abuse hotline; and all
15 persons working under contract who have access to abuse
16 records are deemed to be persons and positions of special
17 trust or responsibility, and require employment screening
18 pursuant to chapter 435, using the level 2 standards set forth
19 in that chapter.

20 (c) All persons and employees in such positions of
21 trust or responsibility shall be required to undergo security
22 background investigations as a condition of employment and
23 continued employment. For the purposes of this subsection,
24 security background investigations shall be conducted as
25 provided in chapter 435, using the level 2 standards for
26 screening set forth in that chapter.

27 Section 51. For the purpose of incorporating the
28 amendment to section 435.04, Florida Statutes, in references
29 thereto, paragraph (a) of subsection (12) of section 112.0455,
30 Florida Statutes, is reenacted to read:

31 112.0455 Drug-Free Workplace Act.--

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

2 (a) A laboratory may analyze initial or confirmation
3 drug specimens only if:

4 1. The laboratory is licensed and approved by the
5 Agency for Health Care Administration using criteria
6 established by the United States Department of Health and
7 Human Services as general guidelines for modeling the state
8 drug testing program. Each applicant for licensure must comply
9 with the following requirements:

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

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

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

31

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

23 e. Each applicant must submit to the agency, with its
24 application, a description and explanation of any exclusions,
25 permanent suspensions, or terminations of the applicant from
26 the Medicare or Medicaid programs. Proof of compliance with
27 the requirements for disclosure of ownership and control
28 interests under the Medicaid or Medicare programs shall be
29 accepted in lieu of this submission.

30 f. Each applicant must submit to the agency a
31 description and explanation of any conviction of an offense

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

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

24 h. The agency may deny or revoke licensure if the
25 applicant:

26 (I) Has falsely represented a material fact in the
27 application required by sub-subparagraph e. or
28 sub-subparagraph f., or has omitted any material fact from the
29 application required by sub-subparagraph e. or
30 sub-subparagraph f.; or

31

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

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

6 2. The laboratory has written procedures to ensure
7 chain of custody.

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

10 a. The use of internal quality controls including the
11 use of samples of known concentrations which are used to check
12 the performance and calibration of testing equipment, and
13 periodic use of blind samples for overall accuracy.

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

17 c. Security measures implemented by the testing
18 laboratory to preclude adulteration of specimens and drug test
19 results.

20 d. Other necessary and proper actions taken to ensure
21 reliable and accurate drug test results.

22 Section 52. For the purpose of incorporating the
23 amendment to section 435.04, Florida Statutes, in references
24 thereto, subsections (1), (2), and (4) of section 381.0059,
25 Florida Statutes, are reenacted to read:

26 381.0059 Background screening requirements for school
27 health services personnel.--

28 (1) Pursuant to the provisions of chapter 435, any
29 person who provides services under a school health services
30 plan pursuant to s. 381.0056 must meet level 2 screening
31 requirements as described in s. 435.04. A person may satisfy

1 the requirements of this subsection by submitting proof of
2 compliance with the requirements of level 2 screening
3 conducted within 12 months before the date that person
4 initially provides services under a school health services
5 plan.

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

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

16 Section 53. For the purpose of incorporating the
17 amendment to section 435.04, Florida Statutes, in references
18 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
19 subsection (1) of section 381.60225, Florida Statutes, are
20 reenacted to read:

21 381.60225 Background screening.--

22 (1) Each applicant for certification must comply with
23 the following requirements:

24 (a) Upon receipt of a completed, signed, and dated
25 application, the Agency for Health Care Administration shall
26 require background screening, in accordance with the level 2
27 standards for screening set forth in chapter 435, of the
28 managing employee, or other similarly titled individual
29 responsible for the daily operation of the organization,
30 agency, or entity, and financial officer, or other similarly
31 titled individual who is responsible for the financial

1 operation of the organization, agency, or entity, including
2 billings for services. The applicant must comply with the
3 procedures for level 2 background screening as set forth in
4 chapter 435, as well as the requirements of s. 435.03(3).

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

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

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

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

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

26 (g) The agency may not certify any organization,
27 agency, or entity if any applicant or managing employee has
28 been found guilty of, regardless of adjudication, or has
29 entered a plea of nolo contendere or guilty to, any offense
30 prohibited under the level 2 standards for screening set forth
31

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

3 Section 54. For the purpose of incorporating the
4 amendment to section 435.04, Florida Statutes, in references
5 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
6 subsection (7) of section 383.305, Florida Statutes, are
7 reenacted to read:

8 383.305 Licensure; issuance, renewal, denial,
9 suspension, revocation; fees; background screening.--

10 (7) Each applicant for licensure must comply with the
11 following requirements:

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

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

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

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

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

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

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

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

19 Section 55. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
22 subsection (3) of section 390.015, Florida Statutes, are
23 reenacted to read:

24 390.015 Application for license.--

25 (3) Each applicant for licensure must comply with the
26 following requirements:

27 (a) Upon receipt of a completed, signed, and dated
28 application, the agency shall require background screening, in
29 accordance with the level 2 standards for screening set forth
30 in chapter 435, of the managing employee, or other similarly
31 titled individual who is responsible for the daily operation

1 of the clinic, and financial officer, or other similarly
2 titled individual who is responsible for the financial
3 operation of the clinic, including billings for patient care
4 and services. The applicant must comply with the procedures
5 for level 2 background screening as set forth in chapter 435,
6 as well as the requirements of s. 435.03(3).

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

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

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

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

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

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

31

1 unless an exemption from disqualification has been granted by
2 the agency as set forth in chapter 435.

3 Section 56. For the purpose of incorporating the
4 amendment to section 435.04, Florida Statutes, in references
5 thereto, subsection (1) of section 393.0655, Florida Statutes,
6 is reenacted to read:

7 393.0655 Screening of direct service providers.--

8 (1) MINIMUM STANDARDS.--The department shall require
9 employment screening pursuant to chapter 435, using the level
10 2 standards for screening set forth in that chapter, for
11 direct service providers who are unrelated to their clients.

12 Section 57. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
15 subsection (6) of section 393.067, Florida Statutes, are
16 reenacted to read:

17 393.067 Licensure of residential facilities and
18 comprehensive transitional education programs.--

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

22 (a) Upon receipt of a completed, signed, and dated
23 application, the agency shall require background screening, in
24 accordance with the level 2 standards for screening set forth
25 in chapter 435, of the managing employee, or other similarly
26 titled individual who is responsible for the daily operation
27 of the facility, and of the financial officer, or other
28 similarly titled individual who is responsible for the
29 financial operation of the center, including billings for
30 resident care and services. The applicant must comply with the

31

1 procedures for level 2 background screening as set forth in
2 chapter 435, as well as the requirements of s. 435.03(3).

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

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

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

1 violation of background screening standards and a
2 disqualification exemption has not been requested of and
3 granted by the agency as set forth in chapter 435.

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

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

29 Section 58. Paragraph (a) of subsection (1) of section
30 394.4572, Florida Statutes, is amended to read:

31 394.4572 Screening of mental health personnel.--

1 (1)(a) The department and the Agency for Health Care
2 Administration shall require employment screening for mental
3 health personnel using the standards for level 2 screening set
4 forth in chapter 435. "Mental health personnel" includes all
5 program directors, professional clinicians, staff members, and
6 volunteers working in public or private mental health programs
7 and facilities who have direct contact with unmarried patients
8 under the age of 18 years. For the purpose of this chapter,
9 employment screening of mental health personnel also includes,
10 but is not limited to, employment history checks as provided
11 in chapter 435.

12 Section 59. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
15 subsection (13) of section 394.875, Florida Statutes, are
16 reenacted to read:

17 394.875 Crisis stabilization units, residential
18 treatment facilities, and residential treatment centers for
19 children and adolescents; authorized services; license
20 required; penalties.--

21 (13) Each applicant for licensure must comply with the
22 following requirements:

23 (a) Upon receipt of a completed, signed, and dated
24 application, the agency shall require background screening, in
25 accordance with the level 2 standards for screening set forth
26 in chapter 435, of the managing employee and financial
27 officer, or other similarly titled individual who is
28 responsible for the financial operation of the facility,
29 including billings for client care and services. The applicant
30 must comply with the procedures for level 2 background
31

1 screening as set forth in chapter 435, as well as the
2 requirements of s. 435.03(3).

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

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

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

1 violation of background screening standards and a
2 disqualification exemption has not been requested of and
3 granted by the agency as set forth in chapter 435.

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

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

29 Section 60. For the purpose of incorporating the
30 amendment to section 435.04, Florida Statutes, in references
31

1 thereto, subsections (1), (2), (3), (4), (6), and (8) of
2 section 395.0055, Florida Statutes, are reenacted to read:

3 395.0055 Background screening.--Each applicant for
4 licensure must comply with the following requirements:

5 (1) Upon receipt of a completed, signed, and dated
6 application, the agency shall require background screening of
7 the managing employee in accordance with the level 2 standards
8 for screening set forth in chapter 435, as well as the
9 requirements of s. 435.03(3).

10 (2) The agency may require background screening for a
11 member of the board of directors of the licensee, or an
12 officer or an individual owning 5 percent or more of the
13 licensee, if the agency has probable cause to believe that
14 such individual has been convicted of an offense prohibited
15 under the level 2 standards for screening set forth in chapter
16 435.

17 (3) Proof of compliance with the level 2 background
18 screening requirements of chapter 435 which has been submitted
19 within the previous 5 years in compliance with any other
20 health care licensure requirements of this state is acceptable
21 in fulfillment of subsection (1).

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

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

13 (6) Each applicant must submit to the agency a
14 description and explanation of any conviction of an offense
15 prohibited under the level 2 standards of chapter 435 by a
16 member of the board of directors of the applicant, its
17 officers, or any individual owning 5 percent or more of the
18 applicant.

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

26 Section 61. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
29 subsection (4) of section 395.0199, Florida Statutes, are
30 reenacted to read:

31 395.0199 Private utilization review.--

1 (4) Each applicant for registration must comply with
2 the following requirements:

3 (a) Upon receipt of a completed, signed, and dated
4 application, the agency shall require background screening, in
5 accordance with the level 2 standards for screening set forth
6 in chapter 435, of the managing employee or other similarly
7 titled individual who is responsible for the operation of the
8 entity. The applicant must comply with the procedures for
9 level 2 background screening as set forth in chapter 435, as
10 well as the requirements of s. 435.03(3).

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

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

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

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

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

30 (g) A registration may not be granted to an applicant
31 if the applicant or managing employee has been found guilty

1 of, regardless of adjudication, or has entered a plea of nolo
2 contendere or guilty to, any offense prohibited under the
3 level 2 standards for screening set forth in chapter 435,
4 unless an exemption from disqualification has been granted by
5 the agency as set forth in chapter 435.

6 Section 62. For the purpose of incorporating the
7 amendment to section 435.04, Florida Statutes, in references
8 thereto, paragraph (a) of subsection (1) of section 397.451,
9 Florida Statutes, is reenacted to read:

10 397.451 Background checks of service provider
11 personnel.--

12 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
13 EXCEPTIONS.--

14 (a) Background checks shall apply as follows:

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

18 2. All service provider personnel who have direct
19 contact with children receiving services or with adults who
20 are developmentally disabled receiving services are subject to
21 level 2 background screening as provided under chapter 435.

22 Section 63. For the purpose of incorporating the
23 amendment to section 435.04, Florida Statutes, in references
24 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
25 (4) of section 400.071, Florida Statutes, are reenacted to
26 read:

27 400.071 Application for license.--

28 (4) Each applicant for licensure must comply with the
29 following requirements:

30 (a) Upon receipt of a completed, signed, and dated
31 application, the agency shall require background screening of

1 the applicant, in accordance with the level 2 standards for
2 screening set forth in chapter 435. As used in this
3 subsection, the term "applicant" means the facility
4 administrator, or similarly titled individual who is
5 responsible for the day-to-day operation of the licensed
6 facility, and the facility financial officer, or similarly
7 titled individual who is responsible for the financial
8 operation of the licensed facility.

9 (b) The agency may require background screening for a
10 member of the board of directors of the licensee or an officer
11 or an individual owning 5 percent or more of the licensee if
12 the agency has probable cause to believe that such individual
13 has been convicted of an offense prohibited under the level 2
14 standards for screening set forth in chapter 435.

15 (c) Proof of compliance with the level 2 background
16 screening requirements of chapter 435 which has been submitted
17 within the previous 5 years in compliance with any other
18 health care or assisted living licensure requirements of this
19 state is acceptable in fulfillment of paragraph (a). Proof of
20 compliance with background screening which has been submitted
21 within the previous 5 years to fulfill the requirements of the
22 Financial Services Commission and the Office of Insurance
23 Regulation pursuant to chapter 651 as part of an application
24 for a certificate of authority to operate a continuing care
25 retirement community is acceptable in fulfillment of the
26 Department of Law Enforcement and Federal Bureau of
27 Investigation background check.

28 (d) A provisional license may be granted to an
29 applicant when each individual required by this section to
30 undergo background screening has met the standards for the
31 Department of Law Enforcement background check, but the agency

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

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

1 interest in the corporation or organization, provided that the
2 director and the not-for-profit corporation or organization
3 include in the application a statement affirming that the
4 director's relationship to the corporation satisfies the
5 requirements of this paragraph.

6 Section 64. For the purpose of incorporating the
7 amendment to section 435.04, Florida Statutes, in references
8 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
9 subsection (4) of section 400.471, Florida Statutes, are
10 reenacted to read:

11 400.471 Application for license; fee; provisional
12 license; temporary permit.--

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

15 (a) Upon receipt of a completed, signed, and dated
16 application, the agency shall require background screening of
17 the applicant, in accordance with the level 2 standards for
18 screening set forth in chapter 435. As used in this
19 subsection, the term "applicant" means the administrator, or a
20 similarly titled person who is responsible for the day-to-day
21 operation of the licensed home health agency, and the
22 financial officer, or similarly titled individual who is
23 responsible for the financial operation of the licensed home
24 health agency.

25 (b) The agency may require background screening for a
26 member of the board of directors of the licensee or an officer
27 or an individual owning 5 percent or more of the licensee if
28 the agency reasonably suspects that such individual has been
29 convicted of an offense prohibited under the level 2 standards
30 for screening set forth in chapter 435.

31

1 (c) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years in compliance with any other
4 health care or assisted living licensure requirements of this
5 state is acceptable in fulfillment of paragraph (a). Proof of
6 compliance with background screening which has been submitted
7 within the previous 5 years to fulfill the requirements of the
8 Financial Services Commission and the Office of Insurance
9 Regulation pursuant to chapter 651 as part of an application
10 for a certificate of authority to operate a continuing care
11 retirement community is acceptable in fulfillment of the
12 Department of Law Enforcement and Federal Bureau of
13 Investigation background check.

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

1 | been requested of and granted by the agency as set forth in
2 | chapter 435.

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

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

28 | Section 65. For the purpose of incorporating the
29 | amendment to section 435.04, Florida Statutes, in references
30 | thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
31 |

1 subsection (2) of section 400.506, Florida Statutes, are
2 reenacted to read:

3 400.506 Licensure of nurse registries; requirements;
4 penalties.--

5 (2) Each applicant for licensure must comply with the
6 following requirements:

7 (a) Upon receipt of a completed, signed, and dated
8 application, the agency shall require background screening, in
9 accordance with the level 2 standards for screening set forth
10 in chapter 435, of the managing employee, or other similarly
11 titled individual who is responsible for the daily operation
12 of the nurse registry, and of the financial officer, or other
13 similarly titled individual who is responsible for the
14 financial operation of the registry, including billings for
15 patient care and services. The applicant shall comply with the
16 procedures for level 2 background screening as set forth in
17 chapter 435.

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

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

29 (d) A provisional license may be granted to an
30 applicant when each individual required by this section to
31 undergo background screening has met the standards for the

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

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

1 director and the not-for-profit corporation or organization
2 include in the application a statement affirming that the
3 director's relationship to the corporation satisfies the
4 requirements of this paragraph.

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

12 Section 66. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, section 400.5572, Florida Statutes, is reenacted to
15 read:

16 400.5572 Background screening.--

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

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

23 2. An officer or board member if the owner of the
24 adult day care center is a firm, corporation, partnership, or
25 association, or any person owning 5 percent or more of the
26 facility, if the agency has probable cause to believe that
27 such person has been convicted of any offense prohibited by s.
28 435.04. For each officer, board member, or person owning 5
29 percent or more who has been convicted of any such offense,
30 the facility shall submit to the agency a description and
31 explanation of the conviction at the time of license

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

12 (b) Proof of compliance with level 2 screening
13 standards which has been submitted within the previous 5 years
14 to meet any facility or professional licensure requirements of
15 the agency or the Department of Health satisfies the
16 requirements of this subsection.

17 (c) The agency may grant a provisional license to an
18 adult day care center applying for an initial license when
19 each individual required by this subsection to undergo
20 screening has completed the Department of Law Enforcement
21 background check, but has not yet received results from the
22 Federal Bureau of Investigation, or when a request for an
23 exemption from disqualification has been submitted to the
24 agency pursuant to s. 435.07, but a response has not been
25 issued.

26 (2) The owner or administrator of an adult day care
27 center must conduct level 1 background screening as set forth
28 in chapter 435 on all employees hired on or after October 1,
29 1998, who provide basic services or supportive and optional
30 services to the participants. Such persons satisfy this
31 requirement if:

1 (a) Proof of compliance with level 1 screening
2 requirements obtained to meet any professional license
3 requirements in this state is provided and accompanied, under
4 penalty of perjury, by a copy of the person's current
5 professional license and an affidavit of current compliance
6 with the background screening requirements.

7 (b) The person required to be screened has been
8 continuously employed, without a breach in service that
9 exceeds 180 days, in the same type of occupation for which the
10 person is seeking employment and provides proof of compliance
11 with the level 1 screening requirement which is no more than 2
12 years old. Proof of compliance must be provided directly from
13 one employer or contractor to another, and not from the person
14 screened. Upon request, a copy of screening results shall be
15 provided to the person screened by the employer retaining
16 documentation of the screening.

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

23 Section 67. For the purpose of incorporating the
24 amendment to section 435.04, Florida Statutes, in references
25 thereto, paragraph (a) of subsection (3) of section 400.607,
26 Florida Statutes, is reenacted to read:

27 400.607 Denial, suspension, or revocation of license;
28 imposition of administrative fine; grounds; injunctions.--

29 (3) The agency may deny or revoke a license upon a
30 determination that:

31

1 (a) Persons subject to level 2 background screening
2 under s. 400.6065 do not meet the screening standards of s.
3 435.04, and exemptions from disqualification have not been
4 provided by the agency.

5 Section 68. For the purpose of incorporating the
6 amendment to section 435.04, Florida Statutes, in references
7 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
8 subsection (4) of section 400.801, Florida Statutes, are
9 reenacted to read:

10 400.801 Homes for special services.--

11 (4) Each applicant for licensure must comply with the
12 following requirements:

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

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

30 (c) Proof of compliance with the level 2 background
31 screening requirements of chapter 435 which has been submitted

1 within the previous 5 years in compliance with any other
2 health care or assisted living licensure requirements of this
3 state is acceptable in fulfillment of the requirements of
4 paragraph (a).

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

27 (f) Each applicant must submit to the agency a
28 description and explanation of any conviction of an offense
29 prohibited under the level 2 standards of chapter 435 by a
30 member of the board of directors of the applicant, its
31 officers, or any individual owning 5 percent or more of the

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

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

21 Section 69. For the purpose of incorporating the
22 amendment to section 435.04, Florida Statutes, in references
23 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
24 subsection (3) of section 400.805, Florida Statutes, are
25 reenacted to read:

26 400.805 Transitional living facilities.--

27 (3) Each applicant for licensure must comply with the
28 following requirements:

29 (a) Upon receipt of a completed, signed, and dated
30 application, the agency shall require background screening, in
31 accordance with the level 2 standards for screening set forth

1 in chapter 435, of the managing employee, or other similarly
2 titled individual who is responsible for the daily operation
3 of the facility, and of the financial officer, or other
4 similarly titled individual who is responsible for the
5 financial operation of the facility, including billings for
6 client care and services. The applicant must comply with the
7 procedures for level 2 background screening as set forth in
8 chapter 435.

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

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

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

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

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

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

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

5 | Section 70. For the purpose of incorporating the
6 | amendment to section 435.04, Florida Statutes, in references
7 | thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
8 | subsection (5) of section 400.906, Florida Statutes, are
9 | reenacted to read:

10 | 400.906 Initial application for license.--

11 | (5) Each applicant for licensure must comply with the
12 | following requirements:

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

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

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

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

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

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

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

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

19 Section 71. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraphs (a), (b), (c), (e), and (f) of subsection
22 (5) of section 400.931, Florida Statutes, are reenacted to
23 read:

24 400.931 Application for license; fee; provisional
25 license; temporary permit.--

26 (5) Each applicant for licensure must comply with the
27 following requirements:

28 (a) Upon receipt of a completed, signed, and dated
29 application, the agency shall require background screening of
30 the applicant, in accordance with the level 2 standards for
31 screening set forth in chapter 435. As used in this

1 subsection, the term "applicant" means the general manager and
2 the financial officer or similarly titled individual who is
3 responsible for the financial operation of the licensed
4 facility.

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

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

16 (e) Each applicant must submit to the agency a
17 description and explanation of any conviction of an offense
18 prohibited under the level 2 standards of chapter 435 by a
19 member of the board of directors of the applicant, its
20 officers, or any individual owning 5 percent or more of the
21 applicant. This requirement does not apply to a director of a
22 not-for-profit corporation or organization if the director
23 serves solely in a voluntary capacity for the corporation or
24 organization, does not regularly take part in the day-to-day
25 operational decisions of the corporation or organization,
26 receives no remuneration for his or her services on the
27 corporation's or organization's board of directors, and has no
28 financial interest and has no family members with a financial
29 interest in the corporation or organization, provided that the
30 director and the not-for-profit corporation or organization
31 include in the application a statement affirming that the

1 | director's relationship to the corporation satisfies the
2 | requirements of this provision.

3 | (f) A license may not be granted to any potential
4 | licensee if any applicant, administrator, or financial officer
5 | has been found guilty of, regardless of adjudication, or has
6 | entered a plea of nolo contendere or guilty to, any offense
7 | prohibited under the level 2 standards for screening set forth
8 | in chapter 435, unless an exemption from disqualification has
9 | been granted by the agency as set forth in chapter 435.

10 | Section 72. For the purpose of incorporating the
11 | amendment to section 435.04, Florida Statutes, in references
12 | thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
13 | (10) of section 400.962, Florida Statutes, are reenacted to
14 | read:

15 | 400.962 License required; license application.--

16 | (10)(a) Upon receipt of a completed, signed, and dated
17 | application, the agency shall require background screening of
18 | the applicant, in accordance with the level 2 standards for
19 | screening set forth in chapter 435. As used in this
20 | subsection, the term "applicant" means the facility
21 | administrator, or similarly titled individual who is
22 | responsible for the day-to-day operation of the licensed
23 | facility, and the facility financial officer, or similarly
24 | titled individual who is responsible for the financial
25 | operation of the licensed facility.

26 | (b) The agency may require background screening for a
27 | member of the board of directors of the licensee or an officer
28 | or an individual owning 5 percent or more of the licensee if
29 | the agency has probable cause to believe that such individual
30 | has been convicted of an offense prohibited under the level 2
31 | standards for screening set forth in chapter 435.

1 (c) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years in compliance with any other
4 licensure requirements under this chapter satisfies the
5 requirements of paragraph (a). Proof of compliance with
6 background screening which has been submitted within the
7 previous 5 years to fulfill the requirements of the Financial
8 Services Commission and the Office of Insurance Regulation
9 under chapter 651 as part of an application for a certificate
10 of authority to operate a continuing care retirement community
11 satisfies the requirements for the Department of Law
12 Enforcement and Federal Bureau of Investigation background
13 checks.

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

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

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

23 Section 73. For the purpose of incorporating the
24 amendment to section 435.04, Florida Statutes, in references
25 thereto, paragraphs (b) and (d) of subsection (7) of section
26 400.991, Florida Statutes, are reenacted to read:

27 400.991 License requirements; background screenings;
28 prohibitions.--

29 (7) Each applicant for licensure shall comply with the
30 following requirements:

31

1 (b) Upon receipt of a completed, signed, and dated
2 application, the agency shall require background screening of
3 the applicant, in accordance with the level 2 standards for
4 screening set forth in chapter 435. Proof of compliance with
5 the level 2 background screening requirements of chapter 435
6 which has been submitted within the previous 5 years in
7 compliance with any other health care licensure requirements
8 of this state is acceptable in fulfillment of this paragraph.

9 (d) A license may not be granted to a clinic if the
10 applicant has been found guilty of, regardless of
11 adjudication, or has entered a plea of nolo contendere or
12 guilty to, any offense prohibited under the level 2 standards
13 for screening set forth in chapter 435, or a violation of
14 insurance fraud under s. 817.234, within the past 5 years. If
15 the applicant has been convicted of an offense prohibited
16 under the level 2 standards or insurance fraud in any
17 jurisdiction, the applicant must show that his or her civil
18 rights have been restored prior to submitting an application.

19 Section 74. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraph (e) of subsection (2) of section 402.302,
22 Florida Statutes, is reenacted to read:

23 402.302 Definitions.--

24 (2) "Child care facility" includes any child care
25 center or child care arrangement which provides child care for
26 more than five children unrelated to the operator and which
27 receives a payment, fee, or grant for any of the children
28 receiving care, wherever operated, and whether or not operated
29 for profit. The following are not included:

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

1 the guests of their establishment or resort, provided that all
2 child care personnel of the establishment are screened
3 according to the level 2 screening requirements of chapter
4 435.

5 Section 75. For the purpose of incorporating the
6 amendment to section 435.04, Florida Statutes, in references
7 thereto, paragraph (a) of subsection (2) of section 402.305,
8 Florida Statutes, is reenacted to read:

9 402.305 Licensing standards; child care facilities.--

10 (2) PERSONNEL.--Minimum standards for child care
11 personnel shall include minimum requirements as to:

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

15 Section 76. For the purpose of incorporating the
16 amendment to section 435.04, Florida Statutes, in references
17 thereto, subsection (3) of section 402.3054, Florida Statutes,
18 is reenacted to read:

19 402.3054 Child enrichment service providers.--

20 (3) A child enrichment service provider shall be of
21 good moral character based upon screening. This screening
22 shall be conducted as provided in chapter 435, using the level
23 2 standards for screening set forth in that chapter. A child
24 enrichment service provider must meet the screening
25 requirements prior to providing services to a child in a child
26 care facility. A child enrichment service provider who has met
27 the screening standards shall not be required to be under the
28 direct and constant supervision of child care personnel.

29 Section 77. For the purpose of incorporating the
30 amendment to section 435.04, Florida Statutes, in references
31 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of

1 subsection (2) of section 483.30, Florida Statutes, are
2 reenacted to read:

3 483.30 Licensing of centers.--

4 (2) Each applicant for licensure must comply with the
5 following requirements:

6 (a) Upon receipt of a completed, signed, and dated
7 application, the agency shall require background screening, in
8 accordance with the level 2 standards for screening set forth
9 in chapter 435, of the managing employee, or other similarly
10 titled individual who is responsible for the daily operation
11 of the center, and of the financial officer, or other
12 similarly titled individual who is responsible for the
13 financial operation of the center, including billings for
14 patient services. The applicant must comply with the
15 procedures for level 2 background screening as set forth in
16 chapter 435, as well as the requirements of s. 435.03(3).

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

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

27 (d) A provisional license may be granted to an
28 applicant when each individual required by this section to
29 undergo background screening has met the standards for the
30 Department of Law Enforcement background check, but the agency
31 has not yet received background screening results from the

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

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

1 director and the not-for-profit corporation or organization
2 include in the application a statement affirming that the
3 director's relationship to the corporation satisfies the
4 requirements of this paragraph.

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

12 Section 78. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
15 subsection (2) of section 483.101, Florida Statutes, are
16 reenacted to read:

17 483.101 Application for clinical laboratory license.--

18 (2) Each applicant for licensure must comply with the
19 following requirements:

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

31

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

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

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

31

1 disqualification exemption has not been requested of and
2 granted by the agency as set forth in chapter 435.

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

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

28 Section 79. For the purpose of incorporating the
29 amendment to section 435.04, Florida Statutes, in references
30 thereto, subsection (5) of section 744.1085, Florida Statutes,
31 is reenacted to read:

1 744.1085 Regulation of professional guardians;
2 application; bond required; educational requirements.--

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

7 Section 80. For the purpose of incorporating the
8 amendment to section 435.04, Florida Statutes, in references
9 thereto, paragraph (b) of subsection (2) of section 984.01,
10 Florida Statutes, is reenacted to read:

11 984.01 Purposes and intent; personnel standards and
12 screening.--

13 (2) The Department of Juvenile Justice or the
14 Department of Children and Family Services, as appropriate,
15 may contract with the Federal Government, other state
16 departments and agencies, county and municipal governments and
17 agencies, public and private agencies, and private individuals
18 and corporations in carrying out the purposes of, and the
19 responsibilities established in, this chapter.

20 (b) The Department of Juvenile Justice and the
21 Department of Children and Family Services shall require
22 employment screening pursuant to chapter 435, using the level
23 2 standards set forth in that chapter for personnel in
24 programs for children or youths.

25 Section 81. For the purpose of incorporating the
26 amendment to section 435.04, Florida Statutes, in references
27 thereto, paragraph (b) of subsection (2) of section 985.01,
28 Florida Statutes, is reenacted to read:

29 985.01 Purposes and intent; personnel standards and
30 screening.--

31

1 (2) The Department of Juvenile Justice or the
2 Department of Children and Family Services, as appropriate,
3 may contract with the Federal Government, other state
4 departments and agencies, county and municipal governments and
5 agencies, public and private agencies, and private individuals
6 and corporations in carrying out the purposes of, and the
7 responsibilities established in, this chapter.

8 (b) The Department of Juvenile Justice and the
9 Department of Children and Family Services shall require
10 employment screening pursuant to chapter 435, using the level
11 2 standards set forth in that chapter for personnel in
12 programs for children or youths.

13 Section 82. For the purpose of incorporating the
14 amendment to section 435.04, Florida Statutes, in references
15 thereto, paragraphs (a) and (b) of subsection (7) of section
16 1002.36, Florida Statutes, are reenacted to read:

17 1002.36 Florida School for the Deaf and the Blind.--

18 (7) PERSONNEL SCREENING.--

19 (a) The Board of Trustees of the Florida School for
20 the Deaf and the Blind shall, because of the special trust or
21 responsibility of employees of the school, require all
22 employees and applicants for employment to undergo personnel
23 screening and security background investigations as provided
24 in chapter 435, using the level 2 standards for screening set
25 forth in that chapter, as a condition of employment and
26 continued employment. The cost of a personnel screening and
27 security background investigation for an employee of the
28 school shall be paid by the school. The cost of such a
29 screening and investigation for an applicant for employment
30 may be paid by the school.

31

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

3 1. The applicant or employee shall submit to the
4 Florida School for the Deaf and the Blind a complete set of
5 fingerprints taken by an authorized law enforcement agency or
6 an employee of the Florida School for the Deaf and the Blind
7 who is trained to take fingerprints. The Florida School for
8 the Deaf and the Blind shall submit the fingerprints to the
9 Department of Law Enforcement for state processing and the
10 Federal Bureau of Investigation for federal processing.

11 2.a. The applicant or employee shall attest to the
12 minimum standards for good moral character as contained in
13 chapter 435, using the level 2 standards set forth in that
14 chapter under penalty of perjury.

15 b. New personnel shall be on a probationary status
16 pending a determination of compliance with such minimum
17 standards for good moral character. This paragraph is in
18 addition to any probationary status provided for by Florida
19 law or Florida School for the Deaf and the Blind rules or
20 collective bargaining contracts.

21 3. The Florida School for the Deaf and the Blind shall
22 review the record of the applicant or employee with respect to
23 the crimes contained in s. 435.04 and shall notify the
24 applicant or employee of its findings. When disposition
25 information is missing on a criminal record, it shall be the
26 responsibility of the applicant or employee, upon request of
27 the Florida School for the Deaf and the Blind, to obtain and
28 supply within 30 days the missing disposition information to
29 the Florida School for the Deaf and the Blind. Failure to
30 supply missing information within 30 days or to show
31 reasonable efforts to obtain such information shall result in

1 automatic disqualification of an applicant and automatic
2 termination of an employee.

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

7 Section 83. For the purpose of incorporating the
8 amendments to sections 943.0585 and 943.059, Florida Statutes,
9 in references thereto, paragraph (a) of subsection (2) and
10 subsection (6) of section 943.0582, Florida Statutes, are
11 reenacted to read:

12 943.0582 Prearrest, postarrest, or teen court
13 diversion program expunction.--

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

17 1. The provisions of s. 943.0585(4)(a) do not apply,
18 except that the criminal history record of a person whose
19 record is expunged pursuant to this section shall be made
20 available only to criminal justice agencies for the purpose of
21 determining eligibility for prearrest, postarrest, or teen
22 court diversion programs; when the record is sought as part of
23 a criminal investigation; or when the subject of the record is
24 a candidate for employment with a criminal justice agency. For
25 all other purposes, a person whose record is expunged under
26 this section may lawfully deny or fail to acknowledge the
27 arrest and the charge covered by the expunged record.

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

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

6 Section 84. For the purpose of incorporating the
7 amendment to section 943.059, Florida Statutes, in references
8 thereto, subsections (7), (8), and (9) of section 943.053,
9 Florida Statutes, are reenacted to read:

10 943.053 Dissemination of criminal justice information;
11 fees.--

12 (7) Notwithstanding the provisions of s. 943.0525, and
13 any user agreements adopted pursuant thereto, and
14 notwithstanding the confidentiality of sealed records as
15 provided for in s. 943.059, the sheriff of any county that has
16 contracted with a private entity to operate a county detention
17 facility pursuant to the provisions of s. 951.062 shall
18 provide that private entity, in a timely manner, copies of the
19 Florida criminal history records for its inmates. The sheriff
20 may assess a charge for the Florida criminal history records
21 pursuant to the provisions of chapter 119. Sealed records
22 received by the private entity under this section remain
23 confidential and exempt from the provisions of s. 119.07(1).

24 (8) Notwithstanding the provisions of s. 943.0525, and
25 any user agreements adopted pursuant thereto, and
26 notwithstanding the confidentiality of sealed records as
27 provided for in s. 943.059, the Department of Corrections
28 shall provide, in a timely manner, copies of the Florida
29 criminal history records for inmates housed in a private state
30 correctional facility to the private entity under contract to
31 operate the facility pursuant to the provisions of s. 944.105

1 or s. 957.03. The department may assess a charge for the
2 Florida criminal history records pursuant to the provisions of
3 chapter 119. Sealed records received by the private entity
4 under this section remain confidential and exempt from the
5 provisions of s. 119.07(1).

6 (9) Notwithstanding the provisions of s. 943.0525 and
7 any user agreements adopted pursuant thereto, and
8 notwithstanding the confidentiality of sealed records as
9 provided for in s. 943.059, the Department of Juvenile Justice
10 or any other state or local criminal justice agency may
11 provide copies of the Florida criminal history records for
12 juvenile offenders currently or formerly detained or housed in
13 a contracted juvenile assessment center or detention facility
14 or serviced in a contracted treatment program and for
15 employees or other individuals who will have access to these
16 facilities, only to the entity under direct contract with the
17 Department of Juvenile Justice to operate these facilities or
18 programs pursuant to the provisions of s. 985.411. The
19 criminal justice agency providing such data may assess a
20 charge for the Florida criminal history records pursuant to
21 the provisions of chapter 119. Sealed records received by the
22 private entity under this section remain confidential and
23 exempt from the provisions of s. 119.07(1). Information
24 provided under this section shall be used only for the
25 criminal justice purpose for which it was requested and may
26 not be further disseminated.

27 Section 85. The creation of sections 393.135,
28 394.4593, and 916.1075, Florida Statutes, by this act shall
29 apply to offenses committed on or after the effective date of
30 this act.

31

1 Section 86. (1) The Department of Children and Family
2 Services shall competitively bid the services of one or more
3 providers to perform the eligibility determination activities
4 related to food stamps, Medicaid, Temporary Assistance for
5 Needy Families-Cash Assistance, and other public assistance
6 programs under its jurisdiction. The competitively procured
7 services shall initially be performed in one predominantly
8 rural district and one predominantly urban district. The
9 services contract or contracts for the two selected districts
10 must be implemented by September 30, 2004.

11 (2) The competitive bid process shall afford the
12 department employees currently performing eligibility
13 determination services the opportunity to submit an offer to
14 continue to perform the services. The bid process shall
15 provide the employees a reasonable opportunity to organize
16 prior to the beginning of the formal competitive process. The
17 department shall provide the employees with reasonable legal,
18 procurement, and fiscal expertise as requested by the
19 employees. Notwithstanding section 287.057, Florida Statutes,
20 the employees may select consultants to assist in preparing
21 the offer. The department may use state funds to compensate
22 consultants whose services are limited exclusively to
23 assistance rendered to the employees in preparing a response
24 to the bid solicitation.

25 (3) The Technology Review Workgroup must give prior
26 written approval before any technological change proposed for
27 the FLORIDA System as part of a competitively procured
28 contract is implemented.

29 (4) Prior to contracting for the performance of
30 eligibility services in any additional district, the
31 department shall assess the quality of the services delivered

1 in the one rural and one urban districts. The department's
2 assessment shall include, but need not be limited to, an
3 evaluation of the following elements, by eligibility program,
4 as compared to baseline data from the eligibility program
5 before the services were privately performed:

6 (a) Error rates;

7 (b) Timeliness of eligibility determination;

8 (c) Customer satisfaction; and

9 (d) Costs associated with operation of the eligibility
10 program.

11
12 In addition, the assessment must determine whether any
13 technological changes implemented have resulted in
14 improvements in program efficiency.

15 (5)(a) Upon completing the assessment, the department
16 shall prepare a report of its findings. The initial status
17 report shall describe the implementation of the contracted
18 eligibility services in the two districts and must be
19 submitted by December 30, 2004. A final report, including an
20 evaluation of all elements listed in subsection (4) and, if
21 recommended, a plan for future implementation, including a
22 timeframe and proposed roll-out schedule by district, must be
23 submitted by January 30, 2005. The reports shall be submitted
24 to the Governor, the President of the Senate, and the Speaker
25 of the House of Representatives.

26 (b) Based on the results in the reports, the Governor
27 shall direct the department regarding implementing the
28 privately performed eligibility determinations in additional
29 districts unless countermanded by the Legislature.

30 (c) If implementation is continued beyond June 30,
31 2005, reports addressing, at a minimum, the elements in

1 subsection (4) must be submitted to the Governor and
2 Legislature semiannually, beginning January 1, 2006, until
3 privately performed eligibility determinations have either
4 ceased or been in place statewide for 3 years.

5 Section 87. Subsection (6) of section 410.604, Florida
6 Statutes, is repealed.

7 Section 88. This act shall take effect July 1, 2004.

8
9 *****

10 SENATE SUMMARY

11 Requires that a risk assessment of the child and family
12 be commenced immediately upon receipt of an abuse report.
13 Provides for a review of the status of the child by the
14 circuit court or a citizen review panel. Authorizes
15 reviews by citizen review panels in lieu of court
16 hearings. Requires the Department of Children and Family
17 Services to include employment history checks in the
18 employment screening of direct service providers.
19 Provides that a license issued to specified facilities
20 does not create a property right in the recipient.
21 Provides that it is a felony for certain persons to
22 engage in sexual misconduct with a client or patient
23 residing in designated facilities operated by or under
24 contract with the department. Requires dismissal from
25 employment of a person who has engaged in sexual
26 misconduct. Requires a person who observes sexual
27 misconduct to report it. Revises provisions relating to
28 level 1 and level 2 screening standards. Corrects
29 cross-references. Repeals a provision that requires the
30 department and its providers to charge fees for services
31 delivered to a disabled adult whose income is above the
eligibility standard for institutional care. Directs the
department to competitively bid the eligibility
determination activities of certain public assistance
programs. Provides for initially implementing the project
in two districts. Allows current employees the
opportunity to present an offer to continue performing
eligibility determination services. Requires an
assessment prior to implementing the project beyond the
two districts. Specifies the elements to be included in
the assessment. Requires reports to the Governor and
Legislature by specified dates. Directs the Governor to
direct the department regarding further implementation
unless countermanded by the Legislature. Requires
semiannual reports if implementation is continued beyond
June 30, 2005.