

By the Committee on Children and Families; and Senator Lynn

300-2424-04

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. 393.0655,
23 F.S.; requiring the department to include
24 employment history checks in the employment
25 screening of direct service providers; amending
26 s. 393.066, F.S.; directing the department to
27 make supports and services available to certain
28 individuals with developmental disabilities;
29 amending s. 393.067, F.S.; providing that a
30 license issued to a residential facility or a
31 comprehensive transitional education program

1 does not create a property right in the
2 recipient; amending s. 393.13, F.S.; including,
3 as goals for the design and delivery of
4 services to persons who are developmentally
5 disabled, the provision of a choice to seek
6 gainful employment and a reduction in
7 noncompetitive day activities; amending s.
8 400.0255, F.S.; providing for certain hearings
9 relating to resident transfer or discharge to
10 be conducted by the agency's Office of Fair
11 Hearings; amending s. 408.15, F.S.; authorizing
12 the agency to establish and conduct Medicaid
13 fair hearings; amending s. 409.91195, F.S.;
14 authorizing a Medicaid recipient to appeal a
15 decision concerning the preferred drug
16 formulary through the agency; amending s.
17 409.912, F.S.; requiring the department to
18 enter into contracts with certain providers for
19 the providers to supply services in any
20 provider network for prepaid behavioral health
21 services; amending s. 415.102, F.S.; adding
22 self-neglect to the definition of the term
23 "neglect" for purposes of adult protective
24 services; amending s. 415.1113, F.S.; requiring
25 notification of the right to be represented by
26 legal counsel at an administrative hearing
27 regarding an allegation of filing a false
28 report; amending s. 420.622, F.S.;
29 redesignating the Florida Coalition for
30 Supportive Housing; providing that grant moneys
31 for homeless persons may be used for certain

1 eligible construction and rehabilitation costs;
2 amending s. 420.623, F.S.; changing the date
3 for the department to submit an annual report
4 to the Governor and Legislature; amending s.
5 420.625, F.S.; requiring that spending plans
6 for funds from the grant-in-aid program include
7 assurances to the department that the services
8 are consistent with the continuum-of-care plan;
9 creating ss. 393.135, 394.4593, and 916.1075,
10 F.S.; defining the terms "employee," "sexual
11 activity," and "sexual misconduct"; providing
12 that it is a second-degree felony for an
13 employee to engage in sexual misconduct with
14 certain developmentally disabled clients,
15 certain mental health patients, or certain
16 forensic clients; providing certain exceptions;
17 prohibiting certain employment, and providing
18 for dismissal from employment, of a person who
19 has engaged in sexual misconduct with certain
20 developmentally disabled clients, certain
21 mental health patients, or certain forensic
22 clients; requiring certain employees to report
23 sexual misconduct to the central abuse hotline
24 of the department and to law enforcement;
25 providing for notification to the inspector
26 general of the department; providing that it is
27 a first-degree misdemeanor to knowingly and
28 willfully fail to make a report as required, or
29 to prevent another from doing so, or to submit
30 inaccurate or untruthful information; providing
31 that it is a third-degree felony to coerce or

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

1 amending s. 943.059, F.S., relating to
2 court-ordered sealing of criminal history
3 records, for the purpose of incorporating the
4 amendment to s. 943.0585, F.S., in a reference
5 thereto; providing that certain criminal
6 history records relating to sexual misconduct
7 with developmentally disabled clients, mental
8 health patients, or forensic clients, or the
9 reporting of such sexual misconduct, shall not
10 be sealed; providing that the application for
11 eligibility for sealing certify that the
12 criminal history record does not relate to an
13 offense involving sexual misconduct with
14 certain developmentally disabled clients,
15 mental health patients, or forensic clients, or
16 the reporting of such sexual misconduct;
17 amending s. 400.215, F.S., and reenacting
18 paragraphs (b) and (c) of subsection (2) and
19 subsection (3), relating to background
20 screening requirements for certain nursing home
21 personnel, for the purpose of incorporating the
22 amendments to ss. 435.03 and 435.04, F.S., in
23 references thereto; correcting a
24 cross-reference; amending s. 400.964, F.S., and
25 reenacting subsections (1), (2), and (7),
26 relating to background screening requirements
27 for certain personnel employed by intermediate
28 care facilities for the developmentally
29 disabled, for the purpose of incorporating the
30 amendments to ss. 435.03 and 435.04, F.S., in
31 references thereto; correcting a

1 cross-reference; amending s. 435.045, F.S., and
2 reenacting paragraph (a) of subsection (1),
3 relating to requirements for the placement of
4 dependent children, for the purpose of
5 incorporating the amendment to s. 435.04, F.S.,
6 in a reference thereto; correcting a
7 cross-reference; reenacting ss. 400.414(1)(f)
8 and (g), 400.4174, 400.509(4)(a), (b), (c),
9 (d), (f), and (g), 400.556(2)(c), 400.6065(1),
10 (2), and (4), 400.980(4)(a), (b), (c), (d),
11 (f), and (g), 409.175(2)(k), 409.907(8)(d),
12 435.05(1) and (3), 744.3135, and 985.04(2),
13 F.S., relating to denial, revocation, or
14 suspension of license to operate an assisted
15 living facility; background screening
16 requirements for certain personnel employed by
17 assisted living facilities; registration of
18 particular home health care service providers;
19 denial, suspension, or revocation of license to
20 operate adult day care centers; background
21 screening requirements for certain hospice
22 personnel; background screening requirements
23 for registrants of the health care service
24 pools; the definition of "screening" in
25 connection with the licensure of family foster
26 homes, residential child-caring agencies, and
27 child-placing agencies; background screening
28 requirements of Medicaid providers; employment
29 of persons in positions requiring background
30 screening; credit and criminal investigations
31 of guardians; and oaths, records, and

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

1 393.067(6)(a), (b), (c), (d), (f), and (g),
2 394.875(13)(a), (b), (c), (d), (f), and (g),
3 395.0055(1), (2), (3), (4), (6), and (8),
4 395.0199(4)(a), (b), (c), (d), (f), and (g),
5 397.451(1)(a), 400.071(4)(a), (b), (c), (d),
6 and (f), 400.471(4)(a), (b), (c), (d), (f), and
7 (g), 400.506(2)(a), (b), (c), (d), (f), and
8 (g), 400.5572, 400.607(3)(a), 400.801(4)(a),
9 (b), (c), (d), (f), and (g), 400.805(3)(a),
10 (b), (c), (d), (f), and (g), 400.906(5)(a),
11 (b), (c), (d), (f), and (g), 400.931(5)(a),
12 (b), (c), (e), and (f), 400.962(10)(a), (b),
13 (c), (d), and (f), 400.991(7)(b) and (d),
14 402.302(2)(e), 402.305(2)(a), 402.3054(3),
15 483.30(2)(a), (b), (c), (d), (f), and (g),
16 483.101(2)(a), (b), (c), (d), (f), and (g),
17 744.1085(5), 984.01(2)(b), 985.01(2)(b),
18 1002.36(7)(a) and (b), F.S., relating to
19 background screening requirements for certain
20 Department of Children and Family Services
21 personnel; qualifications of guardians ad
22 litem; security checks of certain public
23 officers and employees; background screening
24 requirements of certain laboratory personnel in
25 connection with the Drug-Free Workplace Act;
26 background screening requirements for school
27 health services personnel; background screening
28 of certain personnel of the public health
29 system; background screening and licensure of
30 birth center personnel; background screening
31 and licensure of abortion clinic personnel;

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

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

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

1 2005; amending s. 39.304, F.S.; adding a law
2 enforcement agency to the groups to which a
3 health care facility licensed under ch. 395,
4 F.S., must supply specified items during an
5 investigation of abuse, abandonment, or neglect
6 of a child; amending s. 39.302, F.S.; deleting
7 a requirement that the Department of Children
8 and Family Services notify the state attorney
9 of a report of institutional child abuse;
10 authorizing a law enforcement agency and a
11 licensing or oversight agency conducting a
12 joint investigation to have access to
13 information of the Department of Children and
14 Family Services to the extent allowed by law;
15 requiring that the department inform the
16 facility of a report of child abuse; requiring
17 that the child's parent or legal custodian be
18 notified of the report; providing for an
19 on-site visit to the child's place of
20 residence; requiring the agency with oversight
21 responsibility of a facility to implement
22 identified safety actions under certain
23 circumstances; authorizing the Department of
24 Children and Family Services to recommend
25 corrective actions; deleting a requirement that
26 the department assist a facility in maintaining
27 its operation under certain circumstances;
28 requiring that the department notify the state
29 attorney or a law enforcement agency of
30 criminal conduct; requiring that criminal
31 investigations be coordinated with child

1 protective investigations when possible;
2 deleting requirements that the department
3 provide a specialized team to investigate child
4 abuse, neglect, or abandonment; requiring the
5 department to adopt procedures for child
6 protective investigations by rule; requiring
7 the Department of Children and Family Services
8 to adopt minimum hiring and training
9 requirements by rule; requiring the Department
10 of Children and Family Services to report to
11 the Governor and the Legislature on its
12 implementation of the recommendations of an
13 interim project and the recommendations of the
14 Protective Investigator Retention Workgroup;
15 amending s. 61.21, F.S.; requiring the
16 Department of Children and Family Services to
17 approve parenting courses; establishing
18 requirements relating to the provision of
19 approved parenting courses; repealing s.
20 410.604(6), F.S., relating to fees charged by
21 the department and its providers for services
22 delivered to a disabled adult whose income is
23 above the eligibility standard for
24 institutional care; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (6) and paragraph (b) of
30 subsection (9) of section 39.301, Florida Statutes, are
31 amended to read:

1 39.301 Initiation of protective investigations.--
2 (6) For each report accepted by the hotline for
3 protective investigation,an assessment of risk and the
4 perceived needs for the child and family shall be conducted.
5 This assessment shall be initiated immediately upon receipt of
6 the report from the hotline and shall be conducted in a manner
7 that is sensitive to the social, economic, and cultural
8 environment of the family. The ~~This~~ assessment must include a
9 face-to-face interview with the child, other siblings,
10 parents, and other children and adults in the household and an
11 onsite assessment of the child's residence. During the
12 department's involvement with the child and family as a result
13 of the abuse report, the risk assessment shall continuously be
14 reviewed and amended to reflect any change to the risks and
15 needs of the child and family.

16 (9)

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

22 1. Determine the composition of the family or
23 household, including the name, address, date of birth, social
24 security number, sex, and race of each child named in the
25 report; any siblings or other children in the same household
26 or in the care of the same adults; the parents, legal
27 custodians, or caregivers; and any other adults in the same
28 household.

29 2. Determine whether there is indication that any
30 child in the family or household has been abused, abandoned,
31 or neglected; the nature and extent of present or prior

1 injuries, abuse, or neglect, and any evidence thereof; and a
2 determination as to the person or persons apparently
3 responsible for the abuse, abandonment, or neglect, including
4 the name, address, date of birth, social security number, sex,
5 and race of each ~~such~~ person.

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

21 4. Determine the immediate and long-term risk to each
22 child through utilization of standardized risk assessment
23 instruments.

24 5. Based on the information obtained from available
25 sources, complete the risk assessment instrument within 48
26 hours after the initial contact and, if determined necessary
27 by the assessment ~~needed~~, develop and implement a safety plan,
28 develop and implement a case plan, or develop and implement
29 both a safety plan and a case plan.

30 6. Determine the protective, treatment, and
31 ameliorative services necessary to safeguard and ensure the

1 child's safety and well-being and development, and cause the
2 delivery of those services through the early intervention of
3 the department or its agent. The training provided to staff
4 members who conduct child protective investigations must
5 include instruction on how and when to use the injunction
6 process under s. 39.504 or s. 741.30 to remove a perpetrator
7 of domestic violence from the home as an intervention to
8 protect the child.

9 Section 2. Section 39.701, Florida Statutes, is
10 amended to read:

11 39.701 Judicial review.--

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

17 (b) The court shall retain jurisdiction over a child
18 returned to his or her parents for a minimum period of 6
19 months following the reunification, but, at that time, based
20 on a report of the social service agency and the guardian ad
21 litem, if one has been appointed, and any other relevant
22 factors, the court shall make a determination as to whether
23 supervision by the department and the court's jurisdiction
24 shall continue or be terminated.

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

31

1 **(b)** For reviews conducted by the court, the court may
2 dispense with the attendance of the child at the judicial
3 review hearing, but may not dispense with the hearing or the
4 presence of other parties to the review unless before the
5 ~~review~~ a hearing a review is held before a citizen review
6 panel. If the court conducts the review without the presence
7 of the child, the court must specifically find whether the
8 department has direct knowledge of the care the child is
9 receiving.

10 ~~(c)(b)~~ Citizen review panels may conduct hearings to
11 ~~review the status of a child.~~ The court shall select the cases
12 appropriate for referral to the citizen review panels and may
13 order the attendance of the parties at the reviews ~~review~~
14 ~~panel hearings~~. However, any party may object to the referral
15 of a case to a citizen review panel. Whenever ~~such~~ an
16 objection has been filed with the court, the court shall
17 review the substance of the objection and may conduct the
18 review itself or refer the review to a citizen review panel.
19 All parties retain the right to take exception to the findings
20 or recommendations ~~recommended orders~~ of a citizen review
21 panel in accordance with Rule 1.490(h), Florida Rules of Civil
22 Procedure.

23 ~~(d)(c)~~ Notice of a review ~~hearing~~ by a citizen review
24 panel must be provided as set forth in subsection (5). At the
25 conclusion of a citizen review panel review ~~hearing~~, each
26 party may propose recommendations ~~a recommended order~~ to the
27 chairperson of the panel. Thereafter, the citizen review panel
28 shall submit its report, copies of the proposed
29 recommendations ~~recommended orders~~, and a copy of the panel's
30 recommendations ~~recommended order~~ to the court. The citizen
31 review panel's recommendations ~~recommended order~~ must be

1 limited to the dispositional options available to the court in
2 subsection (8). Each party may file exceptions to the report
3 and recommendations ~~recommended order~~ of the citizen review
4 panel in accordance with Rule 1.490, Florida Rules of Civil
5 Procedure.

6 (3)(a) The initial judicial review hearing must be
7 held no later than 90 days after the date of the disposition
8 hearing or after the date of the hearing at which the court
9 approves the case plan, whichever comes first, but in no event
10 shall the review be held later than 6 months after the date
11 the child was removed from the home. A citizen review panel
12 ~~panels may shall~~ not conduct more than two consecutive reviews
13 without the child and the parties appearing ~~coming~~ before the
14 court for a judicial review hearing.

15 (b) If the citizen review panel recommends extending
16 the goal of reunification for any case plan beyond 12 months
17 from the date the child was removed from the home or the case
18 plan was adopted, whichever date came first, the court must
19 schedule a judicial review hearing to be conducted by the
20 court within 30 days after receiving the recommendation from
21 the citizen review panel.

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

26 (d) If the department and the court have established a
27 formal agreement that includes specific authorization for
28 particular cases, the department may conduct administrative
29 reviews instead of the judicial reviews for children in
30 out-of-home care. Notices of ~~such~~ administrative reviews must
31 be provided to all parties. However, an administrative review

1 may not be substituted for the first judicial review, and in
2 every case the court must conduct a judicial review at least
3 every 6 months. Any party dissatisfied with the results of an
4 administrative review may petition for a judicial review.

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

8 (f) In each case in which a child has been voluntarily
9 placed with the licensed child-placing agency, the agency
10 shall notify the clerk of the court in the circuit where the
11 child resides of the such placement no later than within 5
12 working days after the placement. Notification of the court is
13 not required for any child who will be in out-of-home care no
14 longer than 30 days unless that child is placed in out-of-home
15 care a second time within a 12-month period. If the child is
16 returned to the custody of the parents before the scheduled
17 review or hearing or if the child is placed for adoption, the
18 child-placing agency shall notify the court of the child's
19 return or placement no later than within 5 working days after
20 the return or placement, and the clerk of the court shall
21 cancel the review hearing.

22 (4) The court shall schedule the date, time, and
23 location of the next judicial review hearing or review by the
24 citizen review panel during the judicial review hearing or the
25 review by the citizen review panel which and shall be listed
26 ~~list same~~ in the judicial review order.

27 (5) Notice of a judicial review hearing or a citizen
28 review panel review hearing, and a copy of the motion for
29 judicial review, if any, must be served by the clerk of the
30 court upon:

31

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

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

6 (c) The parents.

7 (d) The guardian ad litem for the child, or the
8 representative of the guardian ad litem program if the program
9 has been appointed.

10 (e) Any preadoptive parent.

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

13

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

18 (6)(a) Before ~~Prior to~~ every judicial review hearing
19 or citizen review panel review hearing, the social service
20 agency shall make an investigation and social study concerning
21 all pertinent details relating to the child and shall furnish
22 to the court ~~or citizen review panel~~ a written report that
23 includes, but is not limited to:

24 1. A description of the type of placement the child is
25 in at the time of the hearing or review, including the safety
26 of the child and the continuing necessity for and
27 appropriateness of the placement.

28 2. Documentation of the diligent efforts made by all
29 parties to the case plan to comply with each applicable
30 provision of the plan.

31

1 3. The amount of fees assessed and collected during
2 the period of time being reported.

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

6 5. A statement that either:

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

10 b. The parent did substantially comply with the
11 provisions of the case plan; or

12 c. The parent has partially complied with the
13 provisions of the case plan, with a summary of additional
14 progress needed and the agency recommendations.

15 6. A statement from the foster parent or legal
16 custodian providing any material evidence concerning the
17 return of the child to the parent or parents.

18 7. A statement concerning the frequency, duration, and
19 results of the parent-child visitation, if any, and the agency
20 recommendations for an expansion or restriction of future
21 visitation.

22 8. The number of times a child has been removed from
23 his or her home and placed elsewhere, the number and types of
24 placements that have occurred, and the reason for the changes
25 in placement.

26 9. The number of times a child's educational placement
27 has been changed, the number and types of educational
28 placements which have occurred, and the reason for any change
29 in placement.

30 10. Copies of all medical, psychological, and
31 educational records that support the terms of the case plan

1 and that have been produced concerning the child, parents, or
2 any caregiver since the last judicial review hearing or
3 citizen review panel review.

4 (b) A copy of the social service agency's written
5 report and the written report of the guardian ad litem must be
6 served on all parties whose whereabouts are known; to the
7 foster parents or legal custodians; and to the citizen review
8 panel, at least 72 hours before the judicial review hearing or
9 citizen review panel review ~~hearing~~. The requirement for
10 providing parents with a copy of the written report does not
11 apply to those parents who have voluntarily surrendered their
12 child for adoption or who have had their parental rights to
13 the child terminated.

14 (c) In a case in which the child has been permanently
15 placed with the social service agency, the agency shall
16 furnish to the court a written report concerning the progress
17 being made to place the child for adoption. If the child
18 cannot be placed for adoption, a report on the progress made
19 by the child towards alternative permanency goals or
20 placements, including, but not limited to, guardianship,
21 long-term custody, long-term licensed custody, or independent
22 living, must be submitted to the court. The report must be
23 submitted to the court at least 72 hours before each scheduled
24 judicial review hearing.

25 (d) In addition to or in lieu of any written statement
26 provided to the court, the foster parent or legal custodian,
27 or any preadoptive parent, shall be given the opportunity to
28 address the court with any information relevant to the best
29 interests of the child at any judicial review hearing.

30 (7) The court and any citizen review panel shall take
31 into consideration the information contained in the social

1 services study and investigation and all medical,
2 psychological, and educational records that support the terms
3 of the case plan; testimony by the social services agency, the
4 parent, the foster parent or legal custodian, the guardian ad
5 litem if one has been appointed for the child, and any other
6 person deemed appropriate; and any relevant and material
7 evidence submitted to the court, including written and oral
8 reports to the extent of their probative value. These reports
9 and evidence may be received by the court in its effort to
10 determine the action to be taken or recommended with regard to
11 the child and may be relied upon to the extent of their
12 probative value, even though not competent in an adjudicatory
13 hearing. In its deliberations, the court and any citizen
14 review panel shall seek to determine:

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

18 (b) If the parent has been advised of the right to
19 have counsel present at the judicial review hearing or citizen
20 review panel review hearings. If not so advised, the court or
21 citizen review panel shall advise the parent of this ~~such~~
22 right.

23 (c) If a guardian ad litem needs to be appointed for
24 the child in a case in which a guardian ad litem has not
25 previously been appointed or if there is a need to continue a
26 guardian ad litem in a case in which a guardian ad litem has
27 been appointed.

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

31

1 (e) The compliance or lack of compliance with a
2 visitation contract between the parent and the social service
3 agency for contact with the child, including the frequency,
4 duration, and results of the parent-child visitation and the
5 reason for any noncompliance.

6 (f) The compliance or lack of compliance of the parent
7 in meeting specified financial obligations pertaining to the
8 care of the child, including the reason for failure to comply
9 if such is the case.

10 (g) The appropriateness of the child's current
11 placement, including whether the child is in a setting which
12 is as family-like and as close to the parent's home as
13 possible, consistent with the child's best interests and
14 special needs, and including maintaining stability in the
15 child's educational placement.

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

18 (i) When appropriate, the basis for the unwillingness
19 or inability of the parent to become a party to a case plan.
20 The court and the citizen review panel shall determine if the
21 efforts of the social service agency to secure party
22 participation in a case plan were sufficient.

23 (8)(a) Based upon the criteria set forth in subsection
24 (7) and the recommendations ~~recommended order~~ of the citizen
25 review panel, if any, the court shall determine whether or not
26 the social service agency shall initiate proceedings to have a
27 child declared a dependent child, return the child to the
28 parent, continue the child in out-of-home care for a specified
29 period of time, or initiate termination of parental rights
30 proceedings for subsequent placement in an adoptive home.
31 Modifications to the plan must be handled as prescribed in s.

1 39.601. If the court finds that the prevention or
2 reunification efforts of the department will allow the child
3 to remain safely at home or be safely returned to the home,
4 the court shall allow the child to remain in or return to the
5 home after making a specific finding of fact that the reasons
6 for the creation of the case plan have been remedied to the
7 extent that the child's safety, well-being, and physical,
8 mental, and emotional health will not be endangered.

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

15 (c) If, in the opinion of the court, the social
16 service agency has not complied with its obligations as
17 specified in the written case plan, the court may find the
18 social service agency in contempt, shall order the social
19 service agency to submit its plans for compliance with the
20 agreement, and shall require the social service agency to show
21 why the child could not safely be returned to the home of the
22 parents.

23 (d) The court may extend the time limitation of the
24 case plan, or may modify the terms of the plan, based upon
25 information provided by the social service agency, and the
26 guardian ad litem, if one has been appointed, the parent or
27 parents, and the foster parents or legal custodian, and any
28 other competent information on record demonstrating the need
29 for the amendment. If the court extends the time limitation of
30 the case plan, the court must make specific findings
31 concerning the frequency of past parent-child visitation, if

1 any, and the court may authorize the expansion or restriction
2 of future visitation. Modifications to the plan must be
3 handled as prescribed in s. 39.601. Any extension of a case
4 plan must comply with the time requirements and other
5 requirements specified by this chapter.

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

13 (f) No later than 12 months after the date that the
14 child was placed in shelter care, the court shall conduct a
15 judicial review to plan for the child's permanency. At this
16 hearing, if the child is not returned to the physical custody
17 of the parents, the case plan may be extended with the same
18 goals only if the court finds that the situation of the child
19 is so extraordinary that the plan should be extended. The case
20 plan must document steps the department is taking to find an
21 adoptive parent or other permanent living arrangement for the
22 child.

23 (g) The court may issue a protective order in
24 assistance, or as a condition, of any other order made under
25 this part. In addition to the requirements included in the
26 case plan, the protective order may set forth requirements
27 relating to reasonable conditions of behavior to be observed
28 for a specified period of time by a person or agency who is
29 before the court; and the ~~such~~ order may require the ~~any such~~
30 person or agency to make periodic reports to the court
31

1 containing any such information ~~as~~ the court prescribes ~~in its~~
2 ~~discretion may prescribe.~~

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

5 120.80 Exceptions and special requirements;
6 agencies.--

7 (7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND
8 AGENCY FOR HEALTH CARE ADMINISTRATION.--Notwithstanding s.
9 120.57(1)(a), hearings conducted within the Department of
10 Children and Family Services and the Agency for Health Care
11 Administration in the execution of those social and economic
12 programs administered by the former Division of Family
13 Services of the former Department of Health and Rehabilitative
14 Services prior to the reorganization effected by chapter
15 75-48, Laws of Florida, need not be conducted by an
16 administrative law judge assigned by the division.

17 Section 4. Subsection (1) of section 393.0655, Florida
18 Statutes, is amended to read:

19 393.0655 Screening of direct service providers.--

20 (1) MINIMUM STANDARDS.--The department shall require
21 employment screening pursuant to chapter 435, using the level
22 2 standards for screening set forth in that chapter, for
23 direct service providers who are unrelated to their clients.
24 For the purposes of this chapter, employment screening of
25 direct service providers must also include, but is not limited
26 to, employment history checks as provided in chapter 435 for
27 the level 1 screening standards.

28 Section 5. Subsection (1) of section 393.066, Florida
29 Statutes, is amended to read:

30 393.066 Community services and treatment for persons
31 who are developmentally disabled.--

1 (1) The Department of Children and Family Services
2 shall plan, develop, organize, and implement its programs of
3 services and treatment for persons who are developmentally
4 disabled along district lines. The goal of these ~~such~~
5 programs shall be to allow clients to live as independently as
6 possible in their own homes or communities and to achieve
7 productive lives as close to normal as possible. To assist
8 individuals to achieve independence and productivity, the
9 department shall provide supports and services, within
10 available resources, to each individual who chooses to pursue
11 gainful employment who is enrolled in the Medicaid Home and
12 Community Based Waiver program or in the Medicaid Consumer
13 Directed Care program.

14 Section 6. Subsection (3) of section 393.067, Florida
15 Statutes, is amended to read:

16 393.067 Licensure of residential facilities and
17 comprehensive transitional education programs.--

18 (3) An application for a license for a residential
19 facility or a comprehensive transitional education program
20 shall be made to the Department of Children and Family
21 Services on a form furnished by it and shall be accompanied by
22 the appropriate license fee. A license issued to a residential
23 facility or a comprehensive transitional education program as
24 described in this section is not a professional license of any
25 individual. Receipt of a license under this section does not
26 create a property right in the recipient. A license is a
27 public trust and a privilege and is not an entitlement. This
28 privilege must guide the finder of fact or trier of law during
29 any administrative or court proceeding initiated by the
30 department.

31

1 Section 7. Paragraph (b) of subsection (2) of section
2 393.13, Florida Statutes, is amended to read:

3 393.13 Personal treatment of persons who are
4 developmentally disabled.--

5 (2) LEGISLATIVE INTENT.--

6 (b) The Legislature further finds and declares that
7 the design and delivery of treatment and services to persons
8 who are developmentally disabled should be directed by the
9 principles of normalization and therefore should:

10 1. Abate the use of large institutions.

11 2. Continue the development of community-based
12 services which provide reasonable alternatives to
13 institutionalization in settings that are least restrictive to
14 the client.

15 3. Provide training and education to individuals who
16 are developmentally disabled which will maximize their
17 potential to lead independent and productive lives and which
18 will afford opportunities for outward mobility from
19 institutions.

20 4. Afford all persons with developmental disabilities
21 the choice to seek the gainful employment that is a normal
22 part of adult life.

23 5. Reduce the use of sheltered workshops and other
24 noncompetitive employment day activities.

25 Section 8. Subsections (8), (15), and (16) of section
26 400.0255, Florida Statutes, are amended to read:

27 400.0255 Resident transfer or discharge; requirements
28 and procedures; hearings.--

29 (8) The notice required by subsection (7) must be in
30 writing and must contain all information required by state and
31 federal law, rules, or regulations applicable to Medicaid or

1 Medicare cases. The agency shall develop a standard document
2 to be used by all facilities licensed under this part for
3 purposes of notifying residents of a discharge or transfer.
4 ~~The~~ Such document must include a means for a resident to
5 request the local long-term care ombudsman council to review
6 the notice and request information about or assistance with
7 initiating a fair hearing with the agency's ~~department's~~
8 Office of Fair Appeals Hearings. In addition to any other
9 pertinent information included, the form shall specify the
10 reason allowed under federal or state law that the resident is
11 being discharged or transferred, with an explanation to
12 support this action. Further, the form shall state the
13 effective date of the discharge or transfer and the location
14 to which the resident is being discharged or transferred. The
15 form shall clearly describe the resident's appeal rights and
16 the procedures for filing an appeal, including the right to
17 request the local ombudsman council to review the notice of
18 discharge or transfer. A copy of the notice must be placed in
19 the resident's clinical record, and a copy must be transmitted
20 to the resident's legal guardian or representative and to the
21 local ombudsman council within 5 business days after signature
22 by the resident or resident designee.

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

27 (b) The agency ~~department~~ shall adopt, ~~by rule~~
28 ~~establish~~ procedures to be used for fair hearings requested by
29 residents. These procedures shall be equivalent to the
30 procedures used for fair hearings for other Medicaid cases,
31 chapter 65-2 ~~10-2~~, part VI, Florida Administrative Code. The

1 | burden of proof must be clear and convincing evidence. A
2 | hearing decision must be rendered within 90 days after receipt
3 | of the request for hearing.

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

7 | (d) The decision of the hearing officer is ~~shall be~~
8 | final. Any aggrieved party may appeal the decision to the
9 | district court of appeal in the appellate district where the
10 | facility is located. Appeal Review procedures shall be
11 | conducted in accordance with the Florida Rules of Appellate
12 | Procedure.

13 | (16) The agency ~~department~~ may adopt rules ~~necessary~~
14 | to administer this section.

15 | Section 9. Subsection (13) is added to section 408.15,
16 | Florida Statutes, to read:

17 | 408.15 Powers of the agency.--In addition to the
18 | powers granted to the agency elsewhere in this chapter, the
19 | agency is authorized to:

20 | (13) Establish and conduct Medicaid fair hearings that
21 | are unrelated to eligibility determinations, complying with 42
22 | C.F.R. s. 431.200 and other applicable federal and state laws
23 | and regulations.

24 | Section 10. Subsection (11) of section 409.91195,
25 | Florida Statutes, is amended to read:

26 | 409.91195 Medicaid Pharmaceutical and Therapeutics
27 | Committee.--There is created a Medicaid Pharmaceutical and
28 | Therapeutics Committee within the Agency for Health Care
29 | Administration for the purpose of developing a preferred drug
30 | formulary pursuant to 42 U.S.C. s. 1396r-8.

31 |

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

5 Section 11. Paragraph (b) of subsection (4) of section
6 409.912, Florida Statutes, is amended to read:

7 409.912 Cost-effective purchasing of health care.--The
8 agency shall purchase goods and services for Medicaid
9 recipients in the most cost-effective manner consistent with
10 the delivery of quality medical care. The agency shall
11 maximize the use of prepaid per capita and prepaid aggregate
12 fixed-sum basis services when appropriate and other
13 alternative service delivery and reimbursement methodologies,
14 including competitive bidding pursuant to s. 287.057, designed
15 to facilitate the cost-effective purchase of a case-managed
16 continuum of care. The agency shall also require providers to
17 minimize the exposure of recipients to the need for acute
18 inpatient, custodial, and other institutional care and the
19 inappropriate or unnecessary use of high-cost services. The
20 agency may establish prior authorization requirements for
21 certain populations of Medicaid beneficiaries, certain drug
22 classes, or particular drugs to prevent fraud, abuse, overuse,
23 and possible dangerous drug interactions. The Pharmaceutical
24 and Therapeutics Committee shall make recommendations to the
25 agency on drugs for which prior authorization is required. The
26 agency shall inform the Pharmaceutical and Therapeutics
27 Committee of its decisions regarding drugs subject to prior
28 authorization.

29 (4) The agency may contract with:

30 (b) An entity that is providing comprehensive
31 behavioral health care services to certain Medicaid recipients

1 through a capitated, prepaid arrangement under ~~pursuant to~~ the
2 federal waiver provided for by s. 409.905(5). The ~~Such an~~
3 entity must be licensed under chapter 624, chapter 636, or
4 chapter 641 and must possess the clinical systems and
5 operational competence to manage risk and provide
6 comprehensive behavioral health care to Medicaid recipients.
7 As used in this paragraph, the term "comprehensive behavioral
8 health care services" means covered mental health and
9 substance abuse treatment services that are available to
10 Medicaid recipients. The secretary of the Department of
11 Children and Family Services shall approve provisions of
12 procurements related to children in the department's care or
13 custody before ~~prior to~~ enrolling the ~~such~~ children in a
14 prepaid behavioral health plan. Any contract awarded under
15 this paragraph must be competitively procured. In developing
16 the behavioral health care prepaid plan procurement document,
17 the agency shall ensure that the procurement document requires
18 the contractor to develop and implement a plan to ensure
19 compliance with s. 394.4574 related to services provided to
20 residents of licensed assisted living facilities that hold a
21 limited mental health license. The agency shall seek federal
22 approval to contract with a single entity meeting these
23 requirements to provide comprehensive behavioral health care
24 services to all Medicaid recipients in an AHCA area. Each
25 entity must offer sufficient choice of providers in its
26 network to ensure recipient access to care and the opportunity
27 to select a provider with whom they are satisfied. The network
28 shall include all public mental health hospitals. To ensure
29 unimpaired access to behavioral health care services by
30 Medicaid recipients, all contracts issued under ~~pursuant to~~
31 this paragraph shall require 80 percent of the capitation paid

1 to the managed care plan, including health maintenance
2 organizations, to be expended for the provision of behavioral
3 health care services. In the event the managed care plan
4 expends less than 80 percent of the capitation paid under
5 ~~pursuant to~~ this paragraph for the provision of behavioral
6 health care services, the difference shall be returned to the
7 agency. The agency shall provide the managed care plan with a
8 certification letter indicating the amount of capitation paid
9 during each calendar year for the provision of behavioral
10 health care services under ~~pursuant to~~ this section. The
11 agency may reimburse for substance abuse treatment services on
12 a fee-for-service basis until the agency finds that adequate
13 funds are available for capitated, prepaid arrangements.

14 1. By January 1, 2001, the agency shall modify the
15 contracts with the entities providing comprehensive inpatient
16 and outpatient mental health care services to Medicaid
17 recipients in Hillsborough, Highlands, Hardee, Manatee, and
18 Polk Counties, to include substance abuse treatment services.

19 2. By July 1, 2003, the agency and the Department of
20 Children and Family Services shall execute a written agreement
21 that requires collaboration and joint development of all
22 policy, budgets, procurement documents, contracts, and
23 monitoring plans that have an impact on the state and Medicaid
24 community mental health and targeted case management programs.

25 3. By July 1, 2006, the agency and the Department of
26 Children and Family Services shall contract with managed care
27 entities in each AHCA area except area 6 or arrange to provide
28 comprehensive inpatient and outpatient mental health and
29 substance abuse services through capitated prepaid
30 arrangements to all Medicaid recipients who are eligible to
31 participate in such plans under federal law and regulation. In

1 AHCA areas where eligible individuals number less than
2 150,000, the agency shall contract with a single managed care
3 plan. The agency may contract with more than one plan in AHCA
4 areas where the eligible population exceeds 150,000. Contracts
5 awarded pursuant to this section shall be competitively
6 procured. Both for-profit and not-for-profit corporations
7 shall be eligible to compete.

8 4. By October 1, 2003, the agency and the department
9 shall submit a plan to the Governor, the President of the
10 Senate, and the Speaker of the House of Representatives which
11 provides for the full implementation of capitated prepaid
12 behavioral health care in all areas of the state. The plan
13 shall include provisions which ensure that children and
14 families receiving foster care and other related services are
15 appropriately served and that these services assist the
16 community-based care lead agencies in meeting the goals and
17 outcomes of the child welfare system. The plan will be
18 developed with the participation of community-based lead
19 agencies, community alliances, sheriffs, and community
20 providers serving dependent children.

21 a. Implementation shall begin in 2003 in those AHCA
22 areas of the state where the agency is able to establish
23 sufficient capitation rates.

24 b. If the agency determines that the proposed
25 capitation rate in any area is insufficient to provide
26 appropriate services, the agency may adjust the capitation
27 rate to ensure that care will be available. The agency and the
28 department may use existing general revenue to address any
29 additional required match but may not over-obligate existing
30 funds on an annualized basis.

31

1 c. Subject to any limitations provided for in the
2 General Appropriations Act, the agency, in compliance with
3 appropriate federal authorization, shall develop policies and
4 procedures that allow for certification of local and state
5 funds.

6 5. Children residing in a statewide inpatient
7 psychiatric program, or in a Department of Juvenile Justice or
8 a Department of Children and Family Services residential
9 program approved as a Medicaid behavioral health overlay
10 services provider may ~~shall~~ not be included in a behavioral
11 health care prepaid health plan under ~~pursuant to~~ this
12 paragraph.

13 6. In converting to a prepaid system of delivery, the
14 agency shall in its procurement document require an entity
15 providing comprehensive behavioral health care services to
16 prevent the displacement of indigent care patients by
17 enrollees in the Medicaid prepaid health plan providing
18 behavioral health care services from facilities receiving
19 state funding to provide indigent behavioral health care, to
20 facilities licensed under chapter 395 which do not receive
21 state funding for indigent behavioral health care, or
22 reimburse the unsubsidized facility for the cost of behavioral
23 health care provided to the displaced indigent care patient.

24 7. Traditional community mental health and
25 substance-abuse treatment providers under contract with the
26 Department of Children and Family Services under ~~pursuant to~~
27 part IV of chapter 394, child welfare providers under contract
28 with the Department of Children and Family Services, and
29 inpatient mental health providers licensed under ~~pursuant to~~
30 chapter 395 must receive contracts to provide services ~~be~~
31 ~~offered an opportunity to accept or decline a contract to~~

1 ~~participate~~ in any provider network for prepaid behavioral
2 health services.

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

5 415.102 Definitions of terms used in ss.

6 415.101-415.113.--As used in ss. 415.101-415.113, the term:

7 (15) "Neglect" means the failure or omission on the
8 part of the caregiver or vulnerable adult to provide the care,
9 supervision, and services necessary to maintain the physical
10 and mental health of the vulnerable adult, including, but not
11 limited to, food, clothing, medicine, shelter, supervision,
12 and medical services, that a prudent person would consider
13 essential for the well-being of a vulnerable adult. The term
14 "neglect" also means the failure of a caregiver or vulnerable
15 adult to make a reasonable effort to protect a vulnerable
16 adult from abuse, neglect, or exploitation by others.

17 "Neglect" is repeated conduct or a single incident of
18 carelessness which produces or could reasonably be expected to
19 result in serious physical or psychological injury or a
20 substantial risk of death.

21 Section 13. Subsection (5) of section 415.1113,
22 Florida Statutes, is amended and redesignated as subsection
23 (6), present subsections (6), (7), (8), (9), and (10) are
24 redesignated as subsections (7), (8), (9), (10), and (11),
25 respectively, and a new subsection (5) is added to that
26 section to read:

27 415.1113 Administrative fines for false report of
28 abuse, neglect, or exploitation of a vulnerable adult.--

29 (5) A person alleged to have filed a false report may
30 be represented by legal counsel at the administrative hearing.
31 The notice of intent to impose the administrative fine set

1 forth in subsection (3) must include notification of the right
2 to be represented by legal counsel.

3 (6)(5) At the administrative hearing, the department
4 must prove by clear and convincing evidence that the person
5 knowingly and willfully filed a false report with the central
6 abuse hotline. ~~The person has the right to be represented by~~
7 ~~legal counsel at the hearing.~~

8 Section 14. Subsections (2) and (5) of section
9 420.622, Florida Statutes, are amended to read:

10 420.622 State Office on Homelessness; Council on
11 Homelessness.--

12 (2) The Council on Homelessness is created to consist
13 of a 15-member council of public and private agency
14 representatives who shall develop policy and advise the State
15 Office on Homelessness. The council members shall be: the
16 Secretary of Children and Family Services, or his or her
17 designee; the Secretary of Community Affairs, or his or her
18 designee; the Secretary of Health, or his or her designee; the
19 Executive Director of Veterans' Affairs, or his or her
20 designee; the Secretary of Corrections, or his or her
21 designee; the Director of Workforce Florida, Inc., or his or
22 her designee; one representative of the Florida Association of
23 Counties; one representative of the Florida ~~Coalition for~~
24 Supportive Housing Coalition; the Executive Director of the
25 Florida Housing Finance Corporation, or his or her designee;
26 one representative of the Florida Coalition for the Homeless;
27 one representative of the Florida State Rural Development
28 Council; and four members appointed by the Governor. The
29 council members shall be volunteer, nonpaid persons and shall
30 be reimbursed for travel expenses only. The appointed members
31 of the council shall serve staggered 2-year terms, and the

1 council shall meet at least four times per year. The
2 importance of minority, gender, and geographic representation
3 must be considered when appointing members to the council.

4 (5) The State Office on Homelessness, with the
5 concurrence of the Council on Homelessness, may administer
6 moneys appropriated to it to provide homeless housing
7 assistance grants annually to lead agencies for local homeless
8 assistance continuum of care, as recognized by the State
9 Office on Homelessness, to construct or rehabilitate
10 transitional or permanent housing units for homeless persons.
11 These moneys shall consist of any sums that the state may
12 appropriate, as well as money received from donations, gifts,
13 bequests, or otherwise from any public or private source,
14 which money is intended to construct or rehabilitate
15 transitional or permanent housing units for homeless persons.

16 (a) Grant applicants shall be ranked competitively.
17 Preference must be given to applicants who leverage additional
18 private funds and public funds, particularly federal funds
19 designated for the construction and rehabilitation of
20 transitional or permanent housing for homeless persons, who
21 build or rehabilitate the greatest number of units, and who
22 build or rehabilitate in catchment areas having the greatest
23 need for housing for the homeless relative to the population
24 of the catchment area.

25 (b) Funding for any particular project may not exceed
26 \$750,000.

27 (c) Construction or rehabilitation activities, and
28 associated and related costs, to which funds available under
29 this subsection may be applied include, but are not limited
30 to:

- 31 1. Site preparation and demolition;

- 1 2. Professional fees of architects, surveyors, or
2 engineers;
3 3. Local government building permits and impact fees;
4 4. Utilities and special district fees;
5 5. Labor, materials, and tools; and
6 6. Other costs associated with the construction or
7 rehabilitation of the building.

8
9 Any construction or rehabilitation activity or cost eligible
10 for funding under this subsection may be funded if the
11 activity or cost cannot be contributed, absorbed, or waived.

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

16 (e)(d) No more than two grants may be awarded annually
17 in any given local homeless assistance continuum of care
18 catchment area.

19 (f)(e) A project may not be funded which is not
20 included in the local homeless assistance continuum of care
21 plan, as recognized by the State Office on Homelessness, for
22 the catchment area in which the project is located.

23 (g)(f) The maximum percentage of funds that the State
24 Office on Homelessness and each applicant may spend on
25 administrative costs is 5 percent.

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

28 420.623 Local coalitions for the homeless.--

29 (4) ANNUAL REPORTS.--The department shall submit to
30 the Governor, the Speaker of the House of Representatives, and
31 the President of the Senate, by December 31 ~~June 30~~, an annual

1 report consisting of a compilation of data collected by local
2 coalitions, progress made in the development and
3 implementation of local homeless assistance continuums of care
4 plans in each district, local spending plans, programs and
5 resources available at the local level, and recommendations
6 for programs and funding.

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

9 420.625 Grant-in-aid program.--

10 (5) SPENDING PLANS.--The department shall develop
11 guidelines for the development of spending plans and for the
12 evaluation and approval by district administrators of spending
13 plans, based upon such factors as:

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

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

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

21 (d) The adequacy and reasonableness of proposed
22 budgets and planned expenditures, and the demonstrated
23 capacity of the local agency or agencies to administer the
24 funds sought.

25 (e) A statement from the local coalition for the
26 homeless as to the steps to be taken to assure coordination
27 and integration of services in the district to avoid
28 unnecessary duplication and costs.

29 (f) A statement from the designated lead agency of the
30 homeless assistance continuum of care catchment area in which
31 the services proposed will be provided, assuring the

1 department that the services are contained in, and consistent
2 with, the coalition's written plan for its continuum of care.

3 (g)(f) Assurances by the local coalition for the
4 homeless that alternative funding strategies for meeting needs
5 through the reallocation of existing resources, utilization of
6 volunteers, and local government or private agency funding
7 have been explored.

8 (h)(g) The existence of an evaluation component
9 designed to measure program outcomes and determine the overall
10 effectiveness of the local programs for the homeless for which
11 funding is sought.

12 Section 17. Section 393.135, Florida Statutes, is
13 created to read:

14 393.135 Sexual misconduct prohibited; reporting
15 required; penalties.--

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

17 (a) "Employee" includes any person under contract with
18 the agency or the department and any paid staff member,
19 volunteer, or intern of the agency or the department or any
20 person under contract with the agency or the department or any
21 person providing care or support to a client on behalf of the
22 department or its providers.

23 (b) "Sexual activity" means:

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

27 2. Intentionally touching in a lewd or lascivious
28 manner the breasts, genitals, the genital area, or buttocks,
29 or the clothing covering them, of a person, or forcing or
30 enticing a person to touch the perpetrator;

31

1 3. Intentionally masturbating in the presence of
2 another person;

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

5 5. Intentionally committing any other sexual act that
6 does not involve actual physical or sexual contact with the
7 victim, including, but not limited to, sadomasochistic abuse,
8 sexual bestiality, or the simulation of any act involving
9 sexual activity in the presence of a victim.

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

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

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

18 (b) Resides in a residential facility, including any
19 comprehensive transitional education program, developmental
20 services institution, foster care facility, group home
21 facility, intermediate care facility for the developmentally
22 disabled, or residential habilitation center; or

23 (c) Receives services from a family care program

24
25 commits a felony of the second degree, punishable as provided
26 in s. 775.082, s. 775.083, or s. 775.084. An employee may be
27 found guilty of violating this subsection without having
28 committed the crime of sexual battery.

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

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

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

5 (5) Notwithstanding prosecution, any violation of this
6 subsection, as determined by the Public Employees Relations
7 Commission, constitutes sufficient cause under s. 110.227 for
8 dismissal from employment, and such person may not again be
9 employed in any capacity in connection with the developmental
10 services or mental health services systems.

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

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

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

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

11 Section 18. Section 394.4593, Florida Statutes, is
12 created to read:

13 394.4593 Sexual misconduct prohibited; reporting
14 required; penalties.--

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

16 (a) "Employee" includes any person under contract with
17 the department and any paid staff member, volunteer, or intern
18 of the department or any person under contract with the
19 department or any person providing care or support to a
20 patient on behalf of the department or its providers.

21 (b) "Sexual activity" means:

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

25 2. Intentionally touching in a lewd or lascivious
26 manner the breasts, genitals, the genital area, or buttocks,
27 or the clothing covering them, of a person, or forcing or
28 enticing a person to touch the perpetrator;

29 3. Intentionally masturbating in the presence of
30 another person;

31

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

3 5. Intentionally committing any other sexual act that
4 does not involve actual physical or sexual contact with the
5 victim, including, but not limited to, sadomasochistic abuse,
6 sexual bestiality, or the simulation of any act involving
7 sexual activity in the presence of a victim.

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

13 (2) An employee who engages in sexual misconduct with
14 a patient who:

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

16 (b) Resides in a receiving facility as defined in s.
17 394.455(26) or a treatment facility as defined in s.
18 394.455(30),

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

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

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

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

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

31

1 (5) Notwithstanding prosecution, any violation of this
2 subsection, as determined by the Public Employees Relations
3 Commission, constitutes sufficient cause under s. 110.227 for
4 dismissal from employment, and such person may not again be
5 employed in any capacity in connection with the developmental
6 services or mental health services systems.

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

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

28 (b) Any person who knowingly or willfully submits
29 inaccurate, incomplete, or untruthful information with respect
30 to a report required under this section commits a misdemeanor
31

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

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

8 Section 19. Section 916.1075, Florida Statutes, is
9 created to read:

10 916.1075 Sexual misconduct prohibited; reporting
11 required; penalties.--

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

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

18 (b) "Sexual activity" means:

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

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

26 3. Intentionally masturbating in the presence of
27 another person;

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

30 5. Intentionally committing any other sexual act that
31 does not involve actual physical or sexual contact with the

1 victim, including, but not limited to, sadomasochistic abuse,
2 sexual bestiality, or the simulation of any act involving
3 sexual activity in the presence of a victim.

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

9 (2) An employee who engages in sexual misconduct with
10 a client who resides in a civil or forensic state mental
11 health treatment facility commits a felony of the second
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084. An employee may be found guilty of violating this
14 subsection without having committed the crime of sexual
15 battery.

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

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

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

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

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

29 (6) An employee who witnesses sexual misconduct, or
30 who otherwise knows or has reasonable cause to suspect that a
31 person has engaged in sexual misconduct, shall immediately

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

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

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

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

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

30 435.03 Level 1 screening standards.--

31

1 (2) Any person for whom employment screening is
2 required by statute must not have been found guilty of,
3 regardless of adjudication, or entered a plea of nolo
4 contendere or guilty to, any offense prohibited under any of
5 the following provisions of the Florida Statutes or under any
6 similar statute of another jurisdiction:

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

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

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

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

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

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

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

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

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

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

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

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

1 (m)~~(k)~~ Section 787.02, relating to false imprisonment.
2 (n)~~(l)~~ Section 794.011, relating to sexual battery.
3 (o)~~(m)~~ Former s. 794.041, relating to prohibited acts
4 of persons in familial or custodial authority.
5 (p)~~(n)~~ Chapter 796, relating to prostitution.
6 (q)~~(o)~~ Section 798.02, relating to lewd and lascivious
7 behavior.
8 (r)~~(p)~~ Chapter 800, relating to lewdness and indecent
9 exposure.
10 (s)~~(q)~~ Section 806.01, relating to arson.
11 (t)~~(r)~~ Chapter 812, relating to theft, robbery, and
12 related crimes, if the offense was a felony.
13 (u)~~(s)~~ Section 817.563, relating to fraudulent sale of
14 controlled substances, only if the offense was a felony.
15 (v)~~(t)~~ Section 825.102, relating to abuse, aggravated
16 abuse, or neglect of an elderly person or disabled adult.
17 (w)~~(u)~~ Section 825.1025, relating to lewd or
18 lascivious offenses committed upon or in the presence of an
19 elderly person or disabled adult.
20 (x)~~(v)~~ Section 825.103, relating to exploitation of an
21 elderly person or disabled adult, if the offense was a felony.
22 (y)~~(w)~~ Section 826.04, relating to incest.
23 (z)~~(x)~~ Section 827.03, relating to child abuse,
24 aggravated child abuse, or neglect of a child.
25 (aa)~~(y)~~ Section 827.04, relating to contributing to
26 the delinquency or dependency of a child.
27 (bb)~~(z)~~ Former s. 827.05, relating to negligent
28 treatment of children.
29 (cc)~~(aa)~~ Section 827.071, relating to sexual
30 performance by a child.
31 (dd)~~(bb)~~ Chapter 847, relating to obscene literature.

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

4 (ff) Section 916.0175, relating to sexual misconduct
5 with certain forensic clients and reporting of such sexual
6 misconduct.

7 Section 21. Subsection (2) of section 435.04, Florida
8 Statutes, is amended to read:

9 435.04 Level 2 screening standards.--

10 (2) The security background investigations under this
11 section must ensure that no persons subject to the provisions
12 of this section have been found guilty of, regardless of
13 adjudication, or entered a plea of nolo contendere or guilty
14 to, any offense prohibited under any of the following
15 provisions of the Florida Statutes or under any similar
16 statute of another jurisdiction:

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

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

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

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

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

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

31

1 (g)~~(e)~~ Section 782.09, relating to killing of an
2 unborn child by injury to the mother.
3 (h)~~(f)~~ Section 784.011, relating to assault, if the
4 victim of the offense was a minor.
5 (i)~~(g)~~ Section 784.021, relating to aggravated
6 assault.
7 (j)~~(h)~~ Section 784.03, relating to battery, if the
8 victim of the offense was a minor.
9 (k)~~(i)~~ Section 784.045, relating to aggravated
10 battery.
11 (l)~~(j)~~ Section 784.075, relating to battery on a
12 detention or commitment facility staff.
13 (m)~~(k)~~ Section 787.01, relating to kidnapping.
14 (n)~~(l)~~ Section 787.02, relating to false imprisonment.
15 (o)~~(m)~~ Section 787.04(2), relating to taking,
16 enticing, or removing a child beyond the state limits with
17 criminal intent pending custody proceedings.
18 (p)~~(n)~~ Section 787.04(3), relating to carrying a child
19 beyond the state lines with criminal intent to avoid producing
20 a child at a custody hearing or delivering the child to the
21 designated person.
22 (q)~~(o)~~ Section 790.115(1), relating to exhibiting
23 firearms or weapons within 1,000 feet of a school.
24 (r)~~(p)~~ Section 790.115(2)(b), relating to possessing
25 an electric weapon or device, destructive device, or other
26 weapon on school property.
27 (s)~~(q)~~ Section 794.011, relating to sexual battery.
28 (t)~~(r)~~ Former s. 794.041, relating to prohibited acts
29 of persons in familial or custodial authority.
30 (u)~~(s)~~ Chapter 796, relating to prostitution.
31

1 (v)~~(t)~~ Section 798.02, relating to lewd and lascivious
2 behavior.
3 (w)~~(u)~~ Chapter 800, relating to lewdness and indecent
4 exposure.
5 (x)~~(v)~~ Section 806.01, relating to arson.
6 (y)~~(w)~~ Chapter 812, relating to theft, robbery, and
7 related crimes, if the offense is a felony.
8 (z)~~(x)~~ Section 817.563, relating to fraudulent sale of
9 controlled substances, only if the offense was a felony.
10 (aa)~~(y)~~ Section 825.102, relating to abuse, aggravated
11 abuse, or neglect of an elderly person or disabled adult.
12 (bb)~~(z)~~ Section 825.1025, relating to lewd or
13 lascivious offenses committed upon or in the presence of an
14 elderly person or disabled adult.
15 (cc)~~(aa)~~ Section 825.103, relating to exploitation of
16 an elderly person or disabled adult, if the offense was a
17 felony.
18 (dd)~~(bb)~~ Section 826.04, relating to incest.
19 (ee)~~(cc)~~ Section 827.03, relating to child abuse,
20 aggravated child abuse, or neglect of a child.
21 (ff)~~(dd)~~ Section 827.04, relating to contributing to
22 the delinquency or dependency of a child.
23 (gg)~~(ee)~~ Former s. 827.05, relating to negligent
24 treatment of children.
25 (hh)~~(ff)~~ Section 827.071, relating to sexual
26 performance by a child.
27 (ii)~~(gg)~~ Section 843.01, relating to resisting arrest
28 with violence.
29 (jj)~~(hh)~~ Section 843.025, relating to depriving a law
30 enforcement, correctional, or correctional probation officer
31 means of protection or communication.

1 ~~(kk)~~~~(ii)~~ Section 843.12, relating to aiding in an
2 escape.
3 ~~(ll)~~~~(jj)~~ Section 843.13, relating to aiding in the
4 escape of juvenile inmates in correctional institutions.
5 ~~(mm)~~~~(kk)~~ Chapter 847, relating to obscene literature.
6 ~~(nn)~~~~(ll)~~ Section 874.05(1), relating to encouraging or
7 recruiting another to join a criminal gang.
8 ~~(oo)~~~~(mm)~~ Chapter 893, relating to drug abuse
9 prevention and control, only if the offense was a felony or if
10 any other person involved in the offense was a minor.
11 ~~(pp)~~ Section 916.0175, relating to sexual misconduct
12 with certain forensic clients and reporting of such sexual
13 misconduct.
14 ~~(qq)~~~~(nn)~~ Section 944.35(3), relating to inflicting
15 cruel or inhuman treatment on an inmate resulting in great
16 bodily harm.
17 ~~(rr)~~~~(oo)~~ Section 944.46, relating to harboring,
18 concealing, or aiding an escaped prisoner.
19 ~~(ss)~~~~(pp)~~ Section 944.47, relating to introduction of
20 contraband into a correctional facility.
21 ~~(tt)~~~~(qq)~~ Section 985.4045, relating to sexual
22 misconduct in juvenile justice programs.
23 ~~(uu)~~~~(rr)~~ Section 985.4046, relating to contraband
24 introduced into detention facilities.
25 Section 22. Section 943.0585, Florida Statutes, is
26 amended to read:
27 943.0585 Court-ordered expunction of criminal history
28 records.--The courts of this state have jurisdiction over
29 their own procedures, including the maintenance, expunction,
30 and correction of judicial records containing criminal history
31 information to the extent such procedures are not inconsistent

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

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

12 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY

13 RECORD.--Each petition to a court to expunge a criminal
14 history record is complete only when accompanied by:

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

17 (b) The petitioner's sworn statement attesting that
18 the petitioner:

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

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

28 3. Has never secured a prior sealing or expunction of
29 a criminal history record under this section, former s.
30 893.14, former s. 901.33, or former s. 943.058, or from any
31 jurisdiction outside the state.

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

5
6 Any person who knowingly provides false information on such
7 sworn statement to the court commits a felony of the third
8 degree, punishable as provided in s. 775.082, s. 775.083, or
9 s. 775.084.

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

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

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

25 2. That an indictment, information, or other charging
26 document, if filed or issued in the case, was dismissed or
27 nolle prosequi by the state attorney or statewide prosecutor,
28 or was dismissed by a court of competent jurisdiction.

29 3. That the criminal history record does not relate to
30 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
31 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.

1 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
2 s. 893.135, s. 916.1075, or a violation enumerated in s.
3 907.041, where the defendant was found guilty of, or pled
4 guilty or nolo contendere to any such offense, or that the
5 defendant, as a minor, was found to have committed, or pled
6 guilty or nolo contendere to committing, such an offense as a
7 delinquent act, without regard to whether adjudication was
8 withheld.

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

12 (c) Has submitted to the department a certified copy
13 of the disposition of the charge to which the petition to
14 expunge pertains.

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

20 (e) Has not been adjudicated guilty of, or adjudicated
21 delinquent for committing, any of the acts stemming from the
22 arrest or alleged criminal activity to which the petition to
23 expunge pertains.

24 (f) Has never secured a prior sealing or expunction of
25 a criminal history record under this section, former s.
26 893.14, former s. 901.33, or former s. 943.058.

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

30 (h) Is not required to wait a minimum of 10 years
31 prior to being eligible for an expunction of such records

1 because all charges related to the arrest or criminal activity
2 to which the petition to expunge pertains were dismissed prior
3 to trial, adjudication, or the withholding of adjudication.
4 Otherwise, such criminal history record must be sealed under
5 this section, former s. 893.14, former s. 901.33, or former s.
6 943.058 for at least 10 years before such record is eligible
7 for expunction.

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

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

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

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

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

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

25 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
26 criminal history record of a minor or an adult which is
27 ordered expunged by a court of competent jurisdiction pursuant
28 to this section must be physically destroyed or obliterated by
29 any criminal justice agency having custody of such record;
30 except that any criminal history record in the custody of the
31 department must be retained in all cases. A criminal history

1 record ordered expunged that is retained by the department is
2 confidential and exempt from the provisions of s. 119.07(1)
3 and s. 24(a), Art. I of the State Constitution and not
4 available to any person or entity except upon order of a court
5 of competent jurisdiction. A criminal justice agency may
6 retain a notation indicating compliance with an order to
7 expunge.

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

- 14 1. Is a candidate for employment with a criminal
15 justice agency;
- 16 2. Is a defendant in a criminal prosecution;
- 17 3. Concurrently or subsequently petitions for relief
18 under this section or s. 943.059;
- 19 4. Is a candidate for admission to The Florida Bar;
- 20 5. Is seeking to be employed or licensed by or to
21 contract with the Department of Children and Family Services
22 or the Department of Juvenile Justice or to be employed or
23 used by such contractor or licensee in a sensitive position
24 having direct contact with children, the developmentally
25 disabled, the aged, or the elderly as provided in s.
26 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
27 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
28 916.106(10) and (13), s. 985.407, or chapter 400; or
- 29 6. Is seeking to be employed or licensed by the Office
30 of Teacher Education, Certification, Staff Development, and
31 Professional Practices of the Department of Education, any

1 district school board, or any local governmental entity that
2 licenses child care facilities.

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

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

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

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

3 | Section 23. Section 943.059, Florida Statutes, is
4 | amended to read:

5 | 943.059 Court-ordered sealing of criminal history
6 | records.--The courts of this state shall continue to have
7 | jurisdiction over their own procedures, including the
8 | maintenance, sealing, and correction of judicial records
9 | containing criminal history information to the extent such
10 | procedures are not inconsistent with the conditions,
11 | responsibilities, and duties established by this section. Any
12 | court of competent jurisdiction may order a criminal justice
13 | agency to seal the criminal history record of a minor or an
14 | adult who complies with the requirements of this section. The
15 | court shall not order a criminal justice agency to seal a
16 | criminal history record until the person seeking to seal a
17 | criminal history record has applied for and received a
18 | certificate of eligibility for sealing pursuant to subsection
19 | (2). A criminal history record that relates to a violation of
20 | s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
21 | s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
22 | s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
23 | 916.1075, or a violation enumerated in s. 907.041 may not be
24 | sealed, without regard to whether adjudication was withheld,
25 | if the defendant was found guilty of or pled guilty or nolo
26 | contendere to the offense, or if the defendant, as a minor,
27 | was found to have committed or pled guilty or nolo contendere
28 | to committing the offense as a delinquent act. The court may
29 | only order sealing of a criminal history record pertaining to
30 | one arrest or one incident of alleged criminal activity,
31 | except as provided in this section. The court may, at its sole

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

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

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

26 (b) The petitioner's sworn statement attesting that
27 the petitioner:

28 1. Has never, prior to the date on which the petition
29 is filed, been adjudicated guilty of a criminal offense or
30 comparable ordinance violation or adjudicated delinquent for
31

1 committing a felony or a misdemeanor specified in s.
2 943.051(3)(b).

3 2. 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 3. 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, former s. 943.058, or from any
10 jurisdiction outside the state.

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

15
16 Any person who knowingly provides false information on such
17 sworn statement to the court commits a felony of the third
18 degree, punishable as provided in s. 775.082, s. 775.083, or
19 s. 775.084.

20 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
21 petitioning the court to seal a criminal history record, a
22 person seeking to seal a criminal history record shall apply
23 to the department for a certificate of eligibility for
24 sealing. The department shall, by rule adopted pursuant to
25 chapter 120, establish procedures pertaining to the
26 application for and issuance of certificates of eligibility
27 for sealing. The department shall issue a certificate of
28 eligibility for sealing to a person who is the subject of a
29 criminal history record provided that such person:

30
31

1 (a) Has submitted to the department a certified copy
2 of the disposition of the charge to which the petition to seal
3 pertains.

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

7 (c) 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 (d) 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 seal pertains.

16 (e) 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 (f) Is no longer under court supervision applicable to
20 the disposition of the arrest or alleged criminal activity to
21 which the petition to seal pertains.

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

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

31

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

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

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

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

10 (e) An order sealing a criminal history record
11 pursuant to this section does not require that such record be
12 surrendered to the court, and such record shall continue to be
13 maintained by the department and other criminal justice
14 agencies.

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

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

30 1. Is a candidate for employment with a criminal
31 justice agency;

1 2. Is a defendant in a criminal prosecution;
2 3. Concurrently or subsequently petitions for relief
3 under this section or s. 943.0585;
4 4. Is a candidate for admission to The Florida Bar;
5 5. Is seeking to be employed or licensed by or to
6 contract with the Department of Children and Family Services
7 or the Department of Juvenile Justice or to be employed or
8 used by such contractor or licensee in a sensitive position
9 having direct contact with children, the developmentally
10 disabled, the aged, or the elderly as provided in s.
11 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
12 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
13 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
14 or
15 6. Is seeking to be employed or licensed by the Office
16 of Teacher Education, Certification, Staff Development, and
17 Professional Practices of the Department of Education, any
18 district school board, or any local governmental entity which
19 licenses child care facilities.
20 (b) Subject to the exceptions in paragraph (a), a
21 person who has been granted a sealing under this section,
22 former s. 893.14, former s. 901.33, or former s. 943.058 may
23 not be held under any provision of law of this state to commit
24 perjury or to be otherwise liable for giving a false statement
25 by reason of such person's failure to recite or acknowledge a
26 sealed criminal history record.
27 (c) Information relating to the existence of a sealed
28 criminal record provided in accordance with the provisions of
29 paragraph (a) is confidential and exempt from the provisions
30 of s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution, except that the department shall disclose the

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

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

18 Section 24. Paragraph (a) of subsection (2) of section
19 400.215, Florida Statutes, is amended, and paragraphs (b) and
20 (c) of subsection (2) and subsection (3) of that section are
21 reenacted for the purpose of incorporating the amendments to
22 sections 435.03 and 435.04, Florida Statutes, in references
23 thereto, to read:

24 400.215 Personnel screening requirement.--

25 (2) Employers and employees shall comply with the
26 requirements of s. 435.05.

27 (a) Notwithstanding the provisions of s. 435.05(1),
28 facilities must have in their possession evidence that level 1
29 screening has been completed before allowing an employee to
30 begin working with patients as provided in subsection (1). All
31 information necessary for conducting background screening

1 using level 1 standards as specified in s. 435.03~~(1)~~ shall be
2 submitted by the nursing facility to the agency. Results of
3 the background screening shall be provided by the agency to
4 the requesting nursing facility.

5 (b) Employees qualified under the provisions of
6 paragraph (a) who have not maintained continuous residency
7 within the state for the 5 years immediately preceding the
8 date of request for background screening must complete level 2
9 screening, as provided in chapter 435. Such employees may work
10 in a conditional status up to 180 days pending the receipt of
11 written findings evidencing the completion of level 2
12 screening. Level 2 screening shall not be required of
13 employees or prospective employees who attest in writing under
14 penalty of perjury that they meet the residency requirement.
15 Completion of level 2 screening shall require the employee or
16 prospective employee to furnish to the nursing facility a full
17 set of fingerprints to enable a criminal background
18 investigation to be conducted. The nursing facility shall
19 submit the completed fingerprint card to the agency. The
20 agency shall establish a record of the request in the database
21 provided for in paragraph (c) and forward the request to the
22 Department of Law Enforcement, which is authorized to submit
23 the fingerprints to the Federal Bureau of Investigation for a
24 national criminal history records check. The results of the
25 national criminal history records check shall be returned to
26 the agency, which shall maintain the results in the database
27 provided for in paragraph (c). The agency shall notify the
28 administrator of the requesting nursing facility or the
29 administrator of any other facility licensed under chapter
30 393, chapter 394, chapter 395, chapter 397, or this chapter,
31 as requested by such facility, as to whether or not the

1 employee has qualified under level 1 or level 2 screening. An
2 employee or prospective employee who has qualified under level
3 2 screening and has maintained such continuous residency
4 within the state shall not be required to complete a
5 subsequent level 2 screening as a condition of employment at
6 another facility.

7 (c) The agency shall establish and maintain a database
8 of background screening information which shall include the
9 results of both level 1 and level 2 screening. The Department
10 of Law Enforcement shall timely provide to the agency,
11 electronically, the results of each statewide screening for
12 incorporation into the database. The agency shall, upon
13 request from any facility, agency, or program required by or
14 authorized by law to screen its employees or applicants,
15 notify the administrator of the facility, agency, or program
16 of the qualifying or disqualifying status of the employee or
17 applicant named in the request.

18 (3) The applicant is responsible for paying the fees
19 associated with obtaining the required screening. Payment for
20 the screening shall be submitted to the agency. The agency
21 shall establish a schedule of fees to cover the costs of level
22 1 and level 2 screening. Facilities may reimburse employees
23 for these costs. The Department of Law Enforcement shall
24 charge the agency for a level 1 or level 2 screening a rate
25 sufficient to cover the costs of such screening pursuant to s.
26 943.053(3). The agency shall, as allowable, reimburse nursing
27 facilities for the cost of conducting background screening as
28 required by this section. This reimbursement will not be
29 subject to any rate ceilings or payment targets in the
30 Medicaid Reimbursement plan.

31

1 Section 25. For the purpose of incorporating the
2 amendments to sections 435.03 and 435.04, Florida Statutes, in
3 references thereto, subsections (1) and (2) of section
4 400.964, Florida Statutes, are reenacted, and subsection (7)
5 of that section is amended and reenacted, to read:

6 400.964 Personnel screening requirement.--

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

13 (2) Employers and employees shall comply with the
14 requirements of chapter 435.

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

29 Section 26. For the purposes of incorporating the
30 amendment to section 435.04, Florida Statutes, in references
31

1 thereto, paragraph (a) of subsection (1) of section 435.045,
2 Florida Statutes, is amended and reenacted to read:

3 435.045 Requirements for placement of dependent
4 children.--

5 (1)(a) Unless an election provided for in subsection
6 (2) is made with respect to the state, the department is
7 authorized to conduct criminal records checks equivalent to
8 the level 2 screening required in s. 435.04~~(1)~~for any person
9 being considered by the department for placement of a child
10 subject to a placement decision pursuant to chapter 39.

11 Approval shall not be granted:

12 1. In any case in which a record check reveals a
13 felony conviction for child abuse, abandonment, or neglect;
14 for spousal abuse; for a crime against children, including
15 child pornography, or for a crime involving violence,
16 including rape, sexual assault, or homicide but not including
17 other physical assault or battery, if the department finds
18 that a court of competent jurisdiction has determined that the
19 felony was committed at any time; and

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

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

29 400.414 Denial, revocation, or suspension of license;
30 imposition of administrative fine; grounds.--

31

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

8 (f) A determination that a person subject to level 2
9 background screening under s. 400.4174(1) does not meet the
10 screening standards of s. 435.04 or that the facility is
11 retaining an employee subject to level 1 background screening
12 standards under s. 400.4174(2) who does not meet the screening
13 standards of s. 435.03 and for whom exemptions from
14 disqualification have not been provided by the agency.

15 (g) A determination that an employee, volunteer,
16 administrator, or owner, or person who otherwise has access to
17 the residents of a facility does not meet the criteria
18 specified in s. 435.03(2), and the owner or administrator has
19 not taken action to remove the person. Exemptions from
20 disqualification may be granted as set forth in s. 435.07. No
21 administrative action may be taken against the facility if the
22 person is granted an exemption.

23
24 Administrative proceedings challenging agency action under
25 this subsection shall be reviewed on the basis of the facts
26 and conditions that resulted in the agency action.

27 Section 28. For the purpose of incorporating the
28 amendment to sections 435.03 and 435.04, Florida Statutes, in
29 references thereto, section 400.4174, Florida Statutes, is
30 reenacted to read:

31 400.4174 Background screening; exemptions.--

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

5 1. The facility owner if an individual, the
6 administrator, and the financial officer.

7 2. An officer or board member if the facility owner is
8 a firm, corporation, partnership, or association, or any
9 person owning 5 percent or more of the facility if the agency
10 has probable cause to believe that such person has been
11 convicted of any offense prohibited by s. 435.04. For each
12 officer, board member, or person owning 5 percent or more who
13 has been convicted of any such offense, the facility shall
14 submit to the agency a description and explanation of the
15 conviction at the time of license application. This
16 subparagraph does not apply to a board member of a
17 not-for-profit corporation or organization if the board member
18 serves solely in a voluntary capacity, does not regularly take
19 part in the day-to-day operational decisions of the
20 corporation or organization, receives no remuneration for his
21 or her services, and has no financial interest and has no
22 family members with a financial interest in the corporation or
23 organization, provided that the board member and facility
24 submit a statement affirming that the board member's
25 relationship to the facility satisfies the requirements of
26 this subparagraph.

27 (b) Proof of compliance with level 2 screening
28 standards which has been submitted within the previous 5 years
29 to meet any facility or professional licensure requirements of
30 the agency or the Department of Health satisfies the
31 requirements of this subsection, provided that such proof is

1 accompanied, under penalty of perjury, by an affidavit of
2 compliance with the provisions of chapter 435. Proof of
3 compliance with the background screening requirements of the
4 Financial Services Commission and the Office of Insurance
5 Regulation for applicants for a certificate of authority to
6 operate a continuing care retirement community under chapter
7 651, submitted within the last 5 years, satisfies the
8 Department of Law Enforcement and Federal Bureau of
9 Investigation portions of a level 2 background check.

10 (c) The agency may grant a provisional license to a
11 facility applying for an initial license when each individual
12 required by this subsection to undergo screening has completed
13 the Department of Law Enforcement background checks, but has
14 not yet received results from the Federal Bureau of
15 Investigation, or when a request for an exemption from
16 disqualification has been submitted to the agency pursuant to
17 s. 435.07, but a response has not been issued.

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

25 (a) Proof of compliance with level 1 screening
26 requirements obtained to meet any professional license
27 requirements in this state is provided and accompanied, under
28 penalty of perjury, by a copy of the person's current
29 professional license and an affidavit of current compliance
30 with the background screening requirements.

31

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

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

17 Section 29. 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 400.509, Florida Statutes,
21 are reenacted to read:

22 400.509 Registration of particular service providers
23 exempt from licensure; certificate of registration; regulation
24 of registrants.--

25 (4) Each applicant for registration must comply with
26 the 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 1 standards for screening set forth
30 in chapter 435, of every individual who will have contact with
31 the client. The agency shall require background screening of

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

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

19 (d) A provisional registration may be granted to an
20 applicant when each individual required by this section to
21 undergo background screening has met the standards for the
22 abuse-registry background check through the agency and 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. A standard registration may
26 be granted to the applicant upon the agency's receipt of a
27 report of the results of the Federal Bureau of Investigation
28 background screening for each individual required by this
29 section to undergo background screening which confirms that
30 all standards have been met, or upon the granting of a
31 disqualification exemption by the agency as set forth in

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

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

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

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

3 Section 30. For the purpose of incorporating the
4 amendment to sections 435.03 and 435.04, Florida Statutes, in
5 references thereto, paragraph (c) of subsection (2) of section
6 400.556, Florida Statutes, is reenacted to read:

7 400.556 Denial, suspension, revocation of license;
8 administrative fines; investigations and inspections.--

9 (2) Each of the following actions by the owner of an
10 adult day care center or by its operator or employee is a
11 ground for action by the agency against the owner of the
12 center or its operator or employee:

13 (c) A failure of persons subject to level 2 background
14 screening under s. 400.4174(1) to meet the screening standards
15 of s. 435.04, or the retention by the center of an employee
16 subject to level 1 background screening standards under s.
17 400.4174(2) who does not meet the screening standards of s.
18 435.03 and for whom exemptions from disqualification have not
19 been provided by the agency.

20 Section 31. For the purpose of incorporating the
21 amendment to sections 435.03 and 435.04, Florida Statutes, in
22 references thereto, subsections (1), (2), and (4) of section
23 400.6065, Florida Statutes, are reenacted to read:

24 400.6065 Background screening.--

25 (1) Upon receipt of a completed application under s.
26 400.606, the agency shall require level 2 background screening
27 on each of the following persons, who shall be considered
28 employees for the purposes of conducting screening under
29 chapter 435:

30 (a) The hospice administrator and financial officer.

31

1 (b) An officer or board member if the hospice is a
2 firm, corporation, partnership, or association, or any person
3 owning 5 percent or more of the hospice if the agency has
4 probable cause to believe that such officer, board member, or
5 owner has been convicted of any offense prohibited by s.
6 435.04. For each officer, board member, or person owning 5
7 percent or more who has been convicted of any such offense,
8 the hospice shall submit to the agency a description and
9 explanation of the conviction at the time of license
10 application. This paragraph does not apply to a board member
11 of a not-for-profit corporation or organization if the board
12 member serves solely in a voluntary capacity, does not
13 regularly take part in the day-to-day operational decisions of
14 the corporation or organization, receives no remuneration for
15 his or her services, and has no financial interest and has no
16 family members with a financial interest in the corporation or
17 organization, provided that the board member and the
18 corporation or organization submit a statement affirming that
19 the board member's relationship to the corporation or
20 organization satisfies the requirements of this paragraph.

21 (2) Proof of compliance with level 2 screening
22 standards which has been submitted within the previous 5 years
23 to meet any facility or professional licensure requirements of
24 the agency or the Department of Health satisfies the
25 requirements of this section.

26 (4) The agency shall require employment or contractor
27 screening as provided in chapter 435, using the level 1
28 standards for screening set forth in that chapter, for hospice
29 personnel.

30 Section 32. For the purpose of incorporating the
31 amendment to sections 435.03 and 435.04, Florida Statutes, in

1 references thereto, paragraphs (a), (b), (c), (d), (f), and
2 (g) of subsection (4) of section 400.980, Florida Statutes,
3 are reenacted to read:

4 400.980 Health care services pools.--

5 (4) Each applicant for registration must comply with
6 the 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 1 standards for screening set forth
10 in chapter 435, of every individual who will have contact with
11 patients. The agency shall require background screening of the
12 managing employee or other similarly titled individual who is
13 responsible for the operation of the entity, and of the
14 financial officer or other similarly titled individual who is
15 responsible for the financial operation of the entity,
16 including billings for services in accordance with the level 2
17 standards for background screening as set forth in chapter
18 435.

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

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

30 (d) A provisional registration may be granted to an
31 applicant when each individual required by this section to

1 undergo background screening has met the standards for the
2 Department of Law Enforcement background check but the agency
3 has not yet received background screening results from the
4 Federal Bureau of Investigation. A standard registration may
5 be granted to the applicant upon the agency's receipt of a
6 report of the results of the Federal Bureau of Investigation
7 background screening for each individual required by this
8 section to undergo background screening which confirms that
9 all standards have been met, or upon the granting of a
10 disqualification exemption by the agency as set forth in
11 chapter 435. Any other person who is required to undergo level
12 2 background screening may serve in his or her capacity
13 pending the agency's receipt of the report from the Federal
14 Bureau of Investigation. However, the person may not continue
15 to serve if the report indicates any violation of background
16 screening standards and if a disqualification exemption has
17 not been requested of and granted by the agency as set forth
18 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 which
22 was committed by a member of the board of directors of the
23 applicant, its officers, or any individual owning 5 percent or
24 more of the applicant. This requirement does not apply to a
25 director of a not-for-profit corporation or organization who
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's or organization's board of directors, and has no
31 financial interest and no family members having a financial

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

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

13 Section 33. For the purpose of incorporating the
14 amendment to sections 435.03 and 435.04, Florida Statutes, in
15 references thereto, paragraph (k) of subsection (2) of section
16 409.175, Florida Statutes, is reenacted to read:

17 409.175 Licensure of family foster homes, residential
18 child-caring agencies, and child-placing agencies; public
19 records exemption.--

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

21 (k) "Screening" means the act of assessing the
22 background of personnel and includes, but is not limited to,
23 employment history checks as provided in chapter 435, using
24 the level 2 standards for screening set forth in that chapter.
25 Screening for employees and volunteers in summer day camps and
26 summer 24-hour camps and screening for all volunteers included
27 under the definition of "personnel" shall be conducted as
28 provided in chapter 435, using the level 1 standards set forth
29 in that chapter.

30 Section 34. For the purpose of incorporating the
31 amendment to sections 435.03 and 435.04, Florida Statutes, in

1 references thereto, paragraph (d) of subsection (8) of section
2 409.907, Florida Statutes, is reenacted to read:

3 409.907 Medicaid provider agreements.--The agency may
4 make payments for medical assistance and related services
5 rendered to Medicaid recipients only to an individual or
6 entity who has a provider agreement in effect with the agency,
7 who is performing services or supplying goods in accordance
8 with federal, state, and local law, and who agrees that no
9 person shall, on the grounds of handicap, race, color, or
10 national origin, or for any other reason, be subjected to
11 discrimination under any program or activity for which the
12 provider receives payment from the agency.

13 (8)

14 (d) Proof of compliance with the requirements of level
15 2 screening under s. 435.04 conducted within 12 months prior
16 to the date that the Medicaid provider application is
17 submitted to the agency shall fulfill the requirements of this
18 subsection. Proof of compliance with the requirements of level
19 1 screening under s. 435.03 conducted within 12 months prior
20 to the date that the Medicaid provider application is
21 submitted to the agency shall meet the requirement that the
22 Department of Law Enforcement conduct a state criminal history
23 record check.

24 Section 35. For the purpose of incorporating the
25 amendment to sections 435.03 and 435.04, Florida Statutes, in
26 references thereto, subsections (1) and (3) of section 435.05,
27 Florida Statutes, are reenacted to read:

28 435.05 Requirements for covered employees.--Except as
29 otherwise provided by law, the following requirements shall
30 apply to covered employees:

31

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

6 (b) For level 1 screening, the employer must submit
7 the information necessary for screening to the Florida
8 Department of Law Enforcement within 5 working days after
9 receiving it. The Florida Department of Law Enforcement will
10 conduct a search of its records and will respond to the
11 employer agency. The employer will inform the employee whether
12 screening has revealed any disqualifying information.

13 (c) For level 2 screening, the employer or licensing
14 agency must submit the information necessary for screening to
15 the Florida Department of Law Enforcement within 5 working
16 days after receiving it. The Florida Department of Law
17 Enforcement will conduct a search of its criminal and juvenile
18 records and will request that the Federal Bureau of
19 Investigation conduct a search of its records for each
20 employee for whom the request is made. The Florida Department
21 of Law Enforcement will respond to the employer or licensing
22 agency, and the employer or licensing agency will inform the
23 employee whether screening has revealed disqualifying
24 information.

25 (d) The person whose background is being checked must
26 supply any missing criminal or other necessary information to
27 the employer within 30 days after the employer makes a request
28 for the information or be subject to automatic
29 disqualification.

30 (3) Each employer required to conduct level 2
31 background screening must sign an affidavit annually, under

1 penalty of perjury, stating that all covered employees have
2 been screened or are newly hired and are awaiting the results
3 of the required screening checks.

4 Section 36. For the purpose of incorporating the
5 amendment to sections 435.03 and 435.04, Florida Statutes, in
6 references thereto, section 744.3135, Florida Statutes, as
7 amended by chapter 2003-402, Laws of Florida, is reenacted to
8 read:

9 744.3135 Credit and criminal investigation.--The court
10 may require a nonprofessional guardian and shall require a
11 professional or public guardian, and all employees of a
12 professional guardian who have a fiduciary responsibility to a
13 ward, to submit, at their own expense, to an investigation of
14 the guardian's credit history and to undergo level 2
15 background screening as required under s. 435.04. The clerk of
16 the court shall obtain fingerprint cards from the Federal
17 Bureau of Investigation and make them available to guardians.
18 Any guardian who is so required shall have his or her
19 fingerprints taken and forward the proper fingerprint card
20 along with the necessary fee to the Florida Department of Law
21 Enforcement for processing. The professional guardian shall
22 pay to the clerk of the court a fee of up to \$7.50 for
23 handling and processing professional guardian files. The
24 results of the fingerprint checks shall be forwarded to the
25 clerk of court who shall maintain the results in a guardian
26 file and shall make the results available to the court. If
27 credit or criminal investigations are required, the court must
28 consider the results of the investigations in appointing a
29 guardian. Professional guardians and all employees of a
30 professional guardian who have a fiduciary responsibility to a
31 ward, so appointed, must resubmit, at their own expense, to an

1 investigation of credit history, and undergo level 1
2 background screening as required under s. 435.03, at least
3 every 2 years after the date of their appointment. At any
4 time, the court may require guardians or their employees to
5 submit to an investigation of credit history and undergo level
6 1 background screening as required under s. 435.03. The court
7 must consider the results of these investigations in
8 reappointing a guardian. This section shall not apply to a
9 professional guardian, or to the employees of a professional
10 guardian, that is a trust company, a state banking corporation
11 or state savings association authorized and qualified to
12 exercise fiduciary powers in this state, or a national banking
13 association or federal savings and loan association authorized
14 and qualified to exercise fiduciary powers in this state

15 Section 37. For the purpose of incorporating the
16 amendment to sections 435.03 and 435.04, Florida Statutes, in
17 references thereto, subsection (2) of section 985.04, Florida
18 Statutes, is reenacted to read:

19 985.04 Oaths; records; confidential information.--

20 (2) Records maintained by the Department of Juvenile
21 Justice, including copies of records maintained by the court,
22 which pertain to a child found to have committed a delinquent
23 act which, if committed by an adult, would be a crime
24 specified in ss. 435.03 and 435.04 may not be destroyed
25 pursuant to this section for a period of 25 years after the
26 youth's final referral to the department, except in cases of
27 the death of the child. Such records, however, shall be sealed
28 by the court for use only in meeting the screening
29 requirements for personnel in s. 402.3055 and the other
30 sections cited above, or pursuant to departmental rule;
31 however, current criminal history information must be obtained

1 from the Department of Law Enforcement in accordance with s.
2 943.053. The information shall be released to those persons
3 specified in the above cited sections for the purposes of
4 complying with those sections. The court may punish by
5 contempt any person who releases or uses the records for any
6 unauthorized purpose.

7 Section 38. For the purpose of incorporating the
8 amendment to section 435.03, Florida Statutes, in references
9 thereto, section 400.512, Florida Statutes, is reenacted to
10 read:

11 400.512 Screening of home health agency personnel;
12 nurse registry personnel; and companions and homemakers.--The
13 agency shall require employment or contractor screening as
14 provided in chapter 435, using the level 1 standards for
15 screening set forth in that chapter, for home health agency
16 personnel; persons referred for employment by nurse
17 registries; and persons employed by companion or homemaker
18 services registered under s. 400.509.

19 (1)(a) The Agency for Health Care Administration may,
20 upon request, grant exemptions from disqualification from
21 employment or contracting under this section as provided in s.
22 435.07, except for health care practitioners licensed by the
23 Department of Health or a regulatory board within that
24 department.

25 (b) The appropriate regulatory board within the
26 Department of Health, or that department itself when there is
27 no board, may, upon request of the licensed health care
28 practitioner, grant exemptions from disqualification from
29 employment or contracting under this section as provided in s.
30 435.07.

31

1 (2) The administrator of each home health agency, the
2 managing employee of each nurse registry, and the managing
3 employee of each companion or homemaker service registered
4 under s. 400.509 must sign an affidavit annually, under
5 penalty of perjury, stating that all personnel hired,
6 contracted with, or registered on or after October 1, 1994,
7 who enter the home of a patient or client in their service
8 capacity have been screened and that its remaining personnel
9 have worked for the home health agency or registrant
10 continuously since before October 1, 1994.

11 (3) As a prerequisite to operating as a home health
12 agency, nurse registry, or companion or homemaker service
13 under s. 400.509, the administrator or managing employee,
14 respectively, must submit to the agency his or her name and
15 any other information necessary to conduct a complete
16 screening according to this section. The agency shall submit
17 the information to the Department of Law Enforcement for state
18 processing. The agency shall review the record of the
19 administrator or manager with respect to the offenses
20 specified in this section and shall notify the owner of its
21 findings. If disposition information is missing on a criminal
22 record, the administrator or manager, upon request of the
23 agency, must obtain and supply within 30 days the missing
24 disposition information to the agency. Failure to supply
25 missing information within 30 days or to show reasonable
26 efforts to obtain such information will result in automatic
27 disqualification.

28 (4) Proof of compliance with the screening
29 requirements of chapter 435 shall be accepted in lieu of the
30 requirements of this section if the person has been
31 continuously employed or registered without a breach in

1 service that exceeds 180 days, the proof of compliance is not
2 more than 2 years old, and the person has been screened by the
3 Department of Law Enforcement. A home health agency, nurse
4 registry, or companion or homemaker service registered under
5 s. 400.509 shall directly provide proof of compliance to
6 another home health agency, nurse registry, or companion or
7 homemaker service registered under s. 400.509. The recipient
8 home health agency, nurse registry, or companion or homemaker
9 service registered under s. 400.509 may not accept any proof
10 of compliance directly from the person who requires screening.
11 Proof of compliance with the screening requirements of this
12 section shall be provided upon request to the person screened
13 by the home health agencies; nurse registries; or companion or
14 homemaker services registered under s. 400.509.

15 (5) There is no monetary liability on the part of, and
16 no cause of action for damages arises against, a licensed home
17 health agency, licensed nurse registry, or companion or
18 homemaker service registered under s. 400.509, that, upon
19 notice that the employee or contractor has been found guilty
20 of, regardless of adjudication, or entered a plea of nolo
21 contendere or guilty to, any offense prohibited under s.
22 435.03 or under any similar statute of another jurisdiction,
23 terminates the employee or contractor, whether or not the
24 employee or contractor has filed for an exemption with the
25 agency in accordance with chapter 435 and whether or not the
26 time for filing has expired.

27 (6) The costs of processing the statewide
28 correspondence criminal records checks must be borne by the
29 home health agency; the nurse registry; or the companion or
30 homemaker service registered under s. 400.509, or by the

31

1 person being screened, at the discretion of the home health
2 agency, nurse registry, or s. 400.509 registrant.

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

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

11 2. Operate or attempt to operate an entity licensed or
12 registered under this part with persons who do not meet the
13 minimum standards for good moral character as contained in
14 this section; or

15 3. Use information from the criminal records obtained
16 under this section for any purpose other than screening that
17 person for employment as specified in this section or release
18 such information to any other person for any purpose other
19 than screening for employment under this section.

20 (b) It is a felony of the third degree, punishable
21 under s. 775.082, s. 775.083, or s. 775.084, for any person
22 willfully, knowingly, or intentionally to use information from
23 the juvenile records of a person obtained under this section
24 for any purpose other than screening for employment under this
25 section.

26 Section 39. For the purpose of incorporating the
27 amendment to section 435.03, Florida Statutes, in references
28 thereto, subsection (4) of section 400.619, Florida Statutes,
29 is reenacted to read:

30 400.619 Licensure application and renewal.--
31

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

8 (a) Proof of compliance with level 1 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 subsection. Such proof must be
13 accompanied, under penalty of perjury, by a copy of the
14 person's current professional license and an affidavit of
15 current compliance with the background screening requirements.

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

26 Section 40. For the purpose of incorporating the
27 amendment to section 435.03, Florida Statutes, in references
28 thereto, subsection (1) of section 400.6194, Florida Statutes,
29 is reenacted to read:

30
31

1 400.6194 Denial, revocation, or suspension of a
2 license.--The agency may deny, suspend, or revoke a license
3 for any of the following reasons:

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

8 Section 41. For the purpose of incorporating the
9 amendment to section 435.03, Florida Statutes, in references
10 thereto, section 400.953, Florida Statutes, is reenacted to
11 read:

12 400.953 Background screening of home medical equipment
13 provider personnel.--The agency shall require employment
14 screening as provided in chapter 435, using the level 1
15 standards for screening set forth in that chapter, for home
16 medical equipment provider personnel.

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

20 (2) The general manager of each home medical equipment
21 provider must sign an affidavit annually, under penalty of
22 perjury, stating that all home medical equipment provider
23 personnel hired on or after July 1, 1999, who enter the home
24 of a patient in the capacity of their employment have been
25 screened and that its remaining personnel have worked for the
26 home medical equipment provider continuously since before July
27 1, 1999.

28 (3) Proof of compliance with the screening
29 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
30 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
31 985.407 or this part must be accepted in lieu of the

1 requirements of this section if the person has been
2 continuously employed in the same type of occupation for which
3 he or she is seeking employment without a breach in service
4 that exceeds 180 days, the proof of compliance is not more
5 than 2 years old, and the person has been screened by the
6 Department of Law Enforcement. An employer or contractor shall
7 directly provide proof of compliance to another employer or
8 contractor, and a potential employer or contractor may not
9 accept any proof of compliance directly from the person
10 requiring screening. Proof of compliance with the screening
11 requirements of this section shall be provided, upon request,
12 to the person screened by the home medical equipment provider.

13 (4) There is no monetary liability on the part of, and
14 no cause of action for damages arising against, a licensed
15 home medical equipment provider that, upon notice that an
16 employee has been found guilty of, regardless of adjudication,
17 or entered a plea of nolo contendere or guilty to, any offense
18 prohibited under s. 435.03 or under any similar statute of
19 another jurisdiction, terminates the employee, whether or not
20 the employee has filed for an exemption with the agency and
21 whether or not the time for filing has expired.

22 (5) The costs of processing the statewide
23 correspondence criminal records checks must be borne by the
24 home medical equipment provider or by the person being
25 screened, at the discretion of the home medical equipment
26 provider.

27 (6) Neither the agency nor the home medical equipment
28 provider may use the criminal records or juvenile records of a
29 person for any purpose other than determining whether that
30 person meets minimum standards of good moral character for
31 home medical equipment provider personnel.

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

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

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

13 3. Use information from the criminal records obtained
14 under this section for any purpose other than screening that
15 person for employment as specified in this section, or release
16 such information to any other person for any purpose other
17 than screening for employment under this section.

18 (b) It is a felony of the third degree, punishable as
19 provided in s. 775.082, s. 775.083, or s. 775.084, for any
20 person willfully, knowingly, or intentionally to use
21 information from the juvenile records of a person obtained
22 under this section for any purpose other than screening for
23 employment under this section.

24 Section 42. For the purpose of incorporating the
25 amendment to section 435.03, Florida Statutes, in references
26 thereto, subsection (32) of section 409.912, Florida Statutes,
27 is reenacted 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 (32) Each managed care plan that is under contract
20 with the agency to provide health care services to Medicaid
21 recipients shall annually conduct a background check with the
22 Florida Department of Law Enforcement of all persons with
23 ownership interest of 5 percent or more or executive
24 management responsibility for the managed care plan and shall
25 submit to the agency information concerning any such person
26 who has been found guilty of, regardless of adjudication, or
27 has entered a plea of nolo contendere or guilty to, any of the
28 offenses listed in s. 435.03.

29 Section 43. For the purpose of incorporating the
30 amendment to section 435.03, Florida Statutes, in references
31

1 thereto, subsection (4) of section 435.07, Florida Statutes,
2 is reenacted to read:

3 435.07 Exemptions from disqualification.--Unless
4 otherwise provided by law, the provisions of this section
5 shall apply to exemptions from disqualification.

6 (4) Disqualification from employment under subsection
7 (1) may not be removed from, nor may an exemption be granted
8 to, any personnel who is found guilty of, regardless of
9 adjudication, or who has entered a plea of nolo contendere or
10 guilty to, any felony covered by s. 435.03 solely by reason of
11 any pardon, executive clemency, or restoration of civil
12 rights.

13 Section 44. For the purpose of incorporating the
14 amendment to section 435.03, Florida Statutes, in references
15 thereto, paragraph (e) of subsection (1) of section 464.018,
16 Florida Statutes, is reenacted to read:

17 464.018 Disciplinary actions.--

18 (1) The following acts constitute grounds for denial
19 of a license or disciplinary action, as specified in s.
20 456.072(2):

21 (e) Having been found guilty of, regardless of
22 adjudication, or entered a plea of nolo contendere or guilty
23 to, any offense prohibited under s. 435.03 or under any
24 similar statute of another jurisdiction; or having committed
25 an act which constitutes domestic violence as defined in s.
26 741.28.

27 Section 45. For the purpose of incorporating the
28 amendment to section 435.03, Florida Statutes, in references
29 thereto, subsection (3) of section 744.309, Florida Statutes,
30 is reenacted to read:

31

1 744.309 Who may be appointed guardian of a resident
2 ward.--

3 (3) DISQUALIFIED PERSONS.--No person who has been
4 convicted of a felony or who, from any incapacity or illness,
5 is incapable of discharging the duties of a guardian, or who
6 is otherwise unsuitable to perform the duties of a guardian,
7 shall be appointed to act as guardian. Further, no person who
8 has been judicially determined to have committed abuse,
9 abandonment, or neglect against a child as defined in s. 39.01
10 or s. 984.03(1), (2), and (37), or who has been found guilty
11 of, regardless of adjudication, or entered a plea of nolo
12 contendere or guilty to, any offense prohibited under s.
13 435.03 or under any similar statute of another jurisdiction,
14 shall be appointed to act as a guardian. Except as provided in
15 subsection (5) or subsection (6), a person who provides
16 substantial services to the proposed ward in a professional or
17 business capacity, or a creditor of the proposed ward, may not
18 be appointed guardian and retain that previous professional or
19 business relationship. A person may not be appointed a
20 guardian if he or she is in the employ of any person, agency,
21 government, or corporation that provides service to the
22 proposed ward in a professional or business capacity, except
23 that a person so employed may be appointed if he or she is the
24 spouse, adult child, parent, or sibling of the proposed ward
25 or the court determines that the potential conflict of
26 interest is insubstantial and that the appointment would
27 clearly be in the proposed ward's best interest. The court may
28 not appoint a guardian in any other circumstance in which a
29 conflict of interest may occur.

30 Section 46. For the purpose of incorporating the
31 amendment to section 435.03, Florida Statutes, in references

1 thereto, subsection (12) of section 744.474, Florida Statutes,
2 is reenacted to read:

3 744.474 Reasons for removal of guardian.--A guardian
4 may be removed for any of the following reasons, and the
5 removal shall be in addition to any other penalties prescribed
6 by law:

7 (12) 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.

11 Section 47. For the purpose of incorporating the
12 amendment to section 435.03, Florida Statutes, in references
13 thereto, subsection (4) of section 985.407, Florida Statutes,
14 is reenacted to read:

15 985.407 Departmental contracting powers; personnel
16 standards and screening.--

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

21 Section 48. For the purpose of incorporating the
22 amendment to section 435.04, Florida Statutes, in references
23 thereto, paragraph (b) of subsection (2) of section 39.001,
24 Florida Statutes, is reenacted to read:

25 39.001 Purposes and intent; personnel standards and
26 screening.--

27 (2) DEPARTMENT CONTRACTS.--The department may contract
28 with the Federal Government, other state departments and
29 agencies, county and municipal governments and agencies,
30 public and private agencies, and private individuals and
31

1 corporations in carrying out the purposes of, and the
2 responsibilities established in, this chapter.

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

8 Section 49. For the purpose of incorporating the
9 amendment to section 435.04, Florida Statutes, in references
10 thereto, subsection (1) of section 39.821, Florida Statutes,
11 is reenacted to read:

12 39.821 Qualifications of guardians ad litem.--

13 (1) Because of the special trust or responsibility
14 placed in a guardian ad litem, the Guardian Ad Litem Program
15 may use any private funds collected by the program, or any
16 state funds so designated, to conduct a security background
17 investigation before certifying a volunteer to serve. A
18 security background investigation must include, but need not
19 be limited to, employment history checks, checks of
20 references, local criminal records checks through local law
21 enforcement agencies, and statewide criminal records checks
22 through the Department of Law Enforcement. Upon request, an
23 employer shall furnish a copy of the personnel record for the
24 employee or former employee who is the subject of a security
25 background investigation conducted under this section. The
26 information contained in the personnel record may include, but
27 need not be limited to, disciplinary matters and the reason
28 why the employee was terminated from employment. An employer
29 who releases a personnel record for purposes of a security
30 background investigation is presumed to have acted in good
31 faith and is not liable for information contained in the

1 record without a showing that the employer maliciously
2 falsified the record. A security background investigation
3 conducted under this section must ensure that a person is not
4 certified as a guardian ad litem if the person has been
5 convicted of, regardless of adjudication, or entered a plea of
6 nolo contendere or guilty to, any offense prohibited under the
7 provisions of the Florida Statutes specified in s. 435.04(2)
8 or under any similar law in another jurisdiction. Before
9 certifying an applicant to serve as a guardian ad litem, the
10 chief judge of the circuit court may request a federal
11 criminal records check of the applicant through the Federal
12 Bureau of Investigation. In analyzing and evaluating the
13 information obtained in the security background investigation,
14 the program must give particular emphasis to past activities
15 involving children, including, but not limited to,
16 child-related criminal offenses or child abuse. The program
17 has the sole discretion in determining whether to certify a
18 person based on his or her security background investigation.
19 The information collected pursuant to the security background
20 investigation is confidential and exempt from s. 119.07(1).

21 Section 50. For the purpose of incorporating the
22 amendment to section 435.04, Florida Statutes, in references
23 thereto, paragraphs (a) and (c) of subsection (3) of section
24 110.1127, Florida Statutes, are reenacted to read:

25 110.1127 Employee security checks.--

26 (3)(a) All positions in programs providing care to
27 children, the developmentally disabled, or vulnerable adults
28 for 15 hours or more per week; all permanent and temporary
29 employee positions of the central abuse hotline; and all
30 persons working under contract who have access to abuse
31 records are deemed to be persons and positions of special

1 trust or responsibility, and require employment screening
2 pursuant to chapter 435, using the level 2 standards set forth
3 in that chapter.

4 (c) All persons and employees in such positions of
5 trust or responsibility shall be required to undergo security
6 background investigations as a condition of employment and
7 continued employment. For the purposes of this subsection,
8 security background investigations shall be conducted as
9 provided in chapter 435, using the level 2 standards for
10 screening set forth in that chapter.

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

15 112.0455 Drug-Free Workplace Act.--

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

17 (a) A laboratory may analyze initial or confirmation
18 drug specimens only if:

19 1. The laboratory is licensed and approved by the
20 Agency for Health Care Administration using criteria
21 established by the United States Department of Health and
22 Human Services as general guidelines for modeling the state
23 drug testing program. Each applicant for licensure must comply
24 with 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 2 standards for screening set forth
28 in chapter 435, of the managing employee, or other similarly
29 titled individual responsible for the daily operation of the
30 laboratory, and of the financial officer, or other similarly
31 titled individual who is responsible for the financial

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

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

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

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

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

6 e. Each applicant must submit to the agency, with its
7 application, a description and explanation of any exclusions,
8 permanent suspensions, or terminations of the applicant from
9 the Medicare or Medicaid programs. Proof of compliance with
10 the requirements for disclosure of ownership and control
11 interests under the Medicaid or Medicare programs shall be
12 accepted in lieu of this submission.

13 f. 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. This requirement does not apply to a director of a
19 not-for-profit corporation or organization if the director
20 serves solely in a voluntary capacity for the corporation or
21 organization, does not regularly take part in the day-to-day
22 operational decisions of the corporation or organization,
23 receives no remuneration for his or her services on the
24 corporation or organization's board of directors, and has no
25 financial interest and has no family members with a financial
26 interest in the corporation or organization, provided that the
27 director and the not-for-profit corporation or organization
28 include in the application a statement affirming that the
29 director's relationship to the corporation satisfies the
30 requirements of this sub-subparagraph.

31

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

8 h. The agency may deny or revoke licensure if the
9 applicant:

10 (I) Has falsely represented a material fact in the
11 application required by sub-subparagraph e. or
12 sub-subparagraph f., or has omitted any material fact from the
13 application required by sub-subparagraph e. or
14 sub-subparagraph f.; or

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

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

20 2. The laboratory has written procedures to ensure
21 chain of custody.

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

24 a. The use of internal quality controls including the
25 use of samples of known concentrations which are used to check
26 the performance and calibration of testing equipment, and
27 periodic use of blind samples for overall accuracy.

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

31

1 c. Security measures implemented by the testing
2 laboratory to preclude adulteration of specimens and drug test
3 results.

4 d. Other necessary and proper actions taken to ensure
5 reliable and accurate drug test results.

6 Section 52. For the purpose of incorporating the
7 amendment to section 435.04, Florida Statutes, in references
8 thereto, subsections (1), (2), and (4) of section 381.0059,
9 Florida Statutes, are reenacted to read:

10 381.0059 Background screening requirements for school
11 health services personnel.--

12 (1) Pursuant to the provisions of chapter 435, any
13 person who provides services under a school health services
14 plan pursuant to s. 381.0056 must meet level 2 screening
15 requirements as described in s. 435.04. A person may satisfy
16 the requirements of this subsection by submitting proof of
17 compliance with the requirements of level 2 screening
18 conducted within 12 months before the date that person
19 initially provides services under a school health services
20 plan.

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

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

31

1 Section 53. For the purpose of incorporating the
2 amendment to section 435.04, Florida Statutes, in references
3 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
4 subsection (1) of section 381.60225, Florida Statutes, are
5 reenacted to read:

6 381.60225 Background screening.--

7 (1) Each applicant for certification must comply with
8 the following requirements:

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

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

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

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

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

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

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

18 Section 54. For the purpose of incorporating the
19 amendment to section 435.04, Florida Statutes, in references
20 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
21 subsection (7) of section 383.305, Florida Statutes, are
22 reenacted to read:

23 383.305 Licensure; issuance, renewal, denial,
24 suspension, revocation; fees; background screening.--

25 (7) 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 center, and of the financial officer, or other
2 similarly titled individual who is responsible for the
3 financial operation of the center, including billings for
4 patient care and services. The applicant must comply with the
5 procedures for level 2 background screening as set forth in
6 chapter 435 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 55. 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 (3) of section 390.015, Florida Statutes, are
7 reenacted to read:

8 390.015 Application for license.--

9 (3) Each applicant for licensure must comply with the
10 following requirements:

11 (a) Upon receipt of a completed, signed, and dated
12 application, the agency shall require background screening, in
13 accordance with the level 2 standards for screening set forth
14 in chapter 435, of the managing employee, or other similarly
15 titled individual who is responsible for the daily operation
16 of the clinic, and financial officer, or other similarly
17 titled individual who is responsible for the financial
18 operation of the clinic, including billings for patient care
19 and services. The applicant must comply with the procedures
20 for level 2 background screening as set forth in chapter 435,
21 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
24 probable cause to believe that he or she has been convicted of
25 a crime or has committed any other offense prohibited under
26 the level 2 standards for screening set forth in chapter 435.

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

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 standard license may be granted to the applicant
10 upon the agency's receipt of a report of the results of the
11 Federal 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 (f) Each applicant must submit to the agency a
24 description and explanation of any conviction of an offense
25 prohibited under the level 2 standards of chapter 435 by a
26 member of the board of directors of the applicant, its
27 officers, or any individual owning 5 percent or more of the
28 applicant. This requirement does not apply to a director of a
29 not-for-profit corporation or organization if the director
30 serves solely in a voluntary capacity for the corporation or
31 organization, does not regularly take part in the day-to-day

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

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

17 Section 56. For the purpose of incorporating the
18 amendment to section 435.04, Florida Statutes, in references
19 thereto, subsection (1) of section 393.0655, Florida Statutes,
20 is reenacted to read:

21 393.0655 Screening of direct service providers.--

22 (1) MINIMUM STANDARDS.--The department shall require
23 employment screening pursuant to chapter 435, using the level
24 2 standards for screening set forth in that chapter, for
25 direct service providers who are unrelated to their clients.

26 Section 57. 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 (6) of section 393.067, Florida Statutes, are
30 reenacted to read:

31

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

3 (6) Each applicant for licensure as an intermediate
4 care facility for the developmentally disabled must comply
5 with the 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 facility, 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 resident care and 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 standard license may be granted to the applicant
5 upon the agency's receipt of a report of the results of the
6 Federal 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 58. Paragraph (a) of subsection (1) of section
13 394.4572, Florida Statutes, is amended to read:

14 394.4572 Screening of mental health personnel.--

15 (1)(a) The department and the Agency for Health Care
16 Administration shall require employment screening for mental
17 health personnel using the standards for level 2 screening set
18 forth in chapter 435. "Mental health personnel" includes all
19 program directors, professional clinicians, staff members, and
20 volunteers working in public or private mental health programs
21 and facilities who have direct contact with unmarried patients
22 under the age of 18 years. For the purpose of this chapter,
23 employment screening of mental health personnel also includes,
24 but is not limited to, employment history checks as provided
25 in chapter 435.

26 Section 59. 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 (13) of section 394.875, Florida Statutes, are
30 reenacted to read:

31

1 394.875 Crisis stabilization units, residential
2 treatment facilities, and residential treatment centers for
3 children and adolescents; authorized services; license
4 required; penalties.--

5 (13) 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 and financial
11 officer, or other similarly titled individual who is
12 responsible for the financial operation of the facility,
13 including billings for client care and services. The applicant
14 must comply with the procedures for level 2 background
15 screening as set forth in chapter 435, as well as the
16 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 standard license may be granted to the applicant
5 upon the agency's receipt of a report of the results of the
6 Federal 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 60. For the purpose of incorporating the
13 amendment to section 435.04, Florida Statutes, in references
14 thereto, subsections (1), (2), (3), (4), (6), and (8) of
15 section 395.0055, Florida Statutes, are reenacted to read:

16 395.0055 Background screening.--Each applicant for
17 licensure must comply with the following requirements:

18 (1) Upon receipt of a completed, signed, and dated
19 application, the agency shall require background screening of
20 the managing employee in accordance with the level 2 standards
21 for screening set forth in chapter 435, as well as the
22 requirements of s. 435.03(3).

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

30 (3) 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 licensure requirements of this state is acceptable
3 in fulfillment of subsection (1).

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

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

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

8 Section 61. For the purpose of incorporating the
9 amendment to section 435.04, Florida Statutes, in references
10 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
11 subsection (4) of section 395.0199, Florida Statutes, are
12 reenacted to read:

13 395.0199 Private utilization review.--

14 (4) Each applicant for registration must comply with
15 the following requirements:

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

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

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

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

3 (d) A provisional registration 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 registration may be granted to the
12 applicant upon the agency's receipt of a report of the results
13 of the Federal Bureau of Investigation background screening
14 for each individual required by this section to undergo
15 background screening which confirms that all standards have
16 been met, or upon the granting of a disqualification exemption
17 by the agency as set forth in chapter 435. Any other person
18 who is required to undergo level 2 background screening may
19 serve in his or her capacity pending the agency's receipt of
20 the report from the Federal Bureau of Investigation. However,
21 the person may not continue to serve if the report indicates
22 any 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 registration may not be granted to an applicant
13 if the applicant or managing employee has been found guilty
14 of, 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 62. For the purpose of incorporating the
20 amendment to section 435.04, Florida Statutes, in references
21 thereto, paragraph (a) of subsection (1) of section 397.451,
22 Florida Statutes, is reenacted to read:

23 397.451 Background checks of service provider
24 personnel.--

25 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
26 EXCEPTIONS.--

27 (a) Background checks shall apply as follows:

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

31

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

5 Section 63. For the purpose of incorporating the
6 amendment to section 435.04, Florida Statutes, in references
7 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
8 (4) of section 400.071, Florida Statutes, are reenacted to
9 read:

10 400.071 Application for license.--

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 of
15 the applicant, in accordance with the level 2 standards for
16 screening set forth in chapter 435. As used in this
17 subsection, the term "applicant" means the facility
18 administrator, or similarly titled individual who is
19 responsible for the day-to-day operation of the licensed
20 facility, and the facility financial officer, or similarly
21 titled individual who is responsible for the financial
22 operation of the licensed facility.

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

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

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

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 shall 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 Section 64. 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 (4) of section 400.471, Florida Statutes, are
25 reenacted to read:

26 400.471 Application for license; fee; provisional
27 license; temporary permit.--

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 administrator, or a
4 similarly titled person who is responsible for the day-to-day
5 operation of the licensed home health agency, and the
6 financial officer, or similarly titled individual who is
7 responsible for the financial operation of the licensed home
8 health agency.

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

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

1 include in the application a statement affirming that the
2 director's relationship to the corporation satisfies the
3 requirements of this paragraph.

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

11 Section 65. For the purpose of incorporating the
12 amendment to section 435.04, Florida Statutes, in references
13 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
14 subsection (2) of section 400.506, Florida Statutes, are
15 reenacted to read:

16 400.506 Licensure of nurse registries; requirements;
17 penalties.--

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 employee, or other similarly
24 titled individual who is responsible for the daily operation
25 of the nurse registry, and of the financial officer, or other
26 similarly titled individual who is responsible for the
27 financial operation of the registry, including billings for
28 patient care and services. The applicant shall comply with the
29 procedures for level 2 background screening as set forth in
30 chapter 435.

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 or assisted living licensure requirements of this
10 state is acceptable in fulfillment of the requirements of
11 paragraph (a).

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

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

19 (g) 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 66. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, section 400.5572, Florida Statutes, is reenacted to
29 read:

30 400.5572 Background screening.--

31

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

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

7 2. An officer or board member if the owner of the
8 adult day care center is a firm, corporation, partnership, or
9 association, or any person owning 5 percent or more of the
10 facility, if the agency has probable cause to believe that
11 such person has been convicted of any offense prohibited by s.
12 435.04. For each officer, board member, or person owning 5
13 percent or more who has been convicted of any such offense,
14 the facility shall submit to the agency a description and
15 explanation of the conviction at the time of license
16 application. This subparagraph does not apply to a board
17 member of a not-for-profit corporation or organization if the
18 board member serves solely in a voluntary capacity, does not
19 regularly take part in the day-to-day operational decisions of
20 the corporation or organization, receives no remuneration for
21 his or her services, and has no financial interest and has no
22 family members with a financial interest in the corporation or
23 organization, provided that the board member and facility
24 submit a statement affirming that the board member's
25 relationship to the facility satisfies the requirements of
26 this subparagraph.

27 (b) Proof of compliance with level 2 screening
28 standards which has been submitted within the previous 5 years
29 to meet any facility or professional licensure requirements of
30 the agency or the Department of Health satisfies the
31 requirements of this subsection.

1 (c) The agency may grant a provisional license to an
2 adult day care center applying for an initial license when
3 each individual required by this subsection to undergo
4 screening has completed the Department of Law Enforcement
5 background check, but has not yet received results from the
6 Federal Bureau of Investigation, or when a request for an
7 exemption from disqualification has been submitted to the
8 agency pursuant to s. 435.07, but a response has not been
9 issued.

10 (2) The owner or administrator of an adult day care
11 center must conduct level 1 background screening as set forth
12 in chapter 435 on all employees hired on or after October 1,
13 1998, who provide basic services or supportive and optional
14 services to the participants. Such persons satisfy this
15 requirement if:

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

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

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

7 Section 67. For the purpose of incorporating the
8 amendment to section 435.04, Florida Statutes, in references
9 thereto, paragraph (a) of subsection (3) of section 400.607,
10 Florida Statutes, is reenacted to read:

11 400.607 Denial, suspension, or revocation of license;
12 imposition of administrative fine; grounds; injunctions.--

13 (3) The agency may deny or revoke a license upon a
14 determination that:

15 (a) Persons subject to level 2 background screening
16 under s. 400.6065 do not meet the screening standards of s.
17 435.04, and exemptions from disqualification have not been
18 provided by the agency.

19 Section 68. 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 (4) of section 400.801, Florida Statutes, are
23 reenacted to read:

24 400.801 Homes for special services.--

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

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

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

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

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

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

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

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

4 Section 69. For the purpose of incorporating the
5 amendment to section 435.04, Florida Statutes, in references
6 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
7 subsection (3) of section 400.805, Florida Statutes, are
8 reenacted to read:

9 400.805 Transitional living facilities.--

10 (3) 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 facility, and of the financial officer, or other
18 similarly titled individual who is responsible for the
19 financial operation of the facility, including billings for
20 client care and services. The applicant must comply with the
21 procedures for level 2 background screening as set forth in
22 chapter 435.

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 health care or assisted living licensure requirements of this

1 state is acceptable in fulfillment of the requirements of
2 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 70. 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 (5) of section 400.906, Florida Statutes, are
23 reenacted to read:

24 400.906 Initial application for license.--

25 (5) 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 operator, and of the financial officer,
31 or other similarly titled individual who is responsible for

1 the financial operation of the center, including billings for
2 patient care and 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 may require background screening of any
6 other individual who is an applicant if the agency has a
7 reasonable basis for believing that he or she has been
8 convicted of a crime or has committed any other offense
9 prohibited under the level 2 standards for screening set forth
10 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 license may be granted to an
17 applicant when each individual required by this section to
18 undergo background screening has met the standards for the
19 Department of Law Enforcement background check, but the agency
20 has not yet received background screening results from the
21 Federal Bureau of Investigation, or a request for a
22 disqualification exemption has been submitted to the agency as
23 set forth in chapter 435, but a response has not yet been
24 issued. A standard license may be granted to the applicant
25 upon the agency's receipt of a report of the results of the
26 Federal Bureau of Investigation background screening for each
27 individual required by this section to undergo background
28 screening which confirms that all standards have been met, or
29 upon the granting of a disqualification exemption by the
30 agency as set forth in chapter 435. Any other person who is
31 required to undergo level 2 background screening may serve in

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

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

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

1 Section 71. For the purpose of incorporating the
2 amendment to section 435.04, Florida Statutes, in references
3 thereto, paragraphs (a), (b), (c), (e), and (f) of subsection
4 (5) of section 400.931, Florida Statutes, are reenacted to
5 read:

6 400.931 Application for license; fee; provisional
7 license; temporary permit.--

8 (5) Each applicant for licensure must comply with the
9 following requirements:

10 (a) Upon receipt of a completed, signed, and dated
11 application, the agency shall require background screening of
12 the applicant, in accordance with the level 2 standards for
13 screening set forth in chapter 435. As used in this
14 subsection, the term "applicant" means the general manager and
15 the financial officer or similarly titled individual who is
16 responsible for the financial operation of the licensed
17 facility.

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

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

29 (e) Each applicant must submit to the agency a
30 description and explanation of any conviction of an offense
31 prohibited under the level 2 standards of chapter 435 by a

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

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

23 Section 72. For the purpose of incorporating the
24 amendment to section 435.04, Florida Statutes, in references
25 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection
26 (10) of section 400.962, Florida Statutes, are reenacted to
27 read:

28 400.962 License required; license application.--
29 (10)(a) Upon receipt of a completed, signed, and dated
30 application, the agency shall require background screening of
31 the applicant, in accordance with the level 2 standards for

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

8 (b) The agency may require background screening for a
9 member of the board of directors of the licensee or an officer
10 or an individual owning 5 percent or more of the licensee if
11 the agency has probable cause to believe that such individual
12 has been convicted of an offense prohibited under the level 2
13 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 licensure requirements under this chapter satisfies the
18 requirements of paragraph (a). Proof of compliance with
19 background screening which has been submitted within the
20 previous 5 years to fulfill the requirements of the Financial
21 Services Commission and the Office of Insurance Regulation
22 under chapter 651 as part of an application for a certificate
23 of authority to operate a continuing care retirement community
24 satisfies the requirements for the Department of Law
25 Enforcement and Federal Bureau of Investigation background
26 checks.

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 granted by the agency
17 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's 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 Section 73. For the purpose of incorporating the
6 amendment to section 435.04, Florida Statutes, in references
7 thereto, paragraphs (b) and (d) of subsection (7) of section
8 400.991, Florida Statutes, are reenacted to read:

9 400.991 License requirements; background screenings;
10 prohibitions.--

11 (7) Each applicant for licensure shall comply with the
12 following requirements:

13 (b) Upon receipt of a completed, signed, and dated
14 application, the agency shall require background screening of
15 the applicant, in accordance with the level 2 standards for
16 screening set forth in chapter 435. Proof of compliance with
17 the level 2 background screening requirements of chapter 435
18 which has been submitted within the previous 5 years in
19 compliance with any other health care licensure requirements
20 of this state is acceptable in fulfillment of this paragraph.

21 (d) A license may not be granted to a clinic if the
22 applicant has been found guilty of, regardless of
23 adjudication, or has entered a plea of nolo contendere or
24 guilty to, any offense prohibited under the level 2 standards
25 for screening set forth in chapter 435, or a violation of
26 insurance fraud under s. 817.234, within the past 5 years. If
27 the applicant has been convicted of an offense prohibited
28 under the level 2 standards or insurance fraud in any
29 jurisdiction, the applicant must show that his or her civil
30 rights have been restored prior to submitting an application.

31

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

5 402.302 Definitions.--

6 (2) "Child care facility" includes any child care
7 center or child care arrangement which provides child care for
8 more than five children unrelated to the operator and which
9 receives a payment, fee, or grant for any of the children
10 receiving care, wherever operated, and whether or not operated
11 for profit. The following are not included:

12 (e) Operators of transient establishments, as defined
13 in chapter 509, which provide child care services solely for
14 the guests of their establishment or resort, provided that all
15 child care personnel of the establishment are screened
16 according to the level 2 screening requirements of chapter
17 435.

18 Section 75. For the purpose of incorporating the
19 amendment to section 435.04, Florida Statutes, in references
20 thereto, paragraph (a) of subsection (2) of section 402.305,
21 Florida Statutes, is reenacted to read:

22 402.305 Licensing standards; child care facilities.--

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

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

28 Section 76. For the purpose of incorporating the
29 amendment to section 435.04, Florida Statutes, in references
30 thereto, subsection (3) of section 402.3054, Florida Statutes,
31 is reenacted to read:

1 402.3054 Child enrichment service providers.--

2 (3) A child enrichment service provider shall be of
3 good moral character based upon screening. This screening
4 shall be conducted as provided in chapter 435, using the level
5 2 standards for screening set forth in that chapter. A child
6 enrichment service provider must meet the screening
7 requirements prior to providing services to a child in a child
8 care facility. A child enrichment service provider who has met
9 the screening standards shall not be required to be under the
10 direct and constant supervision of child care personnel.

11 Section 77. For the purpose of incorporating the
12 amendment to section 435.04, Florida Statutes, in references
13 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of
14 subsection (2) of section 483.30, Florida Statutes, are
15 reenacted to read:

16 483.30 Licensing of centers.--

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

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

30 (b) The agency may require background screening of any
31 other individual who is an applicant if the agency has

1 probable cause to believe that he or she has been convicted of
2 a crime or has committed any other offense prohibited under
3 the level 2 standards for screening set forth in chapter 435.

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

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

31

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

19 (g) 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 78. 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 (2) of section 483.101, Florida Statutes, are
30 reenacted to read:

31 483.101 Application for clinical laboratory license.--

1 (2) Each applicant for licensure must comply with the
2 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 director or other similarly
7 titled individual who is responsible for the daily operation
8 of the laboratory and of the financial officer, or other
9 similarly titled individual who is responsible for the
10 financial operation of the laboratory, including billings for
11 patient services. The applicant must comply with the
12 procedures for level 2 background screening as set forth in
13 chapter 435, as well as the requirements of s. 435.03(3).

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

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

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

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

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

31

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

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

10 Section 79. For the purpose of incorporating the
11 amendment to section 435.04, Florida Statutes, in references
12 thereto, subsection (5) of section 744.1085, Florida Statutes,
13 is reenacted to read:

14 744.1085 Regulation of professional guardians;
15 application; bond required; educational requirements.--

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

20 Section 80. For the purpose of incorporating the
21 amendment to section 435.04, Florida Statutes, in references
22 thereto, paragraph (b) of subsection (2) of section 984.01,
23 Florida Statutes, is reenacted to read:

24 984.01 Purposes and intent; personnel standards and
25 screening.--

26 (2) The Department of Juvenile Justice or the
27 Department of Children and Family Services, as appropriate,
28 may contract with the Federal Government, other state
29 departments and agencies, county and municipal governments and
30 agencies, public and private agencies, and private individuals

31

1 and corporations in carrying out the purposes of, and the
2 responsibilities established in, this chapter.

3 (b) The Department of Juvenile Justice and the
4 Department of Children and Family Services shall require
5 employment screening pursuant to chapter 435, using the level
6 2 standards set forth in that chapter for personnel in
7 programs for children or youths.

8 Section 81. For the purpose of incorporating the
9 amendment to section 435.04, Florida Statutes, in references
10 thereto, paragraph (b) of subsection (2) of section 985.01,
11 Florida Statutes, is reenacted to read:

12 985.01 Purposes and intent; personnel standards and
13 screening.--

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

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

26 Section 82. For the purpose of incorporating the
27 amendment to section 435.04, Florida Statutes, in references
28 thereto, paragraphs (a) and (b) of subsection (7) of section
29 1002.36, Florida Statutes, are reenacted to read:

30 1002.36 Florida School for the Deaf and the Blind.--

31 (7) PERSONNEL SCREENING.--

1 (a) The Board of Trustees of the Florida School for
2 the Deaf and the Blind shall, because of the special trust or
3 responsibility of employees of the school, require all
4 employees and applicants for employment to undergo personnel
5 screening and security background investigations as provided
6 in chapter 435, using the level 2 standards for screening set
7 forth in that chapter, as a condition of employment and
8 continued employment. The cost of a personnel screening and
9 security background investigation for an employee of the
10 school shall be paid by the school. The cost of such a
11 screening and investigation for an applicant for employment
12 may be paid by the school.

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

15 1. The applicant or employee shall submit to the
16 Florida School for the Deaf and the Blind a complete set of
17 fingerprints taken by an authorized law enforcement agency or
18 an employee of the Florida School for the Deaf and the Blind
19 who is trained to take fingerprints. The Florida School for
20 the Deaf and the Blind shall submit the fingerprints to the
21 Department of Law Enforcement for state processing and the
22 Federal Bureau of Investigation for federal processing.

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

27 b. New personnel shall be on a probationary status
28 pending a determination of compliance with such minimum
29 standards for good moral character. This paragraph is in
30 addition to any probationary status provided for by Florida
31

1 law or Florida School for the Deaf and the Blind rules or
2 collective bargaining contracts.

3 3. The Florida School for the Deaf and the Blind shall
4 review the record of the applicant or employee with respect to
5 the crimes contained in s. 435.04 and shall notify the
6 applicant or employee of its findings. When disposition
7 information is missing on a criminal record, it shall be the
8 responsibility of the applicant or employee, upon request of
9 the Florida School for the Deaf and the Blind, to obtain and
10 supply within 30 days the missing disposition information to
11 the Florida School for the Deaf and the Blind. Failure to
12 supply missing information within 30 days or to show
13 reasonable efforts to obtain such information shall result in
14 automatic disqualification of an applicant and automatic
15 termination of an employee.

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

20 Section 83. For the purpose of incorporating the
21 amendments to sections 943.0585 and 943.059, Florida Statutes,
22 in references thereto, paragraph (a) of subsection (2) and
23 subsection (6) of section 943.0582, Florida Statutes, are
24 reenacted to read:

25 943.0582 Prearrest, postarrest, or teen court
26 diversion program expunction.--

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

30 1. The provisions of s. 943.0585(4)(a) do not apply,
31 except that the criminal history record of a person whose

1 record is expunged pursuant to this section shall be made
2 available only to criminal justice agencies for the purpose of
3 determining eligibility for prearrest, postarrest, or teen
4 court diversion programs; when the record is sought as part of
5 a criminal investigation; or when the subject of the record is
6 a candidate for employment with a criminal justice agency. For
7 all other purposes, a person whose record is expunged under
8 this section may lawfully deny or fail to acknowledge the
9 arrest and the charge covered by the expunged record.

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

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

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

23 943.053 Dissemination of criminal justice information;
24 fees.--

25 (7) Notwithstanding the provisions of s. 943.0525, and
26 any user agreements adopted pursuant thereto, and
27 notwithstanding the confidentiality of sealed records as
28 provided for in s. 943.059, the sheriff of any county that has
29 contracted with a private entity to operate a county detention
30 facility pursuant to the provisions of s. 951.062 shall
31 provide that private entity, in a timely manner, copies of the

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

6 (8) 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 Corrections
10 shall provide, in a timely manner, copies of the Florida
11 criminal history records for inmates housed in a private state
12 correctional facility to the private entity under contract to
13 operate the facility pursuant to the provisions of s. 944.105
14 or s. 957.03. The department may assess a charge for the
15 Florida criminal history records pursuant to the provisions of
16 chapter 119. Sealed records received by the private entity
17 under this section remain confidential and exempt from the
18 provisions of s. 119.07(1).

19 (9) Notwithstanding the provisions of s. 943.0525 and
20 any user agreements adopted pursuant thereto, and
21 notwithstanding the confidentiality of sealed records as
22 provided for in s. 943.059, the Department of Juvenile Justice
23 or any other state or local criminal justice agency may
24 provide copies of the Florida criminal history records for
25 juvenile offenders currently or formerly detained or housed in
26 a contracted juvenile assessment center or detention facility
27 or serviced in a contracted treatment program and for
28 employees or other individuals who will have access to these
29 facilities, only to the entity under direct contract with the
30 Department of Juvenile Justice to operate these facilities or
31 programs pursuant to the provisions of s. 985.411. The

1 criminal justice agency providing such data may assess a
2 charge for the Florida criminal history records pursuant to
3 the provisions of chapter 119. Sealed records received by the
4 private entity under this section remain confidential and
5 exempt from the provisions of s. 119.07(1). Information
6 provided under this section shall be used only for the
7 criminal justice purpose for which it was requested and may
8 not be further disseminated.

9 Section 85. The creation of sections 393.135,
10 394.4593, and 916.1075, Florida Statutes, by this act shall
11 apply to offenses committed on or after the effective date of
12 this act.

13 Section 86. (1) The Department of Children and Family
14 Services shall competitively bid the services of one or more
15 providers to perform the eligibility determination activities
16 related to food stamps, Medicaid, Temporary Assistance for
17 Needy Families-Cash Assistance, and other public assistance
18 programs under its jurisdiction. The competitively procured
19 services shall initially be performed in one predominantly
20 rural district and one predominantly urban district. The
21 services contract or contracts for the two selected districts
22 must be implemented by September 30, 2004.

23 (2) The competitive bid process shall afford the
24 department employees currently performing eligibility
25 determination services the opportunity to submit an offer to
26 continue to perform the services. The bid process shall
27 provide the employees a reasonable opportunity to organize
28 prior to the beginning of the formal competitive process. The
29 department shall provide the employees with reasonable legal,
30 procurement, and fiscal expertise as requested by the
31 employees. Notwithstanding section 287.057, Florida Statutes,

1 the employees may select consultants to assist in preparing
2 the offer. The department may use state funds to compensate
3 consultants whose services are limited exclusively to
4 assistance rendered to the employees in preparing a response
5 to the bid solicitation.

6 (3) The Technology Review Workgroup must give prior
7 written approval before any technological change proposed for
8 the FLORIDA System as part of a competitively procured
9 contract is implemented.

10 (4) Prior to contracting for the performance of
11 eligibility services in any additional district, the
12 department shall assess the quality of the services delivered
13 in the one rural and one urban districts. The department's
14 assessment shall include, but need not be limited to, an
15 evaluation of the following elements, by eligibility program,
16 as compared to baseline data from the eligibility program
17 before the services were privately performed:

18 (a) Error rates;

19 (b) Timeliness of eligibility determination;

20 (c) Customer satisfaction; and

21 (d) Costs associated with operation of the eligibility
22 program.

23
24 In addition, the assessment must determine whether any
25 technological changes implemented have resulted in
26 improvements in program efficiency.

27 (5)(a) Upon completing the assessment, the department
28 shall prepare a report of its findings. The initial status
29 report shall describe the implementation of the contracted
30 eligibility services in the two districts and must be
31 submitted by December 30, 2004. A final report, including an

1 evaluation of all elements listed in subsection (4) and, if
2 recommended, a plan for future implementation, including a
3 timeframe and proposed roll-out schedule by district, must be
4 submitted by January 30, 2005. The reports shall be submitted
5 to the Governor, the President of the Senate, and the Speaker
6 of the House of Representatives.

7 (b) Based on the results in the reports, the Governor
8 shall direct the department regarding implementing the
9 privately performed eligibility determinations in additional
10 districts unless countermanded by the Legislature.

11 (c) If implementation is continued beyond June 30,
12 2005, reports addressing, at a minimum, the elements in
13 subsection (4) must be submitted to the Governor and
14 Legislature semiannually, beginning January 1, 2006, until
15 privately performed eligibility determinations have either
16 ceased or been in place statewide for 3 years.

17 Section 87. Subsection (3) of section 39.304, Florida
18 Statutes, is amended to read:

19 39.304 Photographs, medical examinations, X rays, and
20 medical treatment of abused, abandoned, or neglected child.--

21 (3) Any facility licensed under chapter 395 shall
22 provide to the department, its agent, a law enforcement
23 agency, or a child protection team that contracts with the
24 department any photograph or report on examinations made or X
25 rays taken under ~~pursuant to~~ this section, or copies thereof,
26 for the purpose of investigation or assessment of cases of
27 abuse, abandonment, neglect, or exploitation of children.

28 Section 88. Section 39.302, Florida Statutes, is
29 amended to read:

30 39.302 Protective investigations of institutional
31 child abuse, abandonment, or neglect.--

1 (1) The department shall conduct a child protective
2 investigation of each report of institutional child abuse,
3 abandonment, or neglect. Upon receipt of a report that
4 alleges that an employee or agent of the department, or any
5 other entity or person covered by s. 39.01(31) or (47), acting
6 in an official capacity, has committed an act of child abuse,
7 abandonment, or neglect, the department shall initiate a child
8 protective investigation within the timeframe established by
9 the central abuse hotline pursuant to s. 39.201(5).

10 (a) Upon initiation of the child protective
11 investigation, the department shall and orally notify the
12 appropriate ~~state attorney~~, law enforcement agency, and
13 licensing or oversight agency of the allegation of child
14 abuse, abandonment, or neglect. ~~These agencies shall~~
15 immediately conduct A joint investigation shall be conducted,
16 unless independent investigations are more feasible. When
17 conducting a joint investigation, these agencies shall be
18 entitled to full access to the information gathered by the
19 department in the course of the investigation, as allowed by
20 law.

21 (b) The department shall inform the owner or operator
22 of the facility of the report. When conducting investigations
23 onsite or having face-to-face interviews with the child, such
24 investigation visits shall be unannounced unless it is
25 determined by the department or its agent that such
26 unannounced visits would threaten the safety of the child. The
27 department shall notify the child's parent or legal custodian
28 of the allegation within 48 hours after commencement of the
29 investigation. If determined necessary or if there is a need
30 for further services, an on-site visit to the child's place of
31 residence shall be conducted as part of the protective

1 investigation.~~When a facility is exempt from licensing, the~~
2 ~~department shall inform the owner or operator of the facility~~
3 ~~of the report. Each agency conducting a joint investigation~~
4 ~~shall be entitled to full access to the information gathered~~
5 ~~by the department in the course of the investigation. A~~
6 ~~protective investigation must include an onsite visit of the~~
7 ~~child's place of residence. In all cases, the department shall~~
8 ~~make a full written report to the state attorney within 3~~
9 ~~working days after making the oral report. A criminal~~
10 ~~investigation shall be coordinated, whenever possible, with~~
11 ~~the child protective investigation of the department. Any~~
12 ~~interested person who has information regarding the offenses~~
13 ~~described in this subsection may forward a statement to the~~
14 ~~state attorney as to whether prosecution is warranted and~~
15 ~~appropriate. Within 15 days after the completion of the~~
16 ~~investigation, the state attorney shall report the findings to~~
17 ~~the department and shall include in such report a~~
18 ~~determination of whether or not prosecution is justified and~~
19 ~~appropriate in view of the circumstances of the specific case.~~

20 (2)(a) If in the course of the child protective
21 investigation, the department finds that ~~a subject of a~~
22 ~~report, by continued contact with children in care,~~
23 ~~constitutes~~ a threatened harm to the physical health, mental
24 health, or welfare of the child continues to exist, the agency
25 or department responsible for the ongoing regulation or
26 oversight of the particular facility shall ensure that the
27 facility immediately implements the actions identified by the
28 department in order to respond to the immediate safety
29 concern. Such actions may include, but are not limited to,
30 restricting children, the department may restrict a subject's
31 access to the child ~~children~~ pending the outcome of the

1 investigation. The agency or department responsible for the
2 ongoing regulation or oversight of the facility shall ensure
3 that the facility continues the implemented action pending the
4 outcome of the investigation.The department or its agent
5 shall employ the least restrictive means necessary to
6 safeguard the physical health, mental health, and welfare of
7 the children in care. This authority applies ~~shall apply~~ only
8 to a child protective investigation ~~investigations~~ in which
9 there is some evidence that child abuse, abandonment, or
10 neglect has occurred and must be authorized by the protective
11 investigative supervisor. A subject of a report whose access
12 to the child ~~children~~ in care has been restricted and a
13 facility that is required to implement an action to respond to
14 the immediate safety concern pursuant to this subsection are
15 ~~is~~ entitled to petition the circuit court for judicial review.
16 The court shall enter written findings of fact based upon the
17 preponderance of evidence that child abuse, abandonment, or
18 neglect did occur and that the department's restrictive action
19 ~~against a subject of the report~~ was justified in order to
20 safeguard the physical health, mental health, and welfare of
21 the child ~~children~~ in care. The restrictive action of the
22 department shall be effective for no more than 90 days without
23 a judicial finding supporting the actions of the department.

24 (b) Upon completion of the department's child
25 protective investigation, the department may recommend
26 corrective action to the facility, and to the agency or
27 department with ongoing regulation or oversight, in order to
28 prevent further abusive acts. The department may also make
29 application to the circuit court for continued restrictive
30 action against any person necessary to safeguard the physical
31 health, mental health, and welfare of the children in care.

1 ~~(3) Pursuant to the restrictive actions described in~~
2 ~~subsection (2), in cases of institutional abuse, abandonment,~~
3 ~~or neglect in which the removal of a subject of a report will~~
4 ~~result in the closure of the facility, and when requested by~~
5 ~~the owner of the facility, the department may provide~~
6 ~~appropriate personnel to assist in maintaining the operation~~
7 ~~of the facility. The department may provide assistance when it~~
8 ~~can be demonstrated by the owner that there are no reasonable~~
9 ~~alternatives to such action. The length of the assistance~~
10 ~~shall be agreed upon by the owner and the department; however,~~
11 ~~the assistance shall not be for longer than the course of the~~
12 ~~restrictive action imposed pursuant to subsection (2). The~~
13 ~~owner shall reimburse the department for the assistance of~~
14 ~~personnel provided.~~

15 (3)~~(4)~~ The department shall notify the Florida local
16 advocacy council in the appropriate district of the department
17 as to every report of institutional child abuse, abandonment,
18 or neglect in the district in which a client of the department
19 is alleged or shown to have been abused, abandoned, or
20 neglected, which notification shall be made within 48 hours
21 after the department commences its investigation.

22 (4)~~(5)~~ The department shall notify the state attorney
23 and the appropriate law enforcement agency of any case of
24 other child abuse, abandonment, or neglect ~~case~~ in which
25 criminal conduct is suspected or for any other reason, a
26 criminal investigation is deemed appropriate by the
27 department. A criminal investigation shall be coordinated,
28 whenever possible, with the child protective investigation of
29 the department.

30 ~~(6) In cases of institutional child abuse,~~
31 ~~abandonment, or neglect in which the multiplicity of reports~~

1 ~~of abuse, abandonment, or neglect or the severity of the~~
2 ~~allegations indicates the need for specialized investigation~~
3 ~~by the department in order to afford greater safeguards for~~
4 ~~the physical health, mental health, and welfare of the~~
5 ~~children in care, the department shall provide a team of~~
6 ~~persons specially trained in the areas of child abuse,~~
7 ~~abandonment, and neglect investigations, diagnosis, and~~
8 ~~treatment to assist the local office of the department in~~
9 ~~expediting its investigation and in making recommendations for~~
10 ~~restrictive actions and to assist in other ways deemed~~
11 ~~necessary by the department in order to carry out the~~
12 ~~provisions of this section. The specially trained team shall~~
13 ~~also provide assistance to any investigation of the~~
14 ~~allegations by local law enforcement and the Department of Law~~
15 ~~Enforcement.~~

16 (5) The department shall adopt by rule procedures for
17 child protective investigations within each type of facility
18 subject to this section. The rule must include, but need not
19 be limited to, procedures for the conduct of investigations
20 within the facilities; the use of child safety assessments
21 that are specific to each broad category of institution; the
22 sharing of information among and collaboration between the
23 department, the facilities, and the licensing or oversight
24 agencies; and the implementation of this section.

25 Section 89. The Department of Children and Family
26 Services shall develop and adopt by rule minimum requirements
27 for hiring and training child protective staff. The rules
28 shall provide minimum requirements for:

29 (1) Education and experience for child protective
30 investigators and child protective investigative supervisors,
31 as recommended in the Protective Investigator Retention

1 Workgroup report dated December 31, 2003, and for screening
2 and hiring, including, but not limited to, exposure to the job
3 functions prior to actual employment, thorough background
4 checks, use of an effective characteristic-based screening
5 tool, and involvement of the supervisor in the selection
6 decision; and

7 (2) Training processes, which must include, but need
8 not be limited to, requirements for preservice training and
9 certification, requirements for local-service-area-specific
10 training that incorporates a strong on-the-job training
11 component and requires a protected caseload for newly hired
12 employees, and the provision of specialty or advanced
13 training, including training in the investigation of
14 institutional child abuse.

15 Section 90. The Department of Children and Family
16 Services shall submit a report by December 31, 2004, to the
17 Governor, the President of the Senate, and the Speaker of the
18 House of Representatives regarding the implementation of the
19 recommendations of Interim Project Report 2004-113 and the
20 Protective Investigator Retention Workgroup Report dated
21 December 31, 2003. Specifically, this report must contain:

22 (1) A full program design, as a pilot project, for an
23 alternative response system in Florida which is based, to the
24 extent possible, on the model recommended in the Protective
25 Investigator Retention Workgroup Report, including detailed
26 requirements of the multiple elements involved in the proposed
27 system, the expectations of each of the entities, possible
28 sites for the pilot project, and an evaluation component. This
29 alternative response system shall provide for different levels
30 of investigative activities, including a streamlined track, a
31 family assessment track, and a traditional investigative

1 track. The program design shall be developed in collaboration
2 with all potential stakeholders, including, but not limited
3 to, district protective investigative staff, the sheriffs'
4 offices conducting child protective investigations, and
5 community-based-care lead agencies.

6 (2) The results of an examination of the information
7 needed by the court at each stage of a dependency case and
8 recommendations for any revisions to the information that is
9 required to be provided or for revisions in the timing of the
10 submission of such information to the court. This examination
11 and development of recommendations shall be conducted jointly
12 with the Steering Committee of Families and Children of the
13 Supreme Court.

14 (3) The status of the development of rules to
15 institute minimum hiring and training requirements for child
16 protective staff.

17 (4) The actions taken to implement the remaining
18 recommendations of the Protective Investigative Retention
19 Workgroup.

20 Section 91. Subsections (3), (4), (5), and (6) of
21 section 61.21, Florida Statutes, are amended to read:

22 61.21 Parenting course authorized; fees; required
23 attendance authorized; contempt.--

24 (3) Each course provider offering a parenting course
25 pursuant to this section must be approved by the Department of
26 Children and Family Services. The provider and course must
27 comply with this section and the rules developed under this
28 section.

29 (a) The Department of Children and Family Services
30 shall provide each judicial circuit with a list of approved
31 course providers and sites at which the parent education and

1 family stabilization course may be completed. Each judicial
2 circuit must make information regarding all course providers
3 approved for their circuit available to all parents.

4 (b) Parent education and family stabilization course
5 providers may charge a reasonable fee for each course
6 participant. The Department of Children and Family Services
7 shall include on the list of approved course providers and
8 sites for each circuit at least one site in that circuit where
9 the parent education and family stabilization course may be
10 completed on a sliding fee scale, if available.

11 (c) The Department of Children and Family Services
12 shall include on the list of approved course providers,
13 without limitation as to the area of the state for which the
14 course is approved, a minimum of one statewide approved course
15 to be provided through the Internet and one statewide approved
16 course to be provided through correspondence. The purpose of
17 the Internet and correspondence courses is to ensure that the
18 parent education and stabilization course is available in the
19 home county of each state resident and to those out-of-state
20 persons subject to this section.

21 (d) The Department of Children and Family Services may
22 remove a provider from the list of approved course providers
23 for noncompliance with the requirements of this section or the
24 rules adopted under this section.

25 (e) The Department of Children and Family Services
26 shall adopt rules to implement subsections (2) and (3).

27 (4)~~(3)~~ All parties to a dissolution of marriage
28 proceeding with minor children or a paternity action which
29 involves issues of parental responsibility shall be required
30 to complete the Parent Education and Family Stabilization
31 Course prior to the entry by the court of a final judgment.

1 The court may excuse a party from attending the parenting
2 course for good cause.

3 (5)~~(4)~~ All parties required to complete a parenting
4 course under this section shall begin the course as
5 expeditiously as possible after filing for dissolution of
6 marriage and shall file proof of compliance with the court
7 prior to the entry of the final judgment.

8 (6)~~(5)~~ All parties to a modification of a final
9 judgment involving shared parental responsibilities, custody,
10 or visitation may be required to complete a court-approved
11 parenting course prior to the entry of an order modifying the
12 final judgment.

13 ~~(6) The department shall provide each judicial circuit~~
14 ~~with a list of approved course providers and sites at which~~
15 ~~the parent education and family stabilization course required~~
16 ~~by this section may be completed. The department shall also~~
17 ~~include on the list of course providers and sites at least one~~
18 ~~site in each circuit at which the parent education and family~~
19 ~~stabilization course may be completed on a sliding fee scale,~~
20 ~~if available.~~

21 Section 92. Subsection (6) of section 410.604, Florida
22 Statutes, is repealed.

23 Section 93. This act shall take effect July 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2808

4 Revises the language supporting individuals with developmental
5 disabilities to pursue gainful employment to remove references
6 to assessing the individual's potential and to focus more on
7 supporting those individuals who choose to pursue employment
8 and reducing the use of non-employment day activities.

9 Provides conforming language that persons who commit the
10 offense of sexual misconduct are prohibited from working in
11 the developmental services and mental health services systems.

12 Corrects terminology relative to forensic facilities.

13 Adds law enforcement agencies to the groups that can receive
14 photographs and reports on medical examinations from hospitals
15 regarding children who have been abused and for whom a
16 protective investigation is being conducted.

17 Strengthens the actions that may be taken in institutions in
18 response to child abuse, removes the automatic referral of all
19 institutional child abuse reports to the state attorney,
20 removes the mandatory visit to the child's family, removes the
21 requirement to assist a facility under certain circumstances,
22 removes the procedures for specialized investigations, and
23 requires procedures specific to investigations in different
24 institutional settings.

25 Directs the department to adopt rules for the hiring and
26 training of child protective staff, to develop a program
27 design to test an alternative response system and to report to
28 the legislature on the implementation of the recommendations
29 of the Protective Investigator Retention Workgroup and those
30 of the interim project.

31 Provides the Department of Children and Families with
direction relative to the course approval process for the
Parent Education and Family Stabilization Course.