

By the Committees on Judiciary; Children and Families; and  
Senator Lynn

308-2649-04

1                                   A bill to be entitled  
2           An act relating to the Department of Children  
3           and Family Services; amending s. 39.202, F.S.,  
4           relating to confidentiality requirements for  
5           reports and records in cases of child abuse or  
6           neglect; providing that staff members of a  
7           child advocacy center who are providing the  
8           services of the center to the child may have  
9           access to the records; amending s. 39.301,  
10          F.S.; requiring a risk assessment of the child  
11          and family to be commenced immediately upon  
12          receipt of the abuse report; providing for a  
13          continuous review of the risk assessment;  
14          providing for the development and  
15          implementation of a safety plan, a case plan,  
16          or both; amending s. 39.701, F.S.; providing  
17          for a review of the status of the child by the  
18          circuit court or a citizen review panel;  
19          authorizing reviews by a citizen review panel  
20          in lieu of court hearings; requiring the court  
21          to specifically find if the department has  
22          direct knowledge of the care the child is  
23          receiving; providing for recommendations from  
24          the citizen review panels in place of  
25          recommended orders; amending s. 120.80, F.S.;  
26          exempting hearings of the Agency for Health  
27          Care Administration from the requirement of  
28          being conducted by an administrative law judge;  
29          amending s. 400.0255, F.S.; providing for  
30          certain hearings relating to resident transfer  
31          or discharge to be conducted by the agency's

1 Office of Fair Hearings; amending s. 408.15,  
2 F.S.; authorizing the agency to establish and  
3 conduct Medicaid fair hearings; amending s.  
4 409.91195, F.S.; authorizing a Medicaid  
5 recipient to appeal a decision concerning the  
6 preferred drug formulary through the agency;  
7 amending s. 409.912, F.S.; requiring the  
8 department to enter into contracts with certain  
9 providers for the providers to supply services  
10 in any provider network for prepaid behavioral  
11 health services; amending s. 415.102, F.S.;  
12 adding self-neglect to the definition of the  
13 term "neglect" for purposes of adult protective  
14 services; amending s. 415.1113, F.S.; requiring  
15 notification of the right to be represented by  
16 legal counsel at an administrative hearing  
17 regarding an allegation of filing a false  
18 report; amending s. 420.622, F.S.;  
19 redesignating the Florida Coalition for  
20 Supportive Housing; providing that grant moneys  
21 for homeless persons may be used for certain  
22 eligible construction and rehabilitation costs;  
23 amending s. 420.623, F.S.; changing the date  
24 for the department to submit an annual report  
25 to the Governor and Legislature; amending s.  
26 420.625, F.S.; requiring that spending plans  
27 for funds from the grant-in-aid program include  
28 assurances to the department that the services  
29 are consistent with the continuum-of-care plan;  
30 amending s. 20.19, F.S.; removing the  
31 developmental disabilities program from the

1 Department of Children and Family Services;  
2 creating s. 20.197, F.S.; establishing the  
3 Agency for Persons with Disabilities for the  
4 purpose of providing services to persons with  
5 developmental disabilities, including  
6 institutional services; directing the agency to  
7 execute interagency agreements with the Agency  
8 for Health Care Administration for the  
9 financial management of the Medicaid waivers  
10 and the Department of Children and Family  
11 Services for administrative support; amending  
12 s. 393.063, F.S.; updating definitions and  
13 deleting obsolete definitions; amending s.  
14 393.064, F.S.; deleting requirements that the  
15 agency's legislative budget request include  
16 funding for prevention; amending s. 393.065,  
17 F.S.; requiring Level 2 screening for specified  
18 service providers; amending s. 393.066, F.S.;  
19 removing requirement that services be  
20 administered and approved by the districts;  
21 modifying a requirement to provide certain  
22 services; deleting a requirement for a 5-year  
23 plan relating to community-based services;  
24 adding a requirement to assist clients in  
25 gaining employment; repealing obsolete  
26 requirement authorizing the state to lease or  
27 construct residential facilities; deleting  
28 authorization to adopt rules ensuring  
29 compliance with federal rules; amending s.  
30 393.0661, F.S.; deleting an obsolete provision;  
31 modifying provisions relating to an assessment

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

1 persons with special needs; amending s.  
2 409.906, F.S.; clarifying powers of the Agency  
3 for Health Care Administration with respect to  
4 limiting coverage for certain services;  
5 repealing s. 393.14, F.S.; requiring a  
6 multiyear plan; repealing s. 393.165, F.S.,  
7 relating to ICF/DDs; repealing s. 393.166,  
8 F.S., relating to homes for special services;  
9 repealing s. 393.505, F.S., relating to  
10 comprehensive day treatment service projects;  
11 transferring programs and institutions relating  
12 to developmental disabilities from the  
13 Department of Children and Family Services to  
14 the Agency for Persons with Disabilities;  
15 providing duties of those agencies as well as  
16 the Department of Management Services;  
17 providing for substitution of parties in  
18 administrative and judicial proceedings;  
19 providing duties of the Office of Program  
20 Policy Analysis and Government Accountability;  
21 providing for a report; amending ss. 92.53,  
22 397.405, 400.464, 419.001, 914.16, 914.17,  
23 918.16, F.S.; conforming cross-references;  
24 amending s. 393.067, F.S.; conforming to  
25 changes made by the act; providing that a  
26 license issued to a residential facility or a  
27 comprehensive transitional education program  
28 does not create a property right in the  
29 recipient; amending ss. 393.0641, 393.065,  
30 393.0651, 393.0673, 393.0675, 393.0678,  
31 393.071, 393.075, 393.115, 393.12, 393.125,

1 393.15, 393.501, 393.503, 393.506, F.S.;

2 conforming to the changes made by the act;

3 creating ss. 393.135, 394.4593, and 916.1075,

4 F.S.; defining the terms "employee," "sexual

5 activity," and "sexual misconduct"; providing

6 that it is a second-degree felony for an

7 employee to engage in sexual misconduct with

8 certain developmentally disabled clients,

9 certain mental health patients, or certain

10 forensic clients; providing certain exceptions;

11 requiring certain employees to report sexual

12 misconduct to the central abuse hotline of the

13 department and to law enforcement; providing

14 for notification to the inspector general of

15 the department or agency; providing that it is

16 a first-degree misdemeanor to knowingly and

17 willfully fail to make a report as required, or

18 to prevent another from doing so, or to submit

19 inaccurate or untruthful information; providing

20 that it is a third-degree felony to coerce or

21 threaten another person to alter testimony or a

22 report with respect to an incident of sexual

23 misconduct; providing criminal penalties;

24 providing that the penalties are in addition to

25 other actions provided in law; amending s.

26 435.03, F.S.; expanding level 1 screening

27 standards to include criminal offenses related

28 to sexual misconduct with certain

29 developmentally disabled clients, mental health

30 patients, or forensic clients and the reporting

31 of such sexual misconduct; amending s. 435.04,

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

1 be sealed; providing that the application for  
2 eligibility for sealing certify that the  
3 criminal history record does not relate to an  
4 offense involving sexual misconduct with  
5 certain developmentally disabled clients,  
6 mental health patients, or forensic clients, or  
7 the reporting of such sexual misconduct;  
8 conforming cross-references; amending s.  
9 400.215, F.S., and reenacting paragraphs (b)  
10 and (c) of subsection (2) and subsection (3),  
11 relating to background screening requirements  
12 for certain nursing home personnel, for the  
13 purpose of incorporating the amendments to ss.  
14 435.03 and 435.04, F.S., in references thereto;  
15 correcting a cross-reference; amending s.  
16 400.964, F.S., and reenacting subsections (1),  
17 (2), and (7), relating to background screening  
18 requirements for certain personnel employed by  
19 intermediate care facilities for the  
20 developmentally disabled, for the purpose of  
21 incorporating the amendments to ss. 435.03 and  
22 435.04, F.S., in references thereto; correcting  
23 a cross-reference; amending s. 435.045, F.S.,  
24 and reenacting paragraph (a) of subsection (1),  
25 relating to requirements for the placement of  
26 dependent children, for the purpose of  
27 incorporating the amendment to s. 435.04, F.S.,  
28 in a reference thereto; correcting a  
29 cross-reference; reenacting ss. 400.414(1)(f)  
30 and (g), 400.4174, 400.509(4)(a), (b), (c),  
31 (d), (f), and (g), 400.556(2)(c), 400.6065(1),



1 (2), and (4), 400.980(4)(a), (b), (c), (d),  
2 (f), and (g), 409.175(2)(k), 409.907(8)(d),  
3 435.05(1) and (3), 744.3135, and 985.04(2),  
4 F.S., relating to denial, revocation, or  
5 suspension of license to operate an assisted  
6 living facility; background screening  
7 requirements for certain personnel employed by  
8 assisted living facilities; registration of  
9 particular home health care service providers;  
10 denial, suspension, or revocation of license to  
11 operate adult day care centers; background  
12 screening requirements for certain hospice  
13 personnel; background screening requirements  
14 for registrants of the health care service  
15 pools; the definition of "screening" in  
16 connection with the licensure of family foster  
17 homes, residential child-caring agencies, and  
18 child-placing agencies; background screening  
19 requirements of Medicaid providers; employment  
20 of persons in positions requiring background  
21 screening; credit and criminal investigations  
22 of guardians; and oaths, records, and  
23 confidential information pertaining to juvenile  
24 offenders, respectively, for the purpose of  
25 incorporating the amendments to ss. 435.03 and  
26 435.04, F.S., in references thereto; reenacting  
27 ss. 400.512, 400.619(4), 400.6194(1), 400.953,  
28 409.912(32), 435.07(4), 464.018(1)(e),  
29 744.309(3), 744.474(12), and 985.407(4), F.S.,  
30 relating to background screening of home health  
31 agency personnel, nurse registry personnel,

1 companions, and homemakers; application and  
2 renewal of adult family-care home provider  
3 licenses; denial, revocation, or suspension of  
4 adult family-care home provider license;  
5 background screening of home medical equipment  
6 provider personnel and background screening  
7 requirements for certain persons responsible  
8 for managed care plans; exemptions from  
9 disqualification from employment; denial of  
10 nursing license and disciplinary actions  
11 against such licensees; disqualification of  
12 guardians; removal of guardians; and background  
13 screening requirements for certain Department  
14 of Juvenile Justice personnel, respectively,  
15 for the purpose of incorporating the amendment  
16 to s. 435.03, F.S., in references thereto;  
17 reenacting ss. 39.001(2)(b), 39.821(1),  
18 110.1127(3)(a) and (c), 112.0455(12)(a),  
19 381.0059(1), (2), and (4), 381.60225(1)(a),  
20 (b), (c), (d), (f), and (g), 383.305(7)(a),  
21 (b), (c), (d), (f), and (g), 390.015(3)(a),  
22 (b), (c), (d), (f), and (g), 394.875(13)(a),  
23 (b), (c), (d), (f), and (g), 395.0055(1), (2),  
24 (3), (4), (6), and (8), 395.0199(4)(a), (b),  
25 (c), (d), (f), and (g), 397.451(1)(a),  
26 400.071(4)(a), (b), (c), (d), and (f),  
27 400.471(4)(a), (b), (c), (d), (f), and (g),  
28 400.506(2)(a), (b), (c), (d), (f), and (g),  
29 400.5572, 400.607(3)(a), 400.801(4)(a), (b),  
30 (c), (d), (f), and (g), 400.805(3)(a), (b),  
31 (c), (d), (f), and (g), 400.906(5)(a), (b),

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

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

1 centers; background screening and licensure of  
2 certain clinical laboratory personnel;  
3 regulation of professional guardians;  
4 background screening of certain Department of  
5 Juvenile Justice and Department of Children and  
6 Family Services personnel in connection with  
7 programs for children and families in need of  
8 services; and background screening of certain  
9 Department of Juvenile Justice and Department  
10 of Children and Family Services personnel in  
11 connection with juvenile justice programs,  
12 background screening of personnel of the  
13 Florida School for the Deaf and the Blind,  
14 respectively, for the purposes of incorporating  
15 the amendment to s. 435.04, F.S., in references  
16 thereto; amending s. 394.4572, F.S.; requiring  
17 the department and the agency to check the  
18 employment history of a person when screening  
19 mental health personnel for employment;  
20 reenacting s. 943.0582(2)(a) and (6), F.S.,  
21 relating to prearrest, postarrest, or teen  
22 court diversion program expunction for the  
23 purpose of incorporating the amendments to ss.  
24 943.0585 and 943.059, F.S., in references  
25 thereto; reenacting s. 943.053(7), (8), and  
26 (9), F.S., relating to dissemination of  
27 criminal justice information, for the purpose  
28 of incorporating the amendment to s. 943.059,  
29 F.S., in references thereto; providing  
30 applicability; amending s. 39.304, F.S.; adding  
31 a law enforcement agency to the groups to which

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

1 provide a specialized team to investigate child  
2 abuse, neglect, or abandonment; requiring the  
3 department to adopt procedures for child  
4 protective investigations by rule; requiring  
5 the Department of Children and Family Services  
6 to adopt minimum hiring and training  
7 requirements by rule; requiring the Department  
8 of Children and Family Services to report to  
9 the Governor and the Legislature on its  
10 implementation of the recommendations of an  
11 interim project and the recommendations of the  
12 Protective Investigator Retention Workgroup;  
13 amending s. 61.21, F.S.; requiring the  
14 Department of Children and Family Services to  
15 approve parenting courses; establishing  
16 requirements relating to the provision of  
17 approved parenting courses; amending s. 839.13,  
18 F.S.; providing that a person who knowingly  
19 falsifies, alters, destroys, defaces,  
20 overwrites, removes, or discards a record of  
21 the department or its contract provider or a  
22 record relating to an individual in the care  
23 and custody of the state commits a felony of  
24 the third degree; creating s. 39.0016, F.S.,  
25 relating to the education of abused, neglected,  
26 and abandoned children; creating definitions;  
27 providing for interpretation of the act;  
28 requiring an agreement between the Department  
29 of Children and Family Services and the  
30 Department of Education; requiring agreements  
31 between the Department of Children and Family

1 Services and district school boards or other  
2 local educational entities; specifying  
3 provisions of such agreements; requiring access  
4 to certain information; requiring education  
5 training components; amending s. 1002.22, F.S.,  
6 relating to access to student records;  
7 authorizing the release of records to the  
8 Department of Children and Family Services or a  
9 community-based care lead agency; repealing s.  
10 410.604(6), F.S., relating to fees charged by  
11 the department and its providers for services  
12 delivered to a disabled adult whose income is  
13 above the eligibility standard for  
14 institutional care; providing effective dates.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Paragraph (q) is added to section 39.202,  
19 Florida Statutes, to read:

20 39.202 Confidentiality of reports and records in cases  
21 of child abuse or neglect.--

22 (2) Except as provided in subsection (4), access to  
23 such records, excluding the name of the reporter which shall  
24 be released only as provided in subsection (5), shall be  
25 granted only to the following persons, officials, and  
26 agencies:

27 (q) Staff of a child advocacy center that has met the  
28 standards set forth in s. 39.3035 who are actively involved in  
29 providing the services of the center to the child.  
30  
31



1           Section 2. Subsection (6) and paragraph (b) of  
2 subsection (9) of section 39.301, Florida Statutes, are  
3 amended to read:

4           39.301 Initiation of protective investigations.--

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

19           (9)

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

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

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

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

24           4. Determine the immediate and long-term risk to each  
25 child through utilization of standardized risk assessment  
26 instruments.

27           5. Based on the information obtained from available  
28 sources, complete the risk assessment instrument within 48  
29 hours after the initial contact and, if determined necessary  
30 by the assessment needed, develop and implement a safety plan,  
31

1 develop and implement a case plan, or develop and implement  
2 both a safety plan and a case plan.

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

13           Section 3. Section 39.701, Florida Statutes, is  
14 amended to read:

15           39.701 Judicial review.--

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

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

29           (2)(a) ~~The court shall review~~ The status of the child  
30 ~~and shall be reviewed hold a hearing as provided in this part~~  
31 at least every 6 months until the child reaches permanency

1 status. This review may be conducted by the court or a citizen  
2 review panel authorized by the court, if one has been  
3 authorized.

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

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

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

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

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

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

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

29 (d) If the department and the court have established a  
30 formal agreement that includes specific authorization for  
31 particular cases, the department may conduct administrative

1 | reviews instead of the judicial reviews for children in  
2 | out-of-home care. Notices of ~~such~~ administrative reviews must  
3 | be provided to all parties. However, an administrative review  
4 | may not be substituted for the first judicial review, and in  
5 | every case the court must conduct a judicial review at least  
6 | every 6 months. Any party dissatisfied with the results of an  
7 | administrative review may petition for a judicial review.

8 |         (e) The clerk of the circuit court shall schedule  
9 | judicial review hearings in order to comply with the mandated  
10 | times cited in this section.

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

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

30 |         (5) Notice of a judicial review hearing or a citizen  
31 | review panel review hearing, and a copy of the motion for

1 judicial review, if any, must be served by the clerk of the  
2 court upon:

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

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

8 (c) The parents.

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

12 (e) Any preadoptive parent.

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

15

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

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

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

30

31

- 1           2. Documentation of the diligent efforts made by all  
2 parties to the case plan to comply with each applicable  
3 provision of the plan.
- 4           3. The amount of fees assessed and collected during  
5 the period of time being reported.
- 6           4. The services provided to the foster family or legal  
7 custodian in an effort to address the needs of the child as  
8 indicated in the case plan.
- 9           5. A statement that either:
- 10           a. The parent, though able to do so, did not comply  
11 substantially with the provisions of the case plan, and the  
12 agency recommendations;
- 13           b. The parent did substantially comply with the  
14 provisions of the case plan; or
- 15           c. The parent has partially complied with the  
16 provisions of the case plan, with a summary of additional  
17 progress needed and the agency recommendations.
- 18           6. A statement from the foster parent or legal  
19 custodian providing any material evidence concerning the  
20 return of the child to the parent or parents.
- 21           7. A statement concerning the frequency, duration, and  
22 results of the parent-child visitation, if any, and the agency  
23 recommendations for an expansion or restriction of future  
24 visitation.
- 25           8. The number of times a child has been removed from  
26 his or her home and placed elsewhere, the number and types of  
27 placements that have occurred, and the reason for the changes  
28 in placement.
- 29           9. The number of times a child's educational placement  
30 has been changed, the number and types of educational  
31



1 | placements which have occurred, and the reason for any change  
2 | in placement.

3 |           10. Copies of all medical, psychological, and  
4 | educational records that support the terms of the case plan  
5 | and that have been produced concerning the child, parents, or  
6 | any caregiver since the last judicial review hearing or  
7 | citizen review panel review.

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

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

29 |           (d) In addition to or in lieu of any written statement  
30 | provided to the court, the foster parent or legal custodian,  
31 | or any preadoptive parent, shall be given the opportunity to

1 address the court with any information relevant to the best  
2 interests of the child at any judicial review hearing.

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

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

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

27 (c) If a guardian ad litem needs to be appointed for  
28 the child in a case in which a guardian ad litem has not  
29 previously been appointed or if there is a need to continue a  
30 guardian ad litem in a case in which a guardian ad litem has  
31 been appointed.

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

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

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

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

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

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

26 (8)(a) Based upon the criteria set forth in subsection  
27 (7) and the recommendations ~~recommended order~~ of the citizen  
28 review panel, if any, the court shall determine whether or not  
29 the social service agency shall initiate proceedings to have a  
30 child declared a dependent child, return the child to the  
31 parent, continue the child in out-of-home care for a specified

1 | period of time, or initiate termination of parental rights  
2 | proceedings for subsequent placement in an adoptive home.  
3 | Modifications to the plan must be handled as prescribed in s.  
4 | 39.601. If the court finds that the prevention or  
5 | reunification efforts of the department will allow the child  
6 | to remain safely at home or be safely returned to the home,  
7 | the court shall allow the child to remain in or return to the  
8 | home after making a specific finding of fact that the reasons  
9 | for the creation of the case plan have been remedied to the  
10 | extent that the child's safety, well-being, and physical,  
11 | mental, and emotional health will not be endangered.

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

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

26 |         (d) The court may extend the time limitation of the  
27 | case plan, or may modify the terms of the plan, based upon  
28 | information provided by the social service agency, and the  
29 | guardian ad litem, if one has been appointed, the parent or  
30 | parents, and the foster parents or legal custodian, and any  
31 | other competent information on record demonstrating the need

1 | for the amendment. If the court extends the time limitation of  
2 | the case plan, the court must make specific findings  
3 | concerning the frequency of past parent-child visitation, if  
4 | any, and the court may authorize the expansion or restriction  
5 | of future visitation. Modifications to the plan must be  
6 | handled as prescribed in s. 39.601. Any extension of a case  
7 | plan must comply with the time requirements and other  
8 | requirements specified by this chapter.

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

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

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

1 | before the court; and ~~the such~~ order may require ~~the any such~~  
2 | person or agency to make periodic reports to the court  
3 | containing any such information ~~as~~ the court prescribes in its  
4 | ~~discretion may prescribe.~~

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

7 |           120.80 Exceptions and special requirements;  
8 | agencies.--

9 |           (7) DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND  
10 | AGENCY FOR HEALTH CARE ADMINISTRATION.--Notwithstanding s.  
11 | 120.57(1)(a), hearings conducted within the Department of  
12 | Children and Family Services and the Agency for Health Care  
13 | Administration in the execution of those social and economic  
14 | programs administered by the former Division of Family  
15 | Services of the former Department of Health and Rehabilitative  
16 | Services prior to the reorganization effected by chapter  
17 | 75-48, Laws of Florida, need not be conducted by an  
18 | administrative law judge assigned by the division.

19 |           Section 5. Subsections (8), (15), and (16) of section  
20 | 400.0255, Florida Statutes, are amended to read:

21 |           400.0255 Resident transfer or discharge; requirements  
22 | and procedures; hearings.--

23 |           (8) The notice required by subsection (7) must be in  
24 | writing and must contain all information required by state and  
25 | federal law, rules, or regulations applicable to Medicaid or  
26 | Medicare cases. The agency shall develop a standard document  
27 | to be used by all facilities licensed under this part for  
28 | purposes of notifying residents of a discharge or transfer.  
29 | ~~The Such~~ document must include a means for a resident to  
30 | request the local long-term care ombudsman council to review  
31 | the notice and request information about or assistance with

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

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

21 (b) The agency ~~department~~ shall adopt<sup>7</sup> by rule<sup>7</sup>  
22 ~~establish~~ procedures to be used for fair hearings requested by  
23 residents. These procedures shall be equivalent to the  
24 procedures used for fair hearings for other Medicaid cases,  
25 chapter 65-2 ~~10-2~~, part VI, Florida Administrative Code. The  
26 burden of proof must be clear and convincing evidence. A  
27 hearing decision must be rendered within 90 days after receipt  
28 of the request for hearing.

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

1           (d) The decision of the hearing officer ~~is shall be~~  
2 final. Any aggrieved party may appeal the decision to the  
3 district court of appeal in the appellate district where the  
4 facility is located. Appeal Review procedures shall be  
5 conducted in accordance with the Florida Rules of Appellate  
6 Procedure.

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

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

11           408.15 Powers of the agency.--In addition to the  
12 powers granted to the agency elsewhere in this chapter, the  
13 agency is authorized to:

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

18           Section 7. Subsection (11) of section 409.91195,  
19 Florida Statutes, is amended to read:

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

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

29           Section 8. Paragraph (b) of subsection (4) of section  
30 409.912, Florida Statutes, is amended to read:

31



1           409.912 Cost-effective purchasing of health care.--The  
2 agency shall purchase goods and services for Medicaid  
3 recipients in the most cost-effective manner consistent with  
4 the delivery of quality medical care. The agency shall  
5 maximize the use of prepaid per capita and prepaid aggregate  
6 fixed-sum basis services when appropriate and other  
7 alternative service delivery and reimbursement methodologies,  
8 including competitive bidding pursuant to s. 287.057, designed  
9 to facilitate the cost-effective purchase of a case-managed  
10 continuum of care. The agency shall also require providers to  
11 minimize the exposure of recipients to the need for acute  
12 inpatient, custodial, and other institutional care and the  
13 inappropriate or unnecessary use of high-cost services. The  
14 agency may establish prior authorization requirements for  
15 certain populations of Medicaid beneficiaries, certain drug  
16 classes, or particular drugs to prevent fraud, abuse, overuse,  
17 and possible dangerous drug interactions. The Pharmaceutical  
18 and Therapeutics Committee shall make recommendations to the  
19 agency on drugs for which prior authorization is required. The  
20 agency shall inform the Pharmaceutical and Therapeutics  
21 Committee of its decisions regarding drugs subject to prior  
22 authorization.

23           (4) The agency may contract with:

24           (b) An entity that is providing comprehensive  
25 behavioral health care services to certain Medicaid recipients  
26 through a capitated, prepaid arrangement under ~~pursuant to~~ the  
27 federal waiver provided for by s. 409.905(5). ~~The Such an~~  
28 entity must be licensed under chapter 624, chapter 636, or  
29 chapter 641 and must possess the clinical systems and  
30 operational competence to manage risk and provide  
31 comprehensive behavioral health care to Medicaid recipients.

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

1 agency. The agency shall provide the managed care plan with a  
2 certification letter indicating the amount of capitation paid  
3 during each calendar year for the provision of behavioral  
4 health care services under ~~pursuant to~~ this section. The  
5 agency may reimburse for substance abuse treatment services on  
6 a fee-for-service basis until the agency finds that adequate  
7 funds are available for capitated, prepaid arrangements.

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

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

19 3. By July 1, 2006, the agency and the Department of  
20 Children and Family Services shall contract with managed care  
21 entities in each AHCA area except area 6 or arrange to provide  
22 comprehensive inpatient and outpatient mental health and  
23 substance abuse services through capitated prepaid  
24 arrangements to all Medicaid recipients who are eligible to  
25 participate in such plans under federal law and regulation. In  
26 AHCA areas where eligible individuals number less than  
27 150,000, the agency shall contract with a single managed care  
28 plan. The agency may contract with more than one plan in AHCA  
29 areas where the eligible population exceeds 150,000. Contracts  
30 awarded pursuant to this section shall be competitively  
31

1 | procured. Both for-profit and not-for-profit corporations  
2 | shall be eligible to compete.

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

16 |         a. Implementation shall begin in 2003 in those AHCA  
17 | areas of the state where the agency is able to establish  
18 | sufficient capitation rates.

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

26 |         c. Subject to any limitations provided for in the  
27 | General Appropriations Act, the agency, in compliance with  
28 | appropriate federal authorization, shall develop policies and  
29 | procedures that allow for certification of local and state  
30 | funds.

31 |

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

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

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

29           Section 9. Subsection (15) of section 415.102, Florida  
30 Statutes, is amended to read:  
31

1           415.102 Definitions of terms used in ss.

2 415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

13 "Neglect" is repeated conduct or a single incident of  
14 carelessness which produces or could reasonably be expected to  
15 result in serious physical or psychological injury or a  
16 substantial risk of death.

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

23           415.1113 Administrative fines for false report of  
24 abuse, neglect, or exploitation of a vulnerable adult.--

25           (5) A person alleged to have filed a false report may  
26 be represented by legal counsel at the administrative hearing.  
27 The notice of intent to impose the administrative fine set  
28 forth in subsection (3) must include notification of the right  
29 to be represented by legal counsel.

30           ~~(6)(5)~~ At the administrative hearing, the department  
31 must prove by clear and convincing evidence that the person

1 knowingly and willfully filed a false report with the central  
2 abuse hotline. ~~The person has the right to be represented by~~  
3 ~~legal counsel at the hearing.~~

4 Section 11. Subsections (2) and (5) of section  
5 420.622, Florida Statutes, are amended to read:

6 420.622 State Office on Homelessness; Council on  
7 Homelessness.--

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

31

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

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

22           (b) Funding for any particular project may not exceed  
23 \$750,000.

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

- 28           1. Site preparation and demolition;  
29           2. Professional fees of architects, surveyors, or  
30 engineers;  
31           3. Local government building permits and impact fees;



- 1           4. Utilities and special district fees;  
2           5. Labor, materials, and tools; and  
3           6. Other costs associated with the construction or  
4 rehabilitation of the building.

5  
6 Any construction or rehabilitation activity or cost eligible  
7 for funding under this subsection may be funded if the  
8 activity or cost cannot be contributed, absorbed, or waived.

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

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

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

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

23           Section 12. Subsection (4) of section 420.623, Florida  
24 Statutes, is amended to read:

25           420.623 Local coalitions for the homeless.--

26           (4) ANNUAL REPORTS.--The department shall submit to  
27 the Governor, the Speaker of the House of Representatives, and  
28 the President of the Senate, by December 31 ~~June 30~~, an annual  
29 report consisting of a compilation of data collected by local  
30 coalitions, progress made in the development and  
31 implementation of local homeless assistance continuums of care

1 | plans in each district, local spending plans, programs and  
2 | resources available at the local level, and recommendations  
3 | for programs and funding.

4 |       Section 13. Subsection (5) of section 420.625, Florida  
5 | Statutes, is amended to read:

6 |           420.625 Grant-in-aid program.--

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

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

12 |           (b) The demonstrated ability of the local agency or  
13 | agencies seeking assistance to deliver the services and to  
14 | assure that identified needs will be met.

15 |           (c) The ability of the local agency or agencies  
16 | seeking assistance to deliver a wide range of services as  
17 | enumerated in subsection (3).

18 |           (d) The adequacy and reasonableness of proposed  
19 | budgets and planned expenditures, and the demonstrated  
20 | capacity of the local agency or agencies to administer the  
21 | funds sought.

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

26 |           (f) A statement from the designated lead agency of the  
27 | homeless assistance continuum of care catchment area in which  
28 | the services proposed will be provided, assuring the  
29 | department that the services are contained in, and consistent  
30 | with, the coalition's written plan for its continuum of care.

31 |

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

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

10           Section 14. Paragraph (b) of subsection (4) of section  
11 20.19, Florida Statutes, is amended to read:

12           20.19 Department of Children and Family  
13 Services.--There is created a Department of Children and  
14 Family Services.

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

16           (b) The following program offices are established:

- 17           1. Adult Services.  
18           2. Child Care Services.  
19           ~~3. Developmental Disabilities.~~  
20           ~~3.4.~~ Economic Self-Sufficiency Services.  
21           ~~4.5.~~ Family Safety.  
22           ~~5.6.~~ Mental Health.  
23           ~~6.7.~~ Refugee Services.  
24           ~~7.8.~~ Substance Abuse.

25           Section 15. Section 20.197, Florida Statutes, is  
26 created to read:

27           20.197 Agency for Persons with Disabilities.--There is  
28 created the Agency for Persons with Disabilities, housed  
29 within the Department of Children and Family Services for  
30 administrative purposes only. The agency shall be a separate  
31 budget entity not subject to control, supervision, or

1 direction by the Department of Children and Family Services in  
2 any manner, including, but not limited to, personnel,  
3 purchasing, transactions involving real or personal property,  
4 and budgetary matters.

5 (1) The director of the agency shall be the agency  
6 head for all purposes and shall be appointed by the Governor  
7 and serve at the pleasure of the Governor. The director shall  
8 administer the affairs of the agency and establish  
9 administrative units as needed and may, within available  
10 resources, employ assistants, professional staff, and other  
11 employees as necessary to discharge the powers and duties of  
12 the agency.

13 (2) The agency shall be responsible for the provision  
14 of all services provided to persons with developmental  
15 disabilities pursuant to chapter 393, including the operation  
16 of all state institutional programs and the programmatic  
17 management of Medicaid waivers established to provide services  
18 to persons with developmental disabilities.

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

23 (4) The agency shall enter into an interagency  
24 agreement that delineates the responsibilities of the Agency  
25 for Health Care Administration for the following:

26 (a) The terms, and execution of contracts with  
27 Medicaid providers for the provision of services provided  
28 through Medicaid, including federally approved waiver  
29 programs.

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

1           (c) The implementation of utilization management  
2 measures, including the prior authorization of services plans  
3 and the streamlining and consolidation of waivers services, to  
4 ensure the cost-effective provision of needed Medicaid  
5 services and to maximize the number of persons with access to  
6 such services.

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

11           Section 16. Section 393.063, Florida Statutes, is  
12 amended to read:

13           393.063 Definitions.--For the purposes of this  
14 chapter:

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

19           (1)(2) "Agency" means the Agency for Persons with  
20 Disabilities Health Care Administration.

21           (2)(3) "Autism" means a pervasive, neurologically  
22 based developmental disability of extended duration which  
23 causes severe learning, communication, and behavior disorders  
24 with age of onset during infancy or childhood. Individuals  
25 with autism exhibit impairment in reciprocal social  
26 interaction, impairment in verbal and nonverbal communication  
27 and imaginative ability, and a markedly restricted repertoire  
28 of activities and interests.

29           (3)(4) "Cerebral palsy" means a group of disabling  
30 symptoms of extended duration which results from damage to the  
31 developing brain that may occur before, during, or after birth

1 and that results in the loss or impairment of control over  
2 voluntary muscles. For the purposes of this definition,  
3 cerebral palsy does not include those symptoms or impairments  
4 resulting solely from a stroke.

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

8 ~~(5)(6)~~ "Client advocate" means a friend or relative of  
9 the client, or of the client's immediate family, who advocates  
10 for the best interests of the client in any proceedings under  
11 this chapter in which the client or his or her family has the  
12 right or duty to participate.

13 ~~(6)(7)~~ "Comprehensive assessment" means the process  
14 ~~which is~~ used to determine eligibility for ~~developmental~~  
15 services under this chapter ~~and develop the family or~~  
16 ~~individual support plan. The term includes review and~~  
17 ~~evaluation of information provided by the applicant, the~~  
18 ~~individual receiving supports or services through~~  
19 ~~developmental services, or the family, and others providing~~  
20 ~~supports or services to the individual or family, as well as~~  
21 ~~the use of formal assessment instruments.~~

22 ~~(7)(8)~~ "Comprehensive transitional education program"  
23 means a group of jointly operating centers or units, the  
24 collective purpose of which is to provide a sequential series  
25 of educational care, training, treatment, habilitation, and  
26 rehabilitation services to persons who have developmental  
27 ~~disabilities, as defined in subsection (12),~~ and who have  
28 severe or moderate maladaptive behaviors. However, nothing in  
29 this subsection shall require such ~~comprehensive transitional~~  
30 ~~education~~ programs to provide services only to persons with  
31 developmental disabilities, ~~as defined in subsection (12)~~. All

1 such services shall be temporary in nature and delivered in a  
2 structured residential setting with the primary goal of  
3 incorporating the normalization principle to establish  
4 permanent residence for persons with maladaptive behaviors in  
5 facilities not associated with the comprehensive transitional  
6 education program. The staff shall include psychologists and  
7 teachers who, ~~and such staff personnel~~ shall be available to  
8 provide services in each component center or unit of the  
9 program. The psychologists shall be individuals who are  
10 licensed in this state and certified as behavior analysts in  
11 this state, or individuals who ~~meet the professional~~  
12 ~~requirements established by the department for district~~  
13 ~~behavior analysts and~~ are certified as behavior analysts  
14 pursuant to s. 393.17 in this state.

15 (a) Comprehensive transitional education programs  
16 shall include a minimum of two component centers or units, ~~as~~  
17 ~~defined in this paragraph~~, one of which shall be either an  
18 intensive treatment and educational center or a transitional  
19 training and educational center, which provide services to  
20 persons with maladaptive behaviors in the following sequential  
21 order:

22 1. Intensive treatment and educational center. This  
23 component is a self-contained residential unit providing  
24 intensive psychological and educational programming for  
25 persons with severe maladaptive behaviors, whose behaviors  
26 preclude placement in a less restrictive environment due to  
27 the threat of danger or injury to themselves or others.

28 2. Transitional training and educational center. This  
29 component is a residential unit for persons with moderate  
30 maladaptive behaviors, providing concentrated psychological  
31

1 and educational programming emphasizing a transition toward a  
2 less restrictive environment.

3           3. Community transition residence. This component is  
4 a residential center providing educational programs and such  
5 support services, training, and care as are needed to assist  
6 persons with maladaptive behaviors to avoid regression to more  
7 restrictive environments while preparing them for more  
8 independent living. Continuous-shift staff shall be required  
9 for this component.

10           4. Alternative living center. This component is a  
11 residential unit providing an educational and family living  
12 environment for persons with maladaptive behaviors, in a  
13 moderately unrestricted setting. Residential staff shall be  
14 required for this component.

15           5. Independent living education center. This  
16 component is a facility providing a family living environment  
17 for persons with maladaptive behaviors, in a largely  
18 unrestricted setting which includes education and monitoring  
19 appropriate to support the development of independent living  
20 skills ~~by the students~~.

21           (b) Centers or units that are components of a  
22 comprehensive transitional education program are subject to  
23 the license issued to the comprehensive transitional education  
24 program and may be located on either single or multiple sites.

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

31



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

4 (e) This subsection shall authorize licensure for  
5 comprehensive transitional education programs which by July 1,  
6 1989:

7 1. Are in actual operation; or  
8 2. Own a fee simple interest in real property for  
9 which a county or city government has approved zoning allowing  
10 for the placement of the facilities described in this  
11 subsection, and have registered an intent with the department  
12 to operate a comprehensive transitional education program.  
13 However, nothing shall prohibit the assignment by such a  
14 registrant to another entity at a different site within the  
15 state, so long as there is compliance with all criteria of the  
16 comprehensive transitional education program and local zoning  
17 requirements and provided that each residential facility  
18 within the component centers or units of the program  
19 authorized under this subparagraph shall not exceed a capacity  
20 of 15 persons.

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

26 ~~(8)(10)~~ "Day habilitation facility" means any  
27 nonresidential facility which provides day habilitation  
28 services.

29 (9) "Day habilitation service" means assistance with  
30 the acquisition, retention, or improvement in self-help,  
31 socialization, and adaptive skills which takes place in a

1 nonresidential setting, separate from the home or facility in  
2 which the individual resides. Day habilitation services shall  
3 focus on enabling the individual to attain or maintain his or  
4 her maximum functional level and shall be coordinated with any  
5 physical, occupational, or speech therapies listed in the plan  
6 of care.

7 ~~(11) "Department" means the Department of Children and~~  
8 ~~Family Services.~~

9 ~~(10)(12)~~ "Developmental disability" means a disorder  
10 or syndrome that is attributable to retardation, cerebral  
11 palsy, autism, spina bifida, or Prader-Willi syndrome and that  
12 constitutes a substantial handicap that can reasonably be  
13 expected to continue indefinitely.

14 ~~(11)(13)~~ "Developmental disabilities services  
15 institution" means a state-owned and state-operated facility,  
16 formerly known as a "Sunland Center," providing for the care,  
17 habilitation, and rehabilitation of clients with developmental  
18 disabilities.

19 ~~(14) "Developmental training facility" means any~~  
20 ~~nonresidential facility which provides basic training and~~  
21 ~~habilitation to clients.~~

22 ~~(12)(15)~~ "Direct service provider," also known as  
23 "caregiver" in chapters 39 and 415 or "caretaker" in  
24 provisions relating to employment security checks, means a  
25 person 18 years of age or older who has direct contact with  
26 individuals with developmental disabilities, or has access to  
27 a client's living areas or to a client's funds or personal  
28 property, and is not a relative of such ~~unrelated to the~~  
29 individuals ~~with developmental disabilities.~~

30 ~~(a) The term "direct service provider" also includes~~  
31 ~~any person, including members of the direct service provider's~~

1 ~~family, over 12 years of age who resides with the direct~~  
2 ~~service provider when:~~  
3       1. ~~The direct service provider provides supports or~~  
4 ~~services in his or her residence;~~  
5       2. ~~The direct service provider provides supports or~~  
6 ~~services in a facility adjacent to his or her residence; or~~  
7       3. ~~The person residing with the direct service~~  
8 ~~provider has direct contact with the individual with~~  
9 ~~developmental disabilities during the hours of provision of~~  
10 ~~supports or services.~~  
11       (b) ~~Persons residing with the direct service provider,~~  
12 ~~including family members, who are between the ages of 12 years~~  
13 ~~and 18 years are not required to be fingerprinted, but shall~~  
14 ~~be screened for delinquency records.~~  
15       (c) ~~A volunteer who assists on an intermittent basis~~  
16 ~~for less than 40 hours per month is not a direct service~~  
17 ~~provider for the purposes of screening if the volunteer is~~  
18 ~~under the direct and constant supervision of persons who meet~~  
19 ~~the personnel requirements of s. 393.0655.~~  
20       (d) ~~A physician, nurse, or other professional licensed~~  
21 ~~and regulated by the Department of Business and Professional~~  
22 ~~Regulation is not a direct service provider for the purposes~~  
23 ~~of screening if the service he or she is providing to a client~~  
24 ~~is within the scope of practice for which he or she is~~  
25 ~~licensed.~~  
26       (e) ~~A person selected by the family or the individual~~  
27 ~~with developmental disabilities and paid by the family or the~~  
28 ~~individual to provide supports or services is not a direct~~  
29 ~~service provider for the purpose of screening.~~  
30       (16) ~~"District" means a service district of the~~  
31 ~~department.~~

1           ~~(13)(17)~~ "Domicile" means the place where a client  
2 legally resides, which place is his or her permanent home.  
3 Domicile may be established as provided in s. 222.17.  
4 Domicile may not be established in Florida by a minor who has  
5 no parent domiciled in Florida, or by a minor who has no legal  
6 guardian domiciled in Florida, or by any alien not classified  
7 as a resident alien.

8           ~~(14)(18)~~ "Enclave" means a work station in public or  
9 private business or industry where a small group of persons  
10 with developmental disabilities is employed and receives  
11 training and support services or follow-along services among  
12 nonhandicapped workers.

13           ~~(15)(19)~~ "Epilepsy" means a chronic brain disorder of  
14 various causes which is characterized by recurrent seizures  
15 due to excessive discharge of cerebral neurons. When found  
16 concurrently with retardation, autism, or cerebral palsy,  
17 epilepsy is considered a secondary disability for which the  
18 client is eligible to receive services to ameliorate this  
19 condition pursuant ~~according to the provisions of this~~  
20 chapter.

21           ~~(16)(20)~~ "Express and informed consent" means consent  
22 voluntarily given in writing with sufficient knowledge and  
23 comprehension of the subject matter involved to enable the  
24 person giving consent to make an understanding and enlightened  
25 decision without any element of force, fraud, deceit, duress,  
26 or other form of constraint or coercion.

27           ~~(17)(21)~~ "Family care program" means the program  
28 established in s. 393.068 ~~an alternative to residential~~  
29 ~~placement, in which a direct service provider provides a home~~  
30 ~~for a client and assists him or her to the extent necessary~~  
31 ~~for the client to participate in normal activities and to meet~~

1 ~~the demands of daily living. The program provides the support~~  
2 ~~needed by the client's family or caretaker to meet the~~  
3 ~~individual needs of the client.~~

4       ~~(18)(22)~~ "Follow-along services" means those support  
5 services ~~which shall be~~ provided to persons with developmental  
6 disabilities in all supported employment programs and may  
7 include, but are not limited to, family support, assistance in  
8 meeting transportation and medical needs, employer  
9 intervention, performance evaluation, advocacy, replacement,  
10 retraining or promotional assistance, or other similar support  
11 services.

12       ~~(19)(23)~~ "Foster care facility" means a residential  
13 facility which provides a family living environment including  
14 supervision and care necessary to meet the physical,  
15 emotional, and social needs of its residents. The capacity of  
16 such a facility shall not be more than three residents.

17       ~~(20)(24)~~ "Group home facility" means a residential  
18 facility which provides a family living environment including  
19 supervision and care necessary to meet the physical,  
20 emotional, and social needs of its residents. The capacity of  
21 such a facility shall be at least 4 ~~residents~~ but not more  
22 than 15 residents. For the purposes of this chapter, group  
23 home facilities shall not be considered commercial  
24 enterprises.

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

30       ~~(22)(26)~~ "Habilitation" means the process by which a  
31 client is assisted to acquire and maintain those life skills

1 | which enable the client to cope more effectively with the  
2 | demands of his or her condition and environment and to raise  
3 | the level of his or her physical, mental, and social  
4 | efficiency. It includes, but is not limited to, programs of  
5 | formal structured education and treatment.

6 |       ~~(23)(27)~~ "High-risk child" means, for the purposes of  
7 | this chapter, a child from birth to 5 years of age with one or  
8 | more of the following characteristics:

9 |           (a) A developmental delay in cognition, language, or  
10 | physical development.

11 |           (b) A child surviving a catastrophic infectious or  
12 | traumatic illness known to be associated with developmental  
13 | delay, when funds are specifically appropriated.

14 |           (c) A child with a parent or guardian with  
15 | developmental disabilities ~~who is developmentally disabled and~~  
16 | who requires assistance in meeting the child's developmental  
17 | needs.

18 |           (d) A child who has a physical or genetic anomaly  
19 | associated with developmental disability.

20 |       ~~(24)(28)~~ "Intermediate care facility for the  
21 | developmentally disabled" or "ICF/DD" means a residential  
22 | facility licensed and certified pursuant to part XI of chapter  
23 | 400 in accordance with state law, and certified by the Federal  
24 | ~~Government pursuant to the Social Security Act, as a provider~~  
25 | ~~of Medicaid services to persons who are developmentally~~  
26 | ~~disabled. The capacity of such a facility shall not be more~~  
27 | ~~than 120 clients.~~

28 |       ~~(25)(29)~~ "Job coach" means a person who provides  
29 | employment-related training at a work site to individuals with  
30 | developmental disabilities.

31 |

1           ~~(26)(30)~~ "Medical/dental services" means medically  
2 necessary ~~those~~ services which are provided or ordered for a  
3 client by a ~~person~~ licensed physician or dentist and includes  
4 ~~pursuant to the provisions of chapter 458, chapter 459, or~~  
5 ~~chapter 466. Such services may include, but are not limited~~  
6 ~~to,~~ prescription drugs, specialized therapies, nursing  
7 supervision, hospitalization, dietary services, prosthetic  
8 devices, surgery, specialized equipment and supplies, adaptive  
9 equipment, and other services as required to prevent or  
10 alleviate a medical or dental condition.

11           ~~(27)(31)~~ "Mobile work crew" means a group of workers  
12 employed by an agency that provides services outside the  
13 agency, usually under service contracts.

14           ~~(28)(32)~~ "Normalization principle" means the principle  
15 of letting the client obtain an existence as close to the  
16 normal as possible, making available to the client patterns  
17 and conditions of everyday life which are as close as possible  
18 to the norm and patterns of the mainstream of society.

19           ~~(29)(33)~~ "Personal services" include, but are not  
20 limited to, such services as: individual assistance with or  
21 supervision of essential activities of daily living for  
22 self-care, including ambulation, bathing, dressing, eating,  
23 grooming, and toileting, and other similar services that which  
24 the agency department ~~may~~ define by rule. "Personal services"  
25 shall not be construed to mean the provision of medical,  
26 nursing, dental, or mental health services by the staff of a  
27 facility, except as provided in this chapter. In addition, an  
28 emergency response device installed in the apartment or living  
29 area of a resident shall not be classified as a personal  
30 service.

31

1           ~~(30)(34)~~ "Prader-Willi syndrome" means an inherited  
2 condition typified by neonatal hypotonia with failure to  
3 thrive, hyperphagia or an excessive drive to eat which leads  
4 to obesity usually at 18 to 36 months of age, mild to moderate  
5 retardation, hypogonadism, short stature, mild facial  
6 dysmorphism, and a characteristic neurobehavior.

7           ~~(31)(35)~~ "Reassessment" means a process which  
8 periodically develops, through annual review and revision of a  
9 client's family or individual support plan, a knowledgeable  
10 statement of current needs and past development for each  
11 client.

12           ~~(36)~~ "~~Rehabilitation workshop facility~~" means a place  
13 ~~operated by a for profit or nonprofit agency engaged in the~~  
14 ~~manufacture or production of products or provision of~~  
15 ~~services, which provides gainful rehabilitation to severely~~  
16 ~~handicapped persons until such persons can become employed or~~  
17 ~~which provides gainful work to persons who are developmentally~~  
18 ~~disabled.~~

19           ~~(32)(37)~~ "Relative" means an individual who is  
20 connected by affinity or consanguinity to the client and who  
21 is 18 years of age or more.

22           ~~(33)(38)~~ "Resident" means any person who is  
23 developmentally disabled residing at a residential facility in  
24 the state, whether or not such person is a client of the  
25 agency department.

26           ~~(34)(39)~~ "Residential facility" means a facility  
27 providing room and board and personal care for persons with  
28 developmental disabilities.

29           ~~(35)~~ "Residential habilitation" means assistance  
30 provided in a residential habitation center with acquisition,  
31 retention, or improvement in skills related to activities of



1 daily living, such as personal grooming and cleanliness,  
2 bedmaking and household chores, eating and the preparation of  
3 food, and the social and adaptive skills necessary to enable  
4 the individual to reside in a noninstitutional setting.

5 ~~(36)(40)~~ "Residential habilitation center" means a  
6 community residential facility that provides residential  
7 habilitation. ~~operated primarily for the diagnosis, treatment,~~  
8 ~~habilitation, or rehabilitation of its residents, which~~  
9 ~~facility provides, in a structured residential setting,~~  
10 ~~individualized continuing evaluation, planning, 24 hour~~  
11 ~~supervision, and coordination and integration of health or~~  
12 ~~rehabilitative services to help each resident reach his or her~~  
13 ~~maximum functioning capabilities.~~ The capacity of such a  
14 facility shall not be fewer ~~less~~ than nine residents. After  
15 October 1, 1989, no new residential habilitation centers shall  
16 be licensed and the licensed capacity shall not be increased  
17 for any existing residential habilitation center.

18 ~~(37)(41)~~ "Respite service" means appropriate,  
19 short-term, temporary care that is provided to a person with  
20 developmental disabilities to meet the planned or emergency  
21 needs of the person ~~with developmental disabilities~~ or the  
22 family or other direct service provider.

23 ~~(38)(42)~~ "Retardation" means significantly subaverage  
24 general intellectual functioning existing concurrently with  
25 deficits in adaptive behavior and manifested during the period  
26 from conception to age 18. "Significantly subaverage general  
27 intellectual functioning," for the purpose of this definition,  
28 means performance which is two or more standard deviations  
29 from the mean score on a standardized intelligence test  
30 specified in the rules of the agency ~~department~~. "Adaptive  
31 behavior," for the purpose of this definition, means the

1 | effectiveness or degree with which an individual meets the  
2 | standards of personal independence and social responsibility  
3 | expected of his or her age, cultural group, and community.

4 |       ~~(43) "Screening," for purposes of employment,~~  
5 | ~~contracting, or certification, means the act of assessing the~~  
6 | ~~background of direct service providers and independent support~~  
7 | ~~coordinators, who are not related to clients for whom they~~  
8 | ~~provide services, and includes, but is not limited to,~~  
9 | ~~employment history checks, local criminal records checks~~  
10 | ~~through local law enforcement agencies, fingerprinting for all~~  
11 | ~~purposes and checks in this subsection, statewide criminal~~  
12 | ~~records checks through the Department of Law Enforcement, and~~  
13 | ~~federal criminal records checks through the Federal Bureau of~~  
14 | ~~Investigation; except that screening for volunteers included~~  
15 | ~~under the definition of personnel includes only local criminal~~  
16 | ~~records checks through local law enforcement agencies for~~  
17 | ~~current residence and residence immediately prior to~~  
18 | ~~employment as a volunteer, if different; and statewide~~  
19 | ~~criminal records correspondence checks through the Department~~  
20 | ~~of Law Enforcement.~~

21 |       ~~(39)(44)~~ "Severe self-injurious behavior" means any  
22 | chronic behavior that results in injury to the person's own  
23 | body, which includes, but is not limited to, self-hitting,  
24 | head banging, self-biting, scratching, and the ingestion of  
25 | harmful or potentially harmful nutritive or nonnutritive  
26 | substances.

27 |       ~~(40)(45)~~ "Specialized therapies" means those  
28 | treatments or activities prescribed by and provided by an  
29 | appropriately trained, licensed, or certified professional or  
30 | staff person and may include, but are not limited to, physical  
31 | therapy, speech therapy, respiratory therapy, occupational

1 therapy, behavior therapy, physical management services, and  
2 related specialized equipment and supplies.

3 ~~(41)(46)~~ "Spina bifida" means, for purposes of this  
4 chapter, a person with a medical diagnosis of spina bifida  
5 cystica or myelomeningocele.

6 ~~(42)(47)~~ "Support coordinator" means a person who is  
7 designated by the agency ~~department~~ to assist individuals and  
8 families in identifying their ~~desires~~, capacities, needs, and  
9 resources, as well as finding and gaining access to necessary  
10 supports and services; coordinating the delivery of supports  
11 and services; advocating on behalf of the individual and  
12 family; maintaining relevant records; and monitoring and  
13 evaluating the delivery of supports and services to determine  
14 the extent to which they meet the needs and expectations  
15 identified by the individual, family, and others who  
16 participated in the development of the support plan.

17 ~~(43)(48)~~ "Supported employee" means a person ~~whose~~  
18 ~~developmental disability has traditionally kept him or her~~  
19 ~~from integrated, community based employment and~~ who requires  
20 and receives supported employment ~~ongoing support or~~  
21 ~~follow along~~ services in order to maintain community-based  
22 employment.

23 ~~(44)(49)~~ "Supported employment" means employment  
24 located or provided in a normal employment setting which  
25 provides at least 20 hours employment per week in an  
26 integrated work setting, with earnings paid on a commensurate  
27 wage basis, and for which continued support ~~is or follow along~~  
28 ~~services are~~ needed for ~~continuing~~ job maintenance.

29 ~~(45)(50)~~ "Supported living" means a category of  
30 individually determined services designed and coordinated in  
31 such a manner as to provide assistance to adult clients who

1 require ongoing supports to live as independently as possible  
2 in their own homes, to be integrated into the community, and  
3 to participate in community life to the fullest extent  
4 possible.

5 ~~(46)(51)~~ "Training" means a planned approach to  
6 assisting a client to attain or maintain his or her maximum  
7 potential and includes services ranging from sensory  
8 stimulation to instruction in skills for independent living  
9 and employment.

10 ~~(47)(52)~~ "Treatment" means the prevention,  
11 amelioration, or cure of a client's physical and mental  
12 disabilities or illnesses.

13 Section 17. Subsections (1), (3), (4), and (5) of  
14 section 393.064, Florida Statutes, are amended to read:

15 393.064 Prevention.--

16 (1) The agency ~~Department of Children and Family~~  
17 ~~Services~~ shall give priority to the development, planning, and  
18 implementation of programs which have the potential to  
19 prevent, correct, cure, or reduce the severity of  
20 developmental disabilities. The agency ~~department~~ shall  
21 direct an interagency ~~interdepartmental~~ and interprogram  
22 effort for the continued development of a prevention plan and  
23 program. The agency ~~department~~ shall identify, through  
24 demonstration projects, through ~~departmental~~ program  
25 evaluation, and through monitoring of programs and projects  
26 conducted outside of the agency ~~department~~, any medical,  
27 social, economic, or educational methods, techniques, or  
28 procedures that ~~which~~ have the potential to effectively  
29 ameliorate, correct, or cure developmental disabilities. The  
30 program ~~department~~ shall determine the costs and benefits that  
31 would be associated with such prevention efforts and shall

1 | implement, or recommend the implementation of, those methods,  
2 | techniques, or procedures which are found likely to be  
3 | cost-beneficial. ~~The department in its legislative budget~~  
4 | ~~request shall identify funding needs for such prevention~~  
5 | ~~programs.~~

6 |         (3) Other agencies of state government shall cooperate  
7 | with and assist the agency ~~department~~, within available  
8 | resources, in implementing programs which have the potential  
9 | to prevent, or reduce the severity of, developmental  
10 | disabilities and shall consider the findings and  
11 | recommendations of the agency ~~department~~ in developing and  
12 | implementing agency programs and formulating agency budget  
13 | requests.

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

18 |             (a) Research into the etiology of developmental  
19 | disabilities.

20 |             (b) Ensuring that new knowledge is rapidly  
21 | disseminated throughout the developmental services program of  
22 | the agency ~~Department of Children and Family Services~~.

23 |             (c) Diagnosis of unusual conditions and syndromes  
24 | associated with developmental disabilities in clients  
25 | identified throughout the developmental services programs.

26 |             (d) Evaluation of families of clients with  
27 | developmental disabilities of genetic origin in order to  
28 | provide them with genetic counseling aimed at preventing the  
29 | recurrence of the disorder in other family members.

30 |             (e) Ensuring that health professionals in the  
31 | developmental services institution at Gainesville have access

1 to information systems that will allow them to remain updated  
2 on newer knowledge and maintain their postgraduate education  
3 standards.

4 (f) Enhancing staff training for professionals  
5 throughout the agency department in the areas of genetics and  
6 developmental disabilities.

7 (5) The agency Department of Children and Family  
8 ~~Services~~ shall have the authority, within available resources,  
9 to contract for the supervision and management of the Raymond  
10 C. Philips Research and Education Unit, and such contract  
11 shall include specific program objectives.

12 Section 18. Section 393.0655, Florida Statutes, is  
13 amended to read:

14 393.0655 Screening of direct service providers.--

15 (1) MINIMUM STANDARDS.--The agency department shall  
16 require level 2 employment screening pursuant to chapter 435,  
17 ~~using the level 2 standards for screening set forth in that~~  
18 ~~chapter,~~ for direct service providers who are unrelated to  
19 their clients, including support coordinators, and managers  
20 and supervisors of residential facilities or comprehensive  
21 transitional education programs licensed under s. 393.067 and  
22 any other person, including volunteers, who provide care or  
23 services, who have access to a client's living areas, or who  
24 have access to a client's funds or personal property.  
25 Background screening shall include employment history checks  
26 as provided in s. 435.03(1) and local criminal records checks  
27 through local law enforcement agencies.

28 (a) A volunteer who assists on an intermittent basis  
29 for less than 40 hours per month does not have to be screened,  
30 if the volunteer is under the direct and constant supervision  
31

1 of persons who meet the screening requirements of this  
2 section.

3 (b) Licensed physicians, nurses, or other  
4 professionals licensed and regulated by the Department of  
5 Health are not subject to background screening pursuant to  
6 this section if they are providing a service that is within  
7 their scope of licensed practice.

8 (c) A person selected by the family or the individual  
9 with developmental disabilities and paid by the family or the  
10 individual to provide supports or services is not required to  
11 have a background screening under this section.

12 (d) Persons residing with the direct services  
13 provider, including family members, are subject to background  
14 screening; however, such persons who are 12 to 18 years of age  
15 shall be screened for delinquency records only.

16 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency  
17 ~~department~~ may grant exemptions from disqualification from  
18 working with children or adults with developmental  
19 disabilities ~~the developmentally disabled~~ as provided in s.  
20 435.07.

21 (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE  
22 CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints  
23 and the state criminal records checks shall be borne by the  
24 employer or by the employee or individual who is being  
25 screened.

26 (4) EXCLUSION FROM OWNING, OPERATING, OR BEING  
27 EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;  
28 HEARINGS PROVIDED.--

29 (a) The agency ~~department~~ shall deny, suspend,  
30 terminate, or revoke a license, certification, rate agreement,  
31 purchase order, or contract, or pursue other remedies provided

1 in s. 393.0673, s. 393.0675, or s. 393.0678 in addition to or  
2 in lieu of denial, suspension, termination, or revocation for  
3 failure to comply with this section.

4 (b) When the agency ~~department~~ has reasonable cause to  
5 believe that grounds for denial or termination of employment  
6 exist, it shall notify, in writing, the employer and the  
7 direct service provider affected, stating the specific record  
8 which indicates noncompliance with the standards in this  
9 section.

10 (c) The procedures established for hearing under  
11 chapter 120 shall be available to the employer and the direct  
12 service provider in order to present evidence relating either  
13 to the accuracy of the basis of exclusion or to the denial of  
14 an exemption from disqualification.

15 (d) Refusal on the part of an employer to dismiss a  
16 direct service provider who has been found to be in  
17 noncompliance with standards of this section shall result in  
18 automatic denial, termination, or revocation of the license,  
19 certification, rate agreement, purchase order, or contract, in  
20 addition to any other remedies pursued by the agency  
21 ~~department~~.

22 Section 19. Section 393.066, Florida Statutes, is  
23 amended to read:

24 393.066 Community services and treatment for persons  
25 who are developmentally disabled.--

26 (1) The agency ~~Department of Children and Family~~  
27 ~~Services~~ shall plan, develop, organize, and implement its  
28 programs of services and treatment for persons who are  
29 developmentally disabled ~~along district lines. The goal of~~  
30 ~~such programs shall be~~ to allow clients to live as  
31 independently as possible in their own homes or communities



1 and to achieve productive lives as close to normal as  
2 possible.

3 ~~(2) All programs of services and treatment for clients~~  
4 ~~shall be administered through the districts and shall serve~~  
5 ~~all clients regardless of the type of residential setting in~~  
6 ~~which the client lives.~~ All elements of community-based  
7 services shall be made available, ~~in each service district~~ and  
8 eligibility for these services shall be consistent across the  
9 state districts. In addition, all purchased services shall be  
10 approved by the agency district.

11 ~~(2)(3)~~ All services needed shall be purchased instead  
12 of provided directly by the agency department, when such  
13 arrangement is more cost-efficient than having those services  
14 provided directly by the department.

15 ~~(3)(4)~~ Community-based services that are medically  
16 necessary to prevent institutionalization shall, to the extent  
17 of available resources, include:

18 (a) Day habilitation services, including developmental  
19 training services.

20 (b) Family care services.

21 (c) Guardian advocate referral services.

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

25 (e) Parent training.

26 (f) Recreation.

27 (g) Residential services.

28 (h) Respite services.

29 (i) Social services.

30 (j) Specialized therapies.

31

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

3           (l) Supported living.

4           (m) Training, including behavioral programming.

5           (n) Transportation.

6           (o) Other habilitative and rehabilitative services as  
7 needed.

8  
9 ~~Services to clients with spina bifida shall not include~~  
10 ~~medical services except as appropriated by the Legislature.~~

11           ~~(5) Provided it is consistent with the intent of the~~  
12 ~~Legislature, the department shall prioritize increased~~  
13 ~~appropriations provided for community based services for~~  
14 ~~developmentally disabled individuals toward individualized,~~  
15 ~~community based supports and services for consumers and their~~  
16 ~~families. Further, the department's 5 year plan for~~  
17 ~~Developmental Services shall reflect a priority toward~~  
18 ~~individualized, community based supports and services for~~  
19 ~~consumers and their families.~~

20           (4)(6) The agency department shall utilize the  
21 services of private businesses, not-for-profit organizations,  
22 and units of local government whenever such services are more  
23 cost-efficient than such services provided directly by the  
24 department, including arrangements for provision of  
25 residential facilities.

26           (5)(7) In order to improve the potential for  
27 utilization of more cost-effective, community-based  
28 residential facilities, the agency department shall promote  
29 the statewide development of day habilitation services for  
30 clients who live with a direct service provider in a  
31 community-based residential facility and who do not require

1 24-hour-a-day care in a hospital or other health care  
2 institution, but who may, in the absence of day habilitation  
3 services, require admission to a developmental disabilities  
4 ~~services~~ institution. Each day service facility shall provide  
5 a protective physical environment for clients, ensure that  
6 direct service providers meet ~~the~~ minimum screening standards  
7 ~~for good moral character~~ as required ~~contained~~ in s. 393.0655,  
8 make available to all day habilitation service participants at  
9 least one meal on each day of operation, provide facilities to  
10 enable participants to obtain needed rest while attending the  
11 program, as appropriate, and provide social and educational  
12 activities designed to stimulate interest and provide  
13 socialization skills.

14 (6) To promote independence and productivity, the  
15 agency shall provide supports and services, within available  
16 resources, to assist clients enrolled in Medicaid waivers who  
17 choose to pursue gainful employment.

18 (7)(8) For the purpose of making needed  
19 community-based residential facilities available at the least  
20 possible cost to the state, the agency ~~department~~ is  
21 authorized to lease privately owned residential facilities  
22 under long-term rental agreements, if such rental agreements  
23 are projected to be less costly to the state over the useful  
24 life of the facility than state purchase or state construction  
25 of such a facility. ~~In addition, the department is authorized~~  
26 ~~to permit, on any public land to which the department holds~~  
27 ~~the lease, construction of a residential facility for which~~  
28 ~~the department has entered into a long term rental agreement~~  
29 ~~as specified in this subsection.~~

30  
31

1           ~~(8)(9)~~ The ~~agency~~ department may adopt rules to ensure  
2 compliance with federal laws or regulations that apply to  
3 services provided pursuant to this section.

4           Section 20. Section 393.0661, Florida Statutes, is  
5 amended to read:

6           393.0661 Home and community-based services delivery  
7 system; comprehensive redesign.--The Legislature finds that  
8 the home and community-based services delivery system for  
9 persons with developmental disabilities and the availability  
10 of appropriated funds are two of the critical elements in  
11 making services available. Therefore, it is the intent of the  
12 Legislature that the Agency for Persons with Disabilities  
13 ~~Department of Children and Family Services~~ shall develop and  
14 implement a comprehensive redesign of the system. The redesign  
15 of the home and community-based services system shall include,  
16 at a minimum, all actions necessary to achieve an appropriate  
17 rate structure, client choice within a specified service  
18 package, appropriate assessment strategies, an efficient  
19 billing process that contains reconciliation and monitoring  
20 components, a redefined role for support coordinators that  
21 avoids potential conflicts of interest, and family/client  
22 budgets linked to levels of need. ~~Prior to the release of~~  
23 ~~funds in the lump sum appropriation, the department shall~~  
24 ~~present a plan to the Executive Office of the Governor, the~~  
25 ~~House Fiscal Responsibility Council, and the Senate~~  
26 ~~Appropriations Committee. The plan must result in a full~~  
27 ~~implementation of the redesigned system no later than July 1,~~  
28 ~~2003. At a minimum, the plan must provide that the portions~~  
29 ~~related to direct provider enrollment and billing will be~~  
30 ~~operational no later than March 31, 2003. The plan must~~  
31 ~~further provide that a more effective needs assessment~~

1 ~~instrument will be deployed by January 1, 2003, and that all~~  
2 ~~clients will be assessed with this device by June 30, 2003.~~

3 ~~(1) In no event may~~ The agency shall use department  
4 ~~select an assessment instrument without appropriate evidence~~  
5 ~~that is it will be~~ reliable and valid for identifying the  
6 support needs of individuals. ~~Once such evidence has been~~  
7 ~~obtained, however, The agency may contract with department~~  
8 ~~shall determine the feasibility of contracting with an~~  
9 ~~external vendor to apply the new assessment device to all~~  
10 ~~clients receiving services through the Medicaid waiver. In~~  
11 ~~lieu of using an external vendor or, the department may use~~  
12 support coordinators to complete client for the assessments if  
13 it develops sufficient safeguards and training to ensure  
14 ongoing significantly improve the inter-rater reliability of  
15 the support coordinators administering the assessment.

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

19 Section 21. Section 393.068, Florida Statutes, is  
20 amended to read:

21 393.068 Family care program.--

22 (1) The family care program is established for the  
23 purpose of providing services and support to families and  
24 individuals with developmental disabilities in order to  
25 maintain the individual in the home environment and avoid  
26 costly out-of-home residential placement. ~~The Legislature~~  
27 ~~recognizes the importance of family support in the long range~~  
28 ~~success of deinstitutionalization.~~ Services and support  
29 available to families and individuals with developmental  
30 disabilities shall emphasize community living and enable  
31 individuals with developmental disabilities to enjoy typical

1 lifestyles. ~~Support and flexibility in coordinating support~~  
2 ~~and services are core elements in caring for the individual~~  
3 ~~who is developmentally disabled.~~ One way to accomplish this is  
4 to recognize that families are the greatest resource available  
5 to individuals who have developmental disabilities and ~~that~~  
6 ~~families~~ must be supported in their role as primary care  
7 givers.

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

12 (a) Attendant care.

13 (b) Barrier-free modifications to the home.

14 (c) Home visitation by agency workers.

15 (d) In-home subsidies.

16 (e) Low-interest loans.

17 ~~(f) Parent training.~~

18 ~~(g) Respite care.~~

19 ~~(f)(h)~~ Modifications for vehicles used to transport  
20 the individual with a developmental disability.

21 ~~(g)(i)~~ Facilitated communication.

22 ~~(h)(j)~~ Family counseling.

23 ~~(i)(k)~~ Equipment and supplies.

24 ~~(j)(l)~~ Self-advocacy training.

25 ~~(k)(m)~~ Roommate services.

26 ~~(l)(n)~~ Integrated community activities.

27 ~~(m)(o)~~ Emergency services.

28 ~~(n)(p)~~ Support coordination.

29 (o) Supported employment.

30 ~~(p)(q)~~ Other support services as identified by the  
31 family or individual.

1           ~~(2) Provided it is consistent with the intent of the~~  
2 ~~Legislature, the department shall prioritize increased~~  
3 ~~appropriations provided for family based services for~~  
4 ~~developmentally disabled individuals toward individualized,~~  
5 ~~family based supports and services for consumers and their~~  
6 ~~families. Further, the department's 5 year plan for~~  
7 ~~developmental services shall reflect a priority toward~~  
8 ~~individualized, family based supports and services for~~  
9 ~~consumers and their families.~~

10           (3) When it is determined by the agency ~~department~~ to  
11 be more cost-effective and in the best interest of the client  
12 to maintain such client in the home of a direct service  
13 provider, the parent or guardian of the client or, if  
14 competent, the client may enroll the client in the family care  
15 program. The direct service provider of a client enrolled in  
16 the family care program shall be reimbursed according to a  
17 rate schedule set by the agency ~~department~~. In-home subsidies  
18 cited in paragraph (1)(d) shall be provided according to s.  
19 393.0695 and are not subject to any other payment method or  
20 rate schedule provided for in this section.

21           (4) All existing community resources available to the  
22 client shall be utilized to support program objectives.  
23 Additional services may be incorporated into the program as  
24 appropriate and to the extent that resources are available.  
25 The agency ~~department~~ is authorized to accept gifts and grants  
26 in order to carry out the program.

27           (5) The agency ~~department~~ may contract for the  
28 provision of any portion of the services required by the  
29 program, except for in-home subsidies cited in paragraph  
30 ~~(2)(d)(1)(d)~~, which shall be provided pursuant to s.  
31 393.0695. Otherwise, purchase of service contracts shall be

1 used whenever the services so provided are more cost-efficient  
2 than those provided by the agency ~~department~~.

3 (6) When possible, services shall be obtained under  
4 the "Florida Comprehensive Annual Services Program Plan under  
5 Title XX of the Social Security Act" and the "Florida Plan for  
6 Medical Assistance under Title XIX of the Social Security  
7 Act."

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

13 ~~(8) The department shall submit to the President of~~  
14 ~~the Senate and the Speaker of the House of Representatives, as~~  
15 ~~part of the biennial plan required by s. 393.14, an evaluation~~  
16 ~~report summarizing the progress of the family care program.~~  
17 ~~The report shall include the information and data necessary~~  
18 ~~for an accurate analysis of the costs and benefits associated~~  
19 ~~with the establishment and operation of the programs that were~~  
20 ~~established.~~

21 Section 22. Subsections (1) and (3) of section  
22 393.0695, Florida Statutes, are amended to read:

23 393.0695 Provision of in-home subsidies.--

24 (1) The agency may pay ~~department shall develop by~~  
25 ~~October 1, 1991, a plan for paying~~ in-home subsidies to  
26 clients enrolled in the family care program or supported  
27 living when it is determined to be more cost-effective and in  
28 the best interest of the client to provide a cash supplement  
29 to the client's income to enable the client to remain in the  
30 family home or the client's own home. Payments may be made to

31



1 the parent or guardian of the client or, if the client is  
2 competent, directly to the client.

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

7 Section 23. Subsection (1), paragraph (a) of  
8 subsection (2), paragraph (a) of subsection (4), paragraphs  
9 (a), (d), and (h) of subsection (5), paragraph (a) of  
10 subsection (6), paragraphs (d) and (e) of subsection (8), and  
11 subsection (13) of section 393.11, Florida Statutes, are  
12 amended to read:

13 393.11 Involuntary admission to residential  
14 services.--

15 (1) JURISDICTION.--When a person is mentally retarded  
16 and requires involuntary admission to residential services  
17 provided by the agency developmental services program of the  
18 ~~Department of Children and Family Services~~, the circuit court  
19 of the county in which the person resides shall have  
20 jurisdiction to conduct a hearing and enter an order  
21 involuntarily admitting the person in order that the person  
22 may receive the care, treatment, habilitation, and  
23 rehabilitation which the person needs. For the purpose of  
24 identifying mental retardation, diagnostic capability shall be  
25 established by in every program function of the agency  
26 ~~department in the districts, including, but not limited to,~~  
27 ~~programs provided by children and families; delinquency~~  
28 ~~services; alcohol, drug abuse, and mental health; and economic~~  
29 ~~services, and by the Department of Labor and Employment~~  
30 ~~Security~~. Except as otherwise specified, the proceedings under  
31

1 | this section shall be governed by the Florida Rules of Civil  
2 | Procedure.

3 |           (2) PETITION.--

4 |           (a) A petition for involuntary admission to  
5 | residential services may be executed by a petitioning  
6 | commission. For proposed involuntary admission to residential  
7 | services arising out of chapter 916, the petition may be filed  
8 | by a petitioning commission, the agency department, the state  
9 | attorney of the circuit from which the defendant was  
10 | committed, or the defendant's attorney.

11 |           (4) DEVELOPMENTAL SERVICES PARTICIPATION.--

12 |           (a) Upon receiving the petition, the court shall  
13 | immediately order the developmental services program of the  
14 | agency department to examine the person being considered for  
15 | involuntary admission to residential services.

16 |           (5) EXAMINING COMMITTEE.--

17 |           (a) Upon receiving the petition, the court shall  
18 | immediately appoint an examining committee to examine the  
19 | person being considered for involuntary admission to  
20 | residential services of the developmental services program of  
21 | the agency department.

22 |           (d) Members of the committee shall not be employees of  
23 | the agency department or be associated with each other in  
24 | practice or in employer-employee relationships. Members of  
25 | the committee shall not have served as members of the  
26 | petitioning commission. Members of the committee shall not be  
27 | employees of the members of the petitioning commission or be  
28 | associated in practice with members of the commission.

29 |           (h) The agency department shall develop and prescribe  
30 | by rule one or more standard forms to be used as a guide for  
31 | members of the examining committee.

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

2           (a) The person with mental retardation shall be  
3 represented by counsel at all stages of the judicial  
4 proceeding. In the event the person is indigent and cannot  
5 afford counsel, the court shall appoint a public defender not  
6 less than 20 working days before the scheduled hearing. The  
7 person's counsel shall have full access to the records of the  
8 service provider and the agency department. In all cases, the  
9 attorney shall represent the rights and legal interests of the  
10 person with mental retardation, regardless of who may initiate  
11 the proceedings or pay the attorney's fee.

12           (8) ORDER.--

13           (d) If an order of involuntary admission to  
14 residential services provided by the developmental services  
15 program of the agency department is entered by the court, a  
16 copy of the written order shall be served upon the person, the  
17 person's counsel, the agency department, and the state  
18 attorney and the person's defense counsel, if applicable. The  
19 order of involuntary admission sent to the agency department  
20 shall also be accompanied by a copy of the examining  
21 committee's report and other reports contained in the court  
22 file.

23           (e) Upon receiving the order, the agency department  
24 shall, within 45 days, provide the court with a copy of the  
25 person's family or individual support plan and copies of all  
26 examinations and evaluations, outlining the treatment and  
27 rehabilitative programs. The agency department shall document  
28 that the person has been placed in the most appropriate, least  
29 restrictive and cost-beneficial residential facility. A copy  
30 of the family or individual support plan and other  
31 examinations and evaluations shall be served upon the person

1 and the person's counsel at the same time the documents are  
2 filed with the court.

3 (13) HABEAS CORPUS.--At any time and without notice,  
4 any person involuntarily admitted to the developmental  
5 services program of the agency ~~department~~, or the person's  
6 parent or legal guardian in his or her behalf, is entitled to  
7 a writ of habeas corpus to question the cause, legality, and  
8 appropriateness of the person's involuntary admission. Each  
9 person, or the person's parent or legal guardian, shall  
10 receive specific written notice of the right to petition for a  
11 writ of habeas corpus at the time of his or her involuntary  
12 placement.

13 Section 24. Paragraphs (a), (b), and (d) of subsection  
14 (2), subsection (3), paragraphs (b), (g), (i), and (j) of  
15 subsection (4), and subsection (6) of section 393.13, Florida  
16 Statutes, are amended to read:

17 393.13 Personal treatment of persons who are  
18 developmentally disabled.--

19 (2) LEGISLATIVE INTENT.--

20 (a) The Legislature finds and declares that the system  
21 of care provided ~~which the state provides~~ to individuals who  
22 are developmentally disabled must be designed to meet the  
23 needs of the clients as well as protect the integrity of their  
24 legal and human rights. ~~Further, the current system of care~~  
25 ~~for persons who are developmentally disabled is in need of~~  
26 ~~substantial improvement in order to provide truly meaningful~~  
27 ~~treatment and habilitation.~~

28 (b) The Legislature further finds and declares that  
29 the design and delivery of treatment and services to persons  
30 who are developmentally disabled should be directed by the  
31 principles of normalization and therefore should:

- 1           1. Abate the use of large institutions.
- 2           2. Continue the development of community-based  
3 services which provide reasonable alternatives to  
4 institutionalization in settings that are least restrictive to  
5 the client.
- 6           3. Provide training and education to individuals who  
7 are developmentally disabled which will maximize their  
8 potential to lead independent and productive lives and which  
9 will afford opportunities for outward mobility from  
10 institutions.
- 11           4. Reduce the use of sheltered workshops and other  
12 noncompetitive employment day activities and promote  
13 opportunities for gainful employment for persons with  
14 developmental disabilities who choose to seek such employment.
- 15           (d) It is the intent of the Legislature:
- 16           1. To articulate the existing legal and human rights  
17 of persons who are developmentally disabled so that they may  
18 be exercised and protected. Persons with developmental  
19 disabilities shall have all the rights enjoyed by citizens of  
20 the state and the United States.
- 21           2. To provide a mechanism for the identification,  
22 evaluation, and treatment of persons with developmental  
23 disabilities.
- 24           3. To divert those individuals from institutional  
25 commitment who, by virtue of comprehensive assessment, can be  
26 placed in less costly, more effective community environments  
27 and programs.
- 28           ~~4. To develop a plan which will indicate the most~~  
29 ~~effective and efficient manner in which to implement treatment~~  
30 ~~programs which are meaningful to individuals with~~  
31

1 ~~developmental disabilities, while safeguarding and respecting~~  
2 ~~the legal and human rights of such individuals.~~

3 ~~4.5. Once the plan developed under the provisions of~~  
4 ~~subparagraph 4. is presented to the Legislature, To fund~~  
5 improvements in the program in accordance with the  
6 availability of state resources and yearly priorities  
7 determined by the Legislature.

8 ~~5.6.~~ To ensure that persons with developmental  
9 disabilities receive treatment and habilitation which fosters  
10 the developmental potential of the individual.

11 ~~6.7.~~ To provide programs for the proper habilitation  
12 and treatment of persons with developmental disabilities which  
13 shall include, but not be limited to, comprehensive  
14 medical/dental care, education, recreation, specialized  
15 therapies, training, social services, transportation,  
16 guardianship, family care programs, day habilitation services,  
17 and habilitative and rehabilitative services suited to the  
18 needs of the individual regardless of age, degree of  
19 disability, or handicapping condition. No person with  
20 developmental disabilities shall be deprived of these  
21 enumerated services by reason of inability to pay.

22 ~~7.8.~~ To fully effectuate the normalization principle  
23 through the establishment of community services for persons  
24 with developmental disabilities as a viable and practical  
25 alternative to institutional care at each stage of individual  
26 life development. If care in a residential facility becomes  
27 necessary, it shall be in the least restrictive setting.

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

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

4 (b) Persons with developmental disabilities shall have  
5 the right to religious freedom and practice. Nothing shall  
6 restrict or infringe on a person's right to religious  
7 preference and practice.

8 (c) Persons with developmental disabilities shall  
9 receive services, within available sources, which protect the  
10 personal liberty of the individual and which are provided in  
11 the least restrictive conditions necessary to achieve the  
12 purpose of treatment.

13 (d) Persons who are developmentally disabled shall  
14 have a right to participate in an appropriate program of  
15 quality education and training services, within available  
16 resources, regardless of chronological age or degree of  
17 disability. Such persons may be provided with instruction in  
18 sex education, marriage, and family planning.

19 (e) Persons who are developmentally disabled shall  
20 have a right to social interaction and to participate in  
21 community activities.

22 (f) Persons who are developmentally disabled shall  
23 have a right to physical exercise and recreational  
24 opportunities.

25 (g) Persons who are developmentally disabled shall  
26 have a right to be free from harm, including unnecessary  
27 physical, chemical, or mechanical restraint, isolation,  
28 excessive medication, abuse, or neglect.

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

1 (i) No otherwise qualified person shall, by reason of  
2 having a developmental disability, be excluded from  
3 participation in, or be denied the benefits of, or be subject  
4 to discrimination under, any program or activity which  
5 receives public funds, and all prohibitions set forth under  
6 any other statute shall be actionable under this statute.

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

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

14 (b) Each client has the right to the possession and  
15 use of his or her own clothing and personal effects, except in  
16 those specific instances where the use of some of these items  
17 as reinforcers is essential for training the client as part of  
18 an appropriately approved behavioral program. The chief  
19 administrator of the facility may take temporary custody of  
20 such effects when it is essential to do so for medical or  
21 safety reasons. Custody of such personal effects shall be  
22 promptly recorded in the client's record, and a receipt for  
23 such effects shall be immediately given to the client, if  
24 competent, or the client's parent or legal guardian.

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

27 2. All interest on money received and held for the  
28 personal use and benefit of a client shall be the property of  
29 that client and shall not accrue to the general welfare of all  
30 clients or be used to defray the cost of residential care.  
31 Interest so accrued shall be used or conserved for the



1 personal use or benefit of the individual client as provided  
2 in s. 402.17(2).

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

8           (g) No client shall be subjected to a treatment  
9 program to eliminate bizarre or unusual behaviors without  
10 first being examined by a physician who in his or her best  
11 judgment determines that such behaviors are not organically  
12 caused.

13           1. Treatment programs involving the use of noxious or  
14 painful stimuli shall be prohibited.

15           2. All alleged violations of this paragraph shall be  
16 reported immediately to the chief administrative officer of  
17 the facility or the district administrator, the agency  
18 ~~department~~ head, and the Florida local advocacy council. A  
19 thorough investigation of each incident shall be conducted and  
20 a written report of the finding and results of such  
21 investigation shall be submitted to the chief administrative  
22 officer of the facility or the district administrator and to  
23 the agency ~~department~~ head within 24 hours of the occurrence  
24 or discovery of the incident.

25           3. The agency ~~department~~ shall adopt ~~promulgate~~ by  
26 rule a system for the oversight of behavioral programs. Such  
27 system shall establish guidelines and procedures governing the  
28 design, approval, implementation, and monitoring of all  
29 behavioral programs involving clients. The system shall  
30 ensure statewide and local review by committees of  
31 professionals certified as behavior analysts pursuant to s.

1 393.17. No behavioral program shall be implemented unless  
2 reviewed according to the rules established by the agency  
3 ~~department~~ under this section. Nothing stated in this section  
4 shall prohibit the review of programs by the Florida statewide  
5 or local advocacy councils.

6 (i) Clients shall have the right to be free from  
7 unnecessary physical, chemical, or mechanical restraint.  
8 Restraints shall be employed only in emergencies or to protect  
9 the client from imminent injury to himself or herself or  
10 others. Restraints shall not be employed as punishment, for  
11 the convenience of staff, or as a substitute for a  
12 habilitative plan. Restraints shall impose the least possible  
13 restrictions consistent with their purpose and shall be  
14 removed when the emergency ends. Restraints shall not cause  
15 physical injury to the client and shall be designed to allow  
16 the greatest possible comfort.

17 1. Mechanical supports used in normative situations to  
18 achieve proper body position and balance shall not be  
19 considered restraints, but shall be prescriptively designed  
20 and applied under the supervision of a qualified professional  
21 with concern for principles of good body alignment,  
22 circulation, and allowance for change of position.

23 2. Totally enclosed cribs and barred enclosures shall  
24 be considered restraints.

25 3. Daily reports on the employment of physical,  
26 chemical, or mechanical restraints by those specialists  
27 authorized in the use of such restraints shall be made to the  
28 appropriate chief administrator of the facility, and a monthly  
29 summary of such reports shall be relayed to the district  
30 administrator and the Florida local advocacy council. The  
31 reports shall summarize all such cases of restraints, the type

1 used, the duration of usage, and the reasons therefor.  
2 Districts shall submit districtwide quarterly reports of these  
3 summaries to the state Developmental Disabilities Program  
4 Office.

5           4. The agency ~~department~~ shall post a copy of the  
6 rules adopted ~~promulgated~~ under this section in each living  
7 unit of residential facilities. A copy of the rules adopted  
8 ~~promulgated~~ under this section shall be given to all staff  
9 members of licensed facilities and made a part of all  
10 preservice and inservice training programs.

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

15           2. Unless waived by the client, if competent, or the  
16 client's parent or legal guardian if the client is  
17 incompetent, the client's central record shall be confidential  
18 and exempt from the provisions of s. 119.07(1), and no part of  
19 it shall be released except:

20           a. The record may be released to physicians,  
21 attorneys, and government agencies having need of the record  
22 to aid the client, as designated by the client, if competent,  
23 or the client's parent or legal guardian, if the client is  
24 incompetent.

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

28           c. The record or any part thereof may be disclosed to  
29 a qualified researcher, a staff member of the facility, or an  
30 employee of the agency ~~department~~ when the administrator of  
31 the facility or the director ~~secretary~~ of the agency

1 ~~department~~ deems it necessary for the treatment of the client,  
2 maintenance of adequate records, compilation of treatment  
3 data, or evaluation of programs.

4 d. Information from the records may be used for  
5 statistical and research purposes if the information is  
6 abstracted in such a way to protect the identity of  
7 individuals.

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

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

15 (6) NOTICE OF RIGHTS.--Each person with developmental  
16 disabilities, if competent, or parent or legal guardian of  
17 such person if the person is incompetent, shall promptly  
18 receive from the ~~agency Department of Children and Family~~  
19 ~~Services~~ or the Department of Education a written copy of this  
20 act. Each person with developmental disabilities able to  
21 comprehend shall be promptly informed, in the language or  
22 other mode of communication which such person understands, of  
23 the above legal rights of persons with developmental  
24 disabilities.

25 Section 25. Section 393.17, Florida Statutes, is  
26 amended to read:

27 393.17 Behavioral programs; certification of behavior  
28 analysts; ~~fees~~.--The agency may recognize the certification of  
29 behavior analysts awarded by a nonprofit corporation whose  
30 mission is to meet professional credentialing needs identified  
31 by behavior analysts, state governments, and consumers of

1 ~~behavior analysis services and whose work has the support of~~  
2 ~~the Association for Behavior Analysis International. The~~  
3 ~~department shall by rule implement a certification program to~~  
4 ~~ensure that qualified persons oversee the design and~~  
5 ~~implementation of behavioral programs for persons who are~~  
6 ~~developmentally disabled. Certification and recertification~~  
7 ~~minimum standards must comply with departmental rules and must~~  
8 ~~include, for initial certification, examination of~~  
9 ~~competencies in applying behavior analysis with persons who~~  
10 ~~are developmentally disabled within established competency~~  
11 ~~clusters. These competency clusters shall include, but not be~~  
12 ~~limited to, behavioral assessments, observation and recording,~~  
13 ~~behavioral program development and monitoring, and other areas~~  
14 ~~as determined by professional practitioners of behavior~~  
15 ~~analysis. Fees shall be charged for certification not to~~  
16 ~~exceed the cost of development and administration of the~~  
17 ~~examination and periodic renewal of certification. The~~  
18 ~~department shall establish by rule the procedures for~~  
19 ~~certification and certification renewal.~~

20 Section 26. Section 393.22, Florida Statutes, is  
21 amended to read:

22 393.22 ~~Transfer of appropriations; barriers to~~  
23 ~~services; Financial commitment to community services~~  
24 ~~programs.--~~

25 ~~(1) No funds appropriated for developmental services~~  
26 ~~programs shall be transferred pursuant to s. 216.292, unless~~  
27 ~~there is a finding by the secretary that treatment programs~~  
28 ~~for developmental disabilities will not be adversely affected~~  
29 ~~by the transfer.~~

30 ~~(2) Development of programs for other disabilities~~  
31 ~~shall not effectuate a reduction or dilution of the ongoing~~

1 ~~financial commitment of the state through appropriations for~~  
2 ~~programs and services for persons with mental retardation,~~  
3 ~~cerebral palsy, autism, or spina bifida.~~

4       ~~(3) In order to The Department of Children and Family~~  
5 ~~Services and the Agency for Health Care Administration jointly~~  
6 ~~shall~~ ensure that whenever a number of persons move from an  
7 institution serving persons with developmental disabilities  
8 which is sufficient to allow an entire residential unit within  
9 that institution to be closed, no less than 80 percent of the  
10 direct costs of providing services to persons who had resided  
11 in that unit shall be reallocated for community services.

12           Section 27. Section 393.502, Florida Statutes, is  
13 amended to read:

14           393.502 Family care councils.--

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

18           (2) MEMBERSHIP.--

19           (a) Each local ~~district~~ family care council shall  
20 consist of at least 10 and no more than 15 members recommended  
21 by a majority vote of the local ~~district~~ family care council  
22 and appointed by the Governor.

23           (b) At least three of the members of the council must  
24 be consumers. One such member shall be a consumer who received  
25 ~~developmental~~ services within the 4 years prior to the date of  
26 recommendation, or the legal guardian of such a consumer. The  
27 remainder of the council members shall be parents, guardians,  
28 or siblings of persons with developmental disabilities who  
29 qualify for ~~developmental~~ services pursuant to this chapter.

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

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

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

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

12 (3) TERMS; VACANCIES.--

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

16 (b) A member who has served two consecutive terms  
17 shall not be eligible to serve again until 12 months have  
18 elapsed since ending his or her service on the local district  
19 council.

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

26 (4) COMMITTEE APPOINTMENTS.--The chair of the local  
27 ~~district~~ family care council may appoint persons to serve on  
28 council committees. Such persons may include former members of  
29 the council and persons not eligible to serve on the council.

30 (5) TRAINING.--

31

1           (a) The ~~agency department~~, in consultation with the  
2 local district councils, shall establish a training program  
3 for local district family care council members. Each local  
4 area district shall provide the training program when new  
5 persons are appointed to the local district council and at  
6 other times as the secretary deems necessary.

7           (b) The training shall assist the council members to  
8 understand the laws, rules, and policies applicable to their  
9 duties and responsibilities.

10           (c) All persons appointed to a local district council  
11 must complete this training within 90 days after their  
12 appointment. A person who fails to meet this requirement shall  
13 be considered to have resigned from the council.

14           (6) MEETINGS.--Council members shall serve on a  
15 voluntary basis without payment for their services but shall  
16 be reimbursed for per diem and travel expenses as provided for  
17 in s. 112.061. The council shall meet at least six times per  
18 year.

19           (7) PURPOSE.--The purpose of the local district family  
20 care councils shall be to advise the ~~agency department and its~~  
21 ~~district advisory boards~~, to develop a plan for the delivery  
22 of ~~developmental services~~ family support services within the  
23 local area district, and to monitor the implementation and  
24 effectiveness of services and support provided under the plan.  
25 The primary functions of the local district family care  
26 councils shall be to:

27           (a) Assist in providing information and outreach to  
28 families.

29           (b) Review the effectiveness of service ~~developmental~~  
30 ~~services~~ programs and make recommendations with respect to  
31 program implementation.



1           (c) Advise the agency ~~district developmental services~~  
2 ~~administrators~~ with respect to policy issues relevant to the  
3 community and family support system in the local area  
4 ~~district~~.

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

7           (8) NEW COUNCILS.--When a local ~~district~~ family care  
8 council is established for the first time in a local area  
9 ~~district~~, the Governor shall appoint the first four council  
10 members, who shall serve 3-year terms. These members shall  
11 submit to the Governor, within 90 days after their  
12 appointment, recommendations for at least six additional  
13 members, selected by majority vote. ~~If the Governor does not~~  
14 ~~act on the recommendations within 45 days after receiving~~  
15 ~~them, the persons recommended shall be considered to be~~  
16 ~~appointed. Those members recommended for appointment by the~~  
17 ~~Governor shall serve for 2 years.~~

18           (9) FUNDING; FINANCIAL REVIEW.--The local ~~district~~  
19 family care council may apply for, receive, and accept grants,  
20 gifts, donations, bequests, and other payments from any public  
21 or private entity or person. Each local ~~district~~ council is  
22 ~~shall be~~ subject to an annual financial review by ~~district~~  
23 staff assigned by the agency ~~district administrator~~. Each  
24 local ~~district~~ council shall exercise care and prudence in the  
25 expenditure of funds. The local ~~district~~ family care councils  
26 shall comply with state expenditure requirements.

27           Section 28. Section 408.301, Florida Statutes, is  
28 amended to read:

29           408.301 Legislative findings.--The Legislature has  
30 found that access to quality, affordable, health care for all  
31 Floridians is an important goal for the state. The Legislature

1 recognizes that there are Floridians with special health care  
2 and social needs which require particular attention. The  
3 people served by the Department of Children and Family  
4 Services, the Agency for Persons with Disabilities, ~~and~~ the  
5 Department of Health, and the Department of Elderly Affairs  
6 are examples of citizens with special needs. The Legislature  
7 further recognizes that the Medicaid program is an intricate  
8 part of the service delivery system for the special needs  
9 citizens ~~served by or through the Department of Children and~~  
10 ~~Family Services and the Department of Health.~~ However, the  
11 Agency for Health Care Administration is not a service  
12 provider and does not develop or direct programs for the  
13 special needs citizens ~~served by or through the Department of~~  
14 ~~Children and Family Services and the Department of Health.~~  
15 Therefore, it is the intent of the Legislature that the Agency  
16 for Health Care Administration work closely with the  
17 Department of Children and Family Services, the Agency for  
18 Persons with Disabilities, ~~and~~ the Department of Health, and  
19 the Department of Elderly Affairs in developing plans for  
20 assuring access to all Floridians in order to assure that the  
21 needs of special citizens are met.

22 Section 29. Section 408.302, Florida Statutes, is  
23 amended to read:

24 408.302 Interagency agreement.--

25 (1) The Agency for Health Care Administration shall  
26 enter into an interagency agreement with the Department of  
27 Children and Family Services, the Agency for Persons with  
28 Disabilities, ~~and~~ the Department of Health, and the Department  
29 of Elderly Affairs to assure coordination and cooperation in  
30 serving special needs citizens. The agreement shall include  
31 the requirement that the secretaries or directors ~~secretary~~ of

1 | the Department of Children and Family Services, the Agency for  
2 | Persons with Disabilities, ~~and the secretary of~~ the Department  
3 | of Health, and the Department of Elderly Affairs approve,  
4 | prior to adoption, any rule developed by the Agency for Health  
5 | Care Administration where such rule has a direct impact on the  
6 | mission of the respective state agencies ~~Department of~~  
7 | ~~Children and Family Services and the Department of Health~~,  
8 | their programs, or their budgets.

9 |         (2) For rules which indirectly impact on the mission  
10 | of the Department of Children and Family Services, the Agency  
11 | for Persons with Disabilities, ~~and~~ the Department of Health,  
12 | and the Department of Elderly Affairs, their programs, or  
13 | their budgets, the concurrence of the respective secretaries  
14 | or directors ~~secretary of the Department of Children and~~  
15 | ~~Family Services and the secretary of the Department of Health~~  
16 | on the rule is required.

17 |         (3) For all other rules developed by the Agency for  
18 | Health Care Administration, coordination with the Department  
19 | of Children and Family Services, the Agency for Persons with  
20 | Disabilities, ~~and~~ the Department of Health, and the Department  
21 | of Elderly Affairs is encouraged.

22 |         (4) The interagency agreement shall also include any  
23 | other provisions necessary to ensure a continued cooperative  
24 | working relationship between the Agency for Health Care  
25 | Administration and the Department of Children and Family  
26 | Services, the Agency for Persons with Disabilities, ~~and~~ the  
27 | Department of Health, and the Department of Elderly Affairs as  
28 | each strives to meet the needs of the citizens of Florida.

29 |         Section 30. Subsection (13) of section 409.906,  
30 | Florida Statutes, is amended to read:

31 |

1           409.906 Optional Medicaid services.--Subject to  
2 specific appropriations, the agency may make payments for  
3 services which are optional to the state under Title XIX of  
4 the Social Security Act and are furnished by Medicaid  
5 providers to recipients who are determined to be eligible on  
6 the dates on which the services were provided. Any optional  
7 service that is provided shall be provided only when medically  
8 necessary and in accordance with state and federal law.  
9 Optional services rendered by providers in mobile units to  
10 Medicaid recipients may be restricted or prohibited by the  
11 agency. Nothing in this section shall be construed to prevent  
12 or limit the agency from adjusting fees, reimbursement rates,  
13 lengths of stay, number of visits, or number of services, or  
14 making any other adjustments necessary to comply with the  
15 availability of moneys and any limitations or directions  
16 provided for in the General Appropriations Act or chapter 216.  
17 If necessary to safeguard the state's systems of providing  
18 services to elderly and disabled persons and subject to the  
19 notice and review provisions of s. 216.177, the Governor may  
20 direct the Agency for Health Care Administration to amend the  
21 Medicaid state plan to delete the optional Medicaid service  
22 known as "Intermediate Care Facilities for the Developmentally  
23 Disabled." Optional services may include:  
24           (13) HOME AND COMMUNITY-BASED SERVICES.--The agency  
25 may pay for home-based or community-based services that are  
26 rendered to a recipient in accordance with a federally  
27 approved waiver program. The agency may limit or eliminate  
28 coverage for certain ~~Project AIDS Care Waiver~~ services,  
29 preauthorize high-cost or highly utilized services, or make  
30 any other adjustments necessary to comply with any limitations  
31 or directions provided for in the General Appropriations Act.

1           Section 31. Sections 393.14, 393.165, 393.166, and  
2 393.505, Florida Statutes, are repealed.

3           Section 32. (1) Effective October 1, 2004, the  
4 developmental disabilities program and the developmental  
5 services institutions in the Department of Children and Family  
6 Services shall be transferred to the Agency for Persons with  
7 Disabilities by a type two transfer pursuant to section 20.06,  
8 Florida Statutes. Prior to that date:

9           (a) The Agency for Persons with Disabilities and the  
10 Department of Children and Family Services, in consultation  
11 with the Department of Management Services, shall determine  
12 the number of positions and resources within the department  
13 dedicated to the developmental disabilities program which  
14 shall be transferred to the agency and will develop an  
15 agreement that delineates who within the department will  
16 provide administrative support to the agency.

17           (b) The Director of the Agency for Persons with  
18 Disabilities, in consultation with the Secretaries of the  
19 Department of Children and Family Services and the Agency for  
20 Health Care Administration or their designees, shall prepare a  
21 transition plan that must address, at a minimum, building  
22 leases, information support systems, cash ownership and  
23 transfer, administrative support functions, inventory and  
24 transfers of equipment and structures, expenditure transfers,  
25 budget authority and positions, and certifications forward.  
26 This plan shall be submitted by September 1, 2004, to the  
27 Executive Office of the Governor, the President of the Senate,  
28 and the Speaker of the House of Representatives.

29           (c) The Agency for Persons with Disabilities and the  
30 Department of Children and Family Services shall work with the  
31 Agency for Health Care Administration to develop a plan that

1 ensures that all of the necessary electronic and paper-based  
2 data of the Developmental Disabilities program is accessible  
3 to the Medicaid program and that all electronic records will  
4 be migrated to a new data system that is compatible with the  
5 Florida Medicaid Management Information System.

6 (d) The Agency for Persons with Disabilities and the  
7 Agency for Health Care Administration shall develop a plan for  
8 the orderly relocation of the noncentral-office staff of the  
9 Agency for Persons with Disabilities to the area offices of  
10 the Agency for Health Care Administration. Such plan shall  
11 include a schedule that takes into consideration the  
12 availability of space, the expiration of current leases, and  
13 the initiation of new leases that can accommodate the  
14 relocated staff, as well as appropriate reimbursement for  
15 collocation costs, including office space and other operating  
16 expenses.

17 (2) Effective October 1, 2004, the agency shall enter  
18 into an interagency agreement with the Department of Children  
19 and Family Services for the provision of the necessary  
20 day-to-day administrative and operational needs of the agency,  
21 including, but not limited to, personnel, purchasing,  
22 information technology support, legal support, and other  
23 related services. This interagency agreement shall continue  
24 until the agency no longer requires the provision of services  
25 through such agreement.

26 (3) This act does not affect the validity of any  
27 judicial or administrative proceeding pending on October 30,  
28 2004, and the Agency for Persons with Disabilities is  
29 substituted as a real party in interest with respect to any  
30 proceeding pending on that date which involves the  
31

1 developmental services programs of the Department of Children  
2 and Family Services.

3       Section 33. The Office of Program Policy Analysis and  
4 Government Accountability shall identify and evaluate  
5 statewide entities receiving state funding for the purpose of  
6 addressing the interests of, but not directly providing  
7 services for, persons with disabilities.

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

10       (a) The extent to which activities of these entities  
11 are coordinated;

12       (b) The similarities and differences in the  
13 organizational missions of these entities; and

14       (c) The amount of state funds provided to these  
15 entities for the purpose of addressing the interests of  
16 persons with disabilities, the uses of these funds, and  
17 whether they duplicate the efforts of other private or  
18 federally funded entities.

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

21       Section 34. Subsection (1) of section 92.53, Florida  
22 Statutes, is amended to read:

23       92.53 Videotaping of testimony of victim or witness  
24 under age 16 or person with mental retardation.--

25       (1) On motion and hearing in camera and a finding that  
26 there is a substantial likelihood that a victim or witness who  
27 is under the age of 16 or who is a person with mental  
28 retardation as defined in s. 393.063 ~~s. 393.063(42)~~ would  
29 suffer at least moderate emotional or mental harm due to the  
30 presence of the defendant if the child or person with mental  
31 retardation is required to testify in open court, or that such

1 | victim or witness is otherwise unavailable as defined in s.  
2 | 90.804(1), the trial court may order the videotaping of the  
3 | testimony of the victim or witness in a case, whether civil or  
4 | criminal in nature, in which videotaped testimony is to be  
5 | utilized at trial in lieu of trial testimony in open court.

6 |       Section 35. Subsections (1), (2), and (3), paragraph  
7 | (i) of subsection (4), subsection (5), paragraphs (a), (b),  
8 | (c), (d), (f), and (g) of subsection (6), and subsections (8),  
9 | (9), (10), (11), (12), (13), (14), and (17) of section  
10 | 393.067, Florida Statutes, are amended to read:

11 |       393.067 Licensure of residential facilities and  
12 | comprehensive transitional education programs.--

13 |       (1) The agency ~~department~~ shall provide through its  
14 | licensing authority a system of provider qualifications,  
15 | standards, training criteria for meeting standards, and  
16 | monitoring for residential facilities and comprehensive  
17 | transitional education programs.

18 |       (2) The agency ~~department~~ shall conduct inspections  
19 | and reviews of residential facilities and comprehensive  
20 | transitional education programs annually.

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



1 any administrative or court proceeding initiated by the  
2 agency.

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

5 (i) Such other information as the agency ~~department~~  
6 determines is necessary to carry out the provisions of this  
7 chapter.

8 (5) The applicant shall submit evidence which  
9 establishes the good moral character of the manager or  
10 supervisor of the facility or program and the direct service  
11 providers in the facility or program and its component centers  
12 or units. A license may be issued if all the screening  
13 materials have been timely submitted; however, a license may  
14 not be issued or renewed if any of the direct service  
15 providers have failed the screening required by s. 393.0655.

16 (a)1. A licensed residential facility or comprehensive  
17 transitional education program which applies for renewal of  
18 its license shall submit to the agency ~~department~~ a list of  
19 direct service providers who have worked on a continuous basis  
20 at the applicant facility or program since submitting  
21 fingerprints to the agency or the Department of Children and  
22 Family Services, identifying those direct service providers  
23 for whom a written assurance of compliance was provided by the  
24 agency or department and identifying those direct service  
25 providers who have recently begun working at the facility or  
26 program and are awaiting the results of the required  
27 fingerprint check along with the date of the submission of  
28 those fingerprints for processing. The agency ~~department~~ shall  
29 by rule determine the frequency of requests to the Department  
30 of Law Enforcement to run state criminal records checks for  
31 such direct service providers except for those direct service

1 providers awaiting the results of initial fingerprint checks  
2 for employment at the applicant facility or program. The  
3 ~~agency department~~ shall review the records of the direct  
4 service providers at the applicant facility or program with  
5 respect to the crimes specified in s. 393.0655 and shall  
6 notify the facility or program of its findings. When  
7 disposition information is missing on a criminal record, it is  
8 ~~shall be~~ the responsibility of the person being screened, upon  
9 request of the agency department, to obtain and supply within  
10 30 days the missing disposition information to the agency  
11 ~~department~~. Failure to supply the missing information within  
12 30 days or to show reasonable efforts to obtain such  
13 information shall result in automatic disqualification.

14         2. The applicant shall sign an affidavit under penalty  
15 of perjury stating that all new direct service providers have  
16 been fingerprinted and that the facility's or program's  
17 remaining direct service providers have worked at the  
18 applicant facility or program on a continuous basis since  
19 being initially screened at that facility or program or have a  
20 written assurance of compliance from the agency or department.

21         (b) As a prerequisite for issuance of the initial  
22 license to a residential facility or comprehensive  
23 transitional education program:

24         1. The applicant shall submit to the agency department  
25 a complete set of fingerprints, taken by an authorized law  
26 enforcement agency or an employee of the agency department who  
27 is trained to take fingerprints, for the manager, supervisor,  
28 or direct service providers of the facility or program;

29         2. The agency department shall submit the fingerprints  
30 to the Department of Law Enforcement for state processing and  
31

1 for federal processing by the Federal Bureau of Investigation;  
2 and

3           3. The agency department shall review the record of  
4 the manager or supervisor with respect to the crimes specified  
5 in s. 393.0655(1) and shall notify the applicant of its  
6 findings. When disposition information is missing on a  
7 criminal record, it ~~is shall be~~ the responsibility of the  
8 manager or supervisor, upon request of the agency department,  
9 to obtain and supply within 30 days the missing disposition  
10 information to the agency department. Failure to supply the  
11 missing information within 30 days or to show reasonable  
12 efforts to obtain such information shall result in automatic  
13 disqualification.

14           (c) The agency department or a residential facility or  
15 comprehensive transitional education program may not use the  
16 criminal records or juvenile records of a person obtained  
17 under this subsection for any purpose other than determining  
18 if that person meets the minimum standards for good moral  
19 character for a manager or supervisor of, or direct service  
20 provider in, such a facility or program. The criminal records  
21 or juvenile records obtained by the agency department or a  
22 residential facility or comprehensive transitional education  
23 program for determining the moral character of a manager,  
24 supervisor, or direct service provider are exempt from s.  
25 119.07(1).

26           (6) Each applicant for licensure as an intermediate  
27 care facility for the developmentally disabled must comply  
28 with the following requirements:

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

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

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

14 |       (c) Proof of compliance with the level 2 background  
15 | screening requirements of chapter 435 which has been submitted  
16 | within the previous 5 years in compliance with any other  
17 | health care licensure requirements of this state is acceptable  
18 | in fulfillment of the requirements of 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 (8) The agency ~~department~~ shall adopt ~~promulgate~~ rules  
5 establishing minimum standards for licensure of residential  
6 facilities and comprehensive transitional education programs,  
7 including rules requiring facilities and programs to train  
8 staff to detect and prevent sexual abuse of residents and  
9 clients, minimum standards of quality and adequacy of care,  
10 and uniform firesafety standards established by the State Fire  
11 Marshal which are appropriate to the size of the facility or  
12 of the component centers or units of the program.

13 (9) The agency ~~department~~ and the Agency for Health  
14 Care Administration, after consultation with the Department of  
15 Community Affairs, shall adopt rules for residential  
16 facilities under the respective regulatory jurisdiction of  
17 each establishing minimum standards for the preparation and  
18 annual update of a comprehensive emergency management plan. At  
19 a minimum, the rules must provide for plan components that  
20 address emergency evacuation transportation; adequate  
21 sheltering arrangements; postdisaster activities, including  
22 emergency power, food, and water; postdisaster transportation;  
23 supplies; staffing; emergency equipment; individual  
24 identification of residents and transfer of records; and  
25 responding to family inquiries. The comprehensive emergency  
26 management plan for all comprehensive transitional education  
27 programs and for homes serving individuals who have complex  
28 medical conditions is subject to review and approval by the  
29 local emergency management agency. During its review, the  
30 local emergency management agency shall ensure that the  
31 following agencies, at a minimum, are given the opportunity to

1 review the plan: the Agency for Health Care Administration,  
2 the Agency for Persons with Disabilities ~~Department of~~  
3 ~~Children and Family Services~~, and the Department of Community  
4 Affairs. Also, appropriate volunteer organizations must be  
5 given the opportunity to review the plan. The local emergency  
6 management agency shall complete its review within 60 days and  
7 either approve the plan or advise the facility of necessary  
8 revisions.

9 (10) The agency ~~department~~ may conduct unannounced  
10 inspections to determine compliance by residential facilities  
11 and comprehensive transitional education programs with the  
12 applicable provisions of this chapter and the rules adopted  
13 pursuant hereto, including the rules adopted for training  
14 staff of a facility or a program to detect and prevent sexual  
15 abuse of residents and clients. The facility or program shall  
16 make copies of inspection reports available to the public upon  
17 request.

18 (11) An alternative living center and an independent  
19 living education center, as defined in s. 393.063 ~~s.~~  
20 ~~393.063(8)~~, shall be subject to the provisions of s. 419.001,  
21 except that such centers shall be exempt from the  
22 1,000-foot-radius requirement of s. 419.001(2) if:

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

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

28 (12) Each residential facility or comprehensive  
29 transitional education program licensed by the agency  
30 ~~department~~ shall forward annually to the agency ~~department~~ a  
31

1 true and accurate sworn statement of its costs of providing  
2 care to clients funded by the agency ~~department~~.

3 (13) The agency ~~department~~ may audit the records of  
4 any residential facility or comprehensive transitional  
5 education program that ~~which~~ it has reason to believe may not  
6 be in full compliance with the provisions of this section;  
7 provided that, any financial audit of such facility or program  
8 shall be limited to the records of clients funded by the  
9 agency ~~department~~.

10 (14) The agency ~~department~~ shall establish, for the  
11 purpose of control of licensure costs, a uniform management  
12 information system and a uniform reporting system with uniform  
13 definitions and reporting categories.

14 (17) The agency ~~department~~ shall not be required to  
15 contract with new facilities licensed after October 1, 1989,  
16 pursuant to this chapter. Pursuant to chapter 287, the agency  
17 ~~department~~ shall continue to contract within available  
18 resources for residential services with facilities licensed  
19 prior to October 1, 1989, if such facilities comply with the  
20 provisions of this chapter and all other applicable laws and  
21 regulations.

22 Section 36. Subsection (9) of section 397.405, Florida  
23 Statutes, is amended to read:

24 397.405 Exemptions from licensure.--The following are  
25 exempt from the licensing provisions of this chapter:

26 (9) Facilities licensed under s. 393.063 ~~s. 393.063(8)~~  
27 that, in addition to providing services to persons who are  
28 developmentally disabled as defined therein, also provide  
29 services to persons developmentally at risk as a consequence  
30 of exposure to alcohol or other legal or illegal drugs while  
31 in utero.



1  
2 The exemptions from licensure in this section do not apply to  
3 any service provider that receives an appropriation, grant, or  
4 contract from the state to operate as a service provider as  
5 defined in this chapter or to any substance abuse program  
6 regulated pursuant to s. 397.406. Furthermore, this chapter  
7 may not be construed to limit the practice of a physician  
8 licensed under chapter 458 or chapter 459, a psychologist  
9 licensed under chapter 490, or a psychotherapist licensed  
10 under chapter 491 who provides substance abuse treatment, so  
11 long as the physician, psychologist, or psychotherapist does  
12 not represent to the public that he or she is a licensed  
13 service provider and does not provide services to clients  
14 pursuant to part V of this chapter. Failure to comply with any  
15 requirement necessary to maintain an exempt status under this  
16 section is a misdemeanor of the first degree, punishable as  
17 provided in s. 775.082 or s. 775.083.

18 Section 37. Paragraph (b) of subsection (5) of section  
19 400.464, Florida Statutes, is amended to read:

20 400.464 Home health agencies to be licensed;  
21 expiration of license; exemptions; unlawful acts; penalties.--

22 (5) The following are exempt from the licensure  
23 requirements of this part:

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

- 26 1. The Department of Elderly Affairs.  
27 2. The Department of Health, a community health  
28 center, or a rural health network that furnishes home visits  
29 for the purpose of providing environmental assessments, case  
30 management, health education, personal care services, family  
31

1 | planning, or followup treatment, or for the purpose of  
2 | monitoring and tracking disease.

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

5 |         4. Companion and sitter organizations that were  
6 | registered under s. 400.509(1) on January 1, 1999, and were  
7 | authorized to provide personal services under s. 393.063(33)  
8 | under a developmental services provider certificate on January  
9 | 1, 1999, may continue to provide such services to past,  
10 | present, and future clients of the organization who need such  
11 | services, notwithstanding the provisions of this act.

12 |         5. The Department of Children and Family Services.

13 |         Section 38. Paragraph (d) of subsection (1) of section  
14 | 419.001, Florida Statutes, is amended to read:

15 |         419.001 Site selection of community residential  
16 | homes.--

17 |         (1) For the purposes of this section, the following  
18 | definitions shall apply:

19 |         (d) "Resident" means any of the following: a frail  
20 | elder as defined in s. 400.618; a physically disabled or  
21 | handicapped person as defined in s. 760.22(7)(a); a  
22 | developmentally disabled person as defined in s. 393.063 ~~s.~~  
23 | ~~393.063(12)~~; a nondangerous mentally ill person as defined in  
24 | s. 394.455(18); or a child as defined in s. 39.01(14), s.  
25 | 984.03(9) or (12), or s. 985.03(8).

26 |         Section 39. Section 914.16, Florida Statutes, is  
27 | amended to read:

28 |         914.16 Child abuse and sexual abuse of victims under  
29 | age 16 or persons with mental retardation; limits on  
30 | interviews.--The chief judge of each judicial circuit, after  
31 | consultation with the state attorney and the public defender

1 for the judicial circuit, the appropriate chief law  
2 enforcement officer, and any other person deemed appropriate  
3 by the chief judge, shall provide by order reasonable limits  
4 on the number of interviews that a victim of a violation of s.  
5 794.011, s. 800.04, or s. 827.03 who is under 16 years of age  
6 or a victim of a violation of s. 794.011, s. 800.02, s.  
7 800.03, or s. 825.102 who is a person with mental retardation  
8 as defined in s. 393.063 ~~s. 393.063(42)~~ must submit to for law  
9 enforcement or discovery purposes. The order shall, to the  
10 extent possible, protect the victim from the psychological  
11 damage of repeated interrogations while preserving the rights  
12 of the public, the victim, and the person charged with the  
13 violation.

14 Section 40. Subsection (2) of section 914.17, Florida  
15 Statutes, is amended to read:

16 914.17 Appointment of advocate for victims or  
17 witnesses who are minors or persons with mental retardation.--

18 (2) An advocate shall be appointed by the court to  
19 represent a person with mental retardation as defined in s.  
20 393.063 ~~s. 393.063(42)~~ in any criminal proceeding if the  
21 person with mental retardation is a victim of or witness to  
22 abuse or neglect, or if the person with mental retardation is  
23 a victim of a sexual offense or a witness to a sexual offense  
24 committed against a minor or person with mental retardation.  
25 The court may appoint an advocate in any other criminal  
26 proceeding in which a person with mental retardation is  
27 involved as either a victim or a witness. The advocate shall  
28 have full access to all evidence and reports introduced during  
29 the proceedings, may interview witnesses, may make  
30 recommendations to the court, shall be noticed and have the  
31 right to appear on behalf of the person with mental

1 | retardation at all proceedings, and may request additional  
2 | examinations by medical doctors, psychiatrists, or  
3 | psychologists. It is the duty of the advocate to perform the  
4 | following services:

5 |         (a) To explain, in language understandable to the  
6 | person with mental retardation, all legal proceedings in which  
7 | the person shall be involved;

8 |         (b) To act, as a friend of the court, to advise the  
9 | judge, whenever appropriate, of the person with mental  
10 | retardation's ability to understand and cooperate with any  
11 | court proceedings; and

12 |         (c) To assist the person with mental retardation and  
13 | the person's family in coping with the emotional effects of  
14 | the crime and subsequent criminal proceedings in which the  
15 | person with mental retardation is involved.

16 |         Section 41. Subsection (1) of section 918.16, Florida  
17 | Statutes, is amended to read:

18 |             918.16 Sex offenses; testimony of person under age 16  
19 | or person with mental retardation; testimony of victim;  
20 | courtroom cleared; exceptions.--

21 |             (1) Except as provided in subsection (2), in the trial  
22 | of any case, civil or criminal, when any person under the age  
23 | of 16 or any person with mental retardation as defined in s.  
24 | 393.063 ~~s. 393.063(42)~~ is testifying concerning any sex  
25 | offense, the court shall clear the courtroom of all persons  
26 | except parties to the cause and their immediate families or  
27 | guardians, attorneys and their secretaries, officers of the  
28 | court, jurors, newspaper reporters or broadcasters, court  
29 | reporters, and, at the request of the victim, victim or  
30 | witness advocates designated by the state attorney's office.  
31 |

1           Section 42. Subsections (3) and (4) of section  
2 393.0641, Florida Statutes, are amended to read:

3           393.0641 Program for the prevention and treatment of  
4 severe self-injurious behavior.--

5           (3) The agency ~~department~~ may contract for the  
6 provision of any portion or all of the services required by  
7 the program.

8           (4) The agency ~~has department shall have~~ the authority  
9 to license this program and shall adopt ~~promulgate~~ rules to  
10 implement the program.

11          Section 43. Section 393.065, Florida Statutes, is  
12 amended to read:

13          393.065 Application and eligibility determination.--

14          (1) Application for services shall be made in writing  
15 to the agency ~~Department of Children and Family Services~~, in  
16 the district in which the applicant resides. Employees of the  
17 agency's ~~department's~~ developmental services program shall  
18 review each applicant for eligibility within 45 days after the  
19 date the application is signed for children under 6 years of  
20 age and within 60 days after the date the application is  
21 signed for all other applicants. When necessary to  
22 definitively identify individual conditions or needs, the  
23 agency ~~department~~ shall provide a comprehensive assessment.  
24 Only individuals whose domicile is in Florida are ~~shall be~~  
25 eligible for services. Information accumulated by other  
26 agencies, including professional reports and collateral data,  
27 shall be considered in this process when available.

28          (2) In order to provide immediate services or crisis  
29 intervention to applicants, the agency ~~department~~ shall  
30 arrange for emergency eligibility determination, with a full  
31

1 eligibility review to be accomplished within 45 days of the  
2 emergency eligibility determination.

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

8 (4) The agency ~~department~~ shall assess the level of  
9 need and medical necessity for prospective residents of  
10 intermediate-care facilities for the developmentally disabled  
11 after October 1, 1999. The agency ~~department~~ may enter into an  
12 agreement with the Department of Elderly Affairs for its  
13 Comprehensive Assessment and Review for Long-Term-Care  
14 Services (CARES) program to conduct assessments to determine  
15 the level of need and medical necessity for long-term-care  
16 services under this chapter. To the extent permissible under  
17 federal law, the assessments must be funded under Title XIX of  
18 the Social Security Act.

19 Section 44. Section 393.0651, Florida Statutes, is  
20 amended to read:

21 393.0651 Family or individual support plan.--The  
22 agency ~~department~~ shall provide for an appropriate family  
23 support plan for children ages birth to 18 years of age and an  
24 individual support plan for each client. The parent or  
25 guardian of the client or, if competent, the client, or, when  
26 appropriate, the client advocate, shall be consulted in the  
27 development of the plan and shall receive a copy of the plan.  
28 Each plan shall include the most appropriate, least  
29 restrictive, and most cost-beneficial environment for  
30 accomplishment of the objectives for client progress and a  
31 specification of all services authorized. The plan shall

1 include provisions for the most appropriate level of care for  
2 the client. Within the specification of needs and services for  
3 each client, when residential care is necessary, the agency  
4 ~~department~~ shall move toward placement of clients in  
5 residential facilities based within the client's community.  
6 The ultimate goal of each plan, whenever possible, shall be to  
7 enable the client to live a dignified life in the least  
8 restrictive setting, be that in the home or in the community.  
9 For children under 6 years of age, the family support plan  
10 shall be developed within the 45-day application period as  
11 specified in s. 393.065(1); for all applicants 6 years of age  
12 or older, the family or individual support plan shall be  
13 developed within the 60-day period as specified in that  
14 subsection.

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

18 (2)(a) The family or individual support plan shall be  
19 integrated with the individual education plan (IEP) for all  
20 clients who are public school students entitled to a free  
21 appropriate public education under the Individuals with  
22 Disabilities Education Act, I.D.E.A., as amended. The family  
23 or individual support plan and IEP shall be implemented to  
24 maximize the attainment of educational and habilitation goals.  
25 If the IEP for a student enrolled in a public school program  
26 indicates placement in a public or private residential program  
27 is necessary to provide special education and related services  
28 to a client, the local education agency shall provide for the  
29 costs of that service in accordance with the requirements of  
30 the Individuals with Disabilities Education Act, I.D.E.A., as  
31 amended. This shall not preclude local education agencies and

1 | the ~~agency department~~ from sharing the residential service  
2 | costs of students who are clients and require residential  
3 | placement. Under no circumstances shall clients entitled to a  
4 | public education or their parents be assessed a fee by the  
5 | ~~agency department~~ under s. 402.33 for placement in a  
6 | residential program.

7 |       (b) For clients who are entering or exiting the school  
8 | system, an interdepartmental staffing team composed of  
9 | representatives of the ~~agency department~~ and the local school  
10 | system shall develop a written transitional living and  
11 | training plan with the participation of the client or with the  
12 | parent or guardian of the client, or the client advocate, as  
13 | appropriate.

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

17 |       (4) In the development of the family or individual  
18 | support plan, a client advocate may be appointed by the  
19 | support planning team for a client who is a minor or for a  
20 | client who is not capable of express and informed consent  
21 | when:

22 |           (a) The parent or guardian cannot be identified;

23 |           (b) The whereabouts of the parent or guardian cannot  
24 | be discovered; or

25 |           (c) The state is the only legal representative of the  
26 | client.

27 |  
28 | Such appointment shall not be construed to extend the powers  
29 | of the client advocate to include any of those powers  
30 | delegated by law to a legal guardian.

31 |



1           (5) The ~~agency department~~ shall place a client in the  
2 most appropriate and least restrictive, and cost-beneficial,  
3 residential facility according to his or her individual  
4 habilitation plan. The parent or guardian of the client or, if  
5 competent, the client, or, when appropriate, the client  
6 advocate, and the administrator of the residential facility to  
7 which placement is proposed shall be consulted in determining  
8 the appropriate placement for the client. Considerations for  
9 placement shall be made in the following order:

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

12           (b) Foster care facility.

13           (c) Group home facility.

14           (d) Intermediate care facility for the developmentally  
15 disabled.

16           (e) Other facilities licensed by the ~~agency department~~  
17 which offer special programs for people with developmental  
18 disabilities.

19           (f) Developmental services institution.

20           (6) In developing a client's annual family or  
21 individual support plan, the individual or family with the  
22 assistance of the support planning team shall identify  
23 measurable objectives for client progress and shall specify a  
24 time period expected for achievement of each objective.

25           (7) The individual, family, and support coordinator  
26 shall review progress in achieving the objectives specified in  
27 each client's family or individual support plan, and shall  
28 revise the plan annually, following consultation with the  
29 client, if competent, or with the parent or guardian of the  
30 client, or, when appropriate, the client advocate. The agency  
31 ~~department~~ shall annually report in writing to the client, if

1 competent, or to the parent or guardian of the client, or to  
2 the client advocate, when appropriate, with respect to the  
3 client's habilitative and medical progress.

4 (8) Any client, or any parent of a minor client, or  
5 guardian, authorized guardian advocate, or client advocate for  
6 a client, who is substantially affected by the client's  
7 initial family or individual support plan, or the annual  
8 review thereof, shall have the right to file a notice to  
9 challenge the decision pursuant to ss. 120.569 and 120.57.

10 Notice of such right to appeal shall be included in all  
11 support plans provided by the agency ~~department~~.

12 Section 45. Section 393.0673, Florida Statutes, is  
13 amended to read:

14 393.0673 Denial, suspension, revocation of license;  
15 moratorium on admissions; administrative fines; procedures.--

16 (1) The agency ~~Department of Children and Family~~  
17 ~~Services~~ may deny, revoke, or suspend a license or impose an  
18 administrative fine, not to exceed \$1,000 per violation per  
19 day, for a violation of any provision of s. 393.0655 or s.  
20 393.067 or rules adopted pursuant thereto. All hearings shall  
21 be held within the county in which the licensee or applicant  
22 operates or applies for a license to operate a facility as  
23 defined herein.

24 (2) The agency ~~department~~, as a part of any final  
25 order issued by it under the provisions of this chapter, may  
26 impose such fine as it deems proper, except that such fine may  
27 not exceed \$1,000 for each violation. Each day a violation of  
28 this chapter occurs constitutes a separate violation and is  
29 subject to a separate fine, but in no event may the aggregate  
30 amount of any fine exceed \$10,000. Fines paid by any facility  
31 licensee under the provisions of this subsection shall be

1 deposited in the Resident Protection Trust Fund and expended  
2 as provided in s. 400.063.

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

8 (4) The agency ~~department~~ may impose an immediate  
9 moratorium on admissions to any facility when the department  
10 determines that any condition in the facility presents a  
11 threat to the health, safety, or welfare of the residents in  
12 the facility.

13 Section 46. Subsections (1) and (3) of section  
14 393.0675, Florida Statutes, are amended to read:

15 393.0675 Injunctive proceedings authorized.--

16 (1) The agency ~~Department of Children and Family~~  
17 ~~Services~~ may institute injunctive proceedings in a court of  
18 competent jurisdiction to:

19 (a) Enforce the provisions of this chapter or any  
20 minimum standard, rule, regulation, or order issued or entered  
21 pursuant thereto; or

22 (b) Terminate the operation of facilities licensed  
23 pursuant to this chapter when any of the following conditions  
24 exist:

25 1. Failure by the facility to take preventive or  
26 corrective measures in accordance with any order of the agency  
27 ~~department~~.

28 2. Failure by the facility to abide by any final order  
29 of the agency ~~department~~ once it has become effective and  
30 binding.

31

1           3. Any violation by the facility constituting an  
2 emergency requiring immediate action as provided in s.  
3 393.0673.

4           (3) The agency ~~department~~ may institute proceedings  
5 for an injunction in a court of competent jurisdiction to  
6 terminate the operation of a provider of supports or services  
7 if such provider has willfully and knowingly refused to comply  
8 with the screening requirement for direct service providers or  
9 has refused to terminate direct service providers found not to  
10 be in compliance with the requirements for good moral  
11 character.

12           Section 47. Subsection (1), paragraphs (b), (c), and  
13 (d) of subsection (2), and paragraph (e) of subsection (3) of  
14 section 393.0678, Florida Statutes, are amended to read:

15           393.0678 Receivership proceedings.--

16           (1) The agency ~~department~~ may petition a court of  
17 competent jurisdiction for the appointment of a receiver for  
18 an intermediate care facility for the developmentally  
19 disabled, a residential habilitation center, or a group home  
20 facility owned and operated by a corporation or partnership  
21 when any of the following conditions exist:

22           (a) Any person is operating a facility without a  
23 license and refuses to make application for a license as  
24 required by s. 393.067 or, in the case of an intermediate care  
25 facility for the developmentally disabled, as required by ss.  
26 393.067 and 400.062.

27           (b) The licensee is closing the facility or has  
28 informed the department that it intends to close the facility;  
29 and adequate arrangements have not been made for relocation of  
30 the residents within 7 days, exclusive of weekends and  
31 holidays, of the closing of the facility.

1           (c) The agency ~~department~~ determines that conditions  
2 exist in the facility which present an imminent danger to the  
3 health, safety, or welfare of the residents of the facility or  
4 which present a substantial probability that death or serious  
5 physical harm would result therefrom. Whenever possible, the  
6 agency ~~department~~ shall facilitate the continued operation of  
7 the program.

8           (d) The licensee cannot meet its financial obligations  
9 to provide food, shelter, care, and utilities. Evidence such  
10 as the issuance of bad checks or the accumulation of  
11 delinquent bills for such items as personnel salaries, food,  
12 drugs, or utilities constitutes prima facie evidence that the  
13 ownership of the facility lacks the financial ability to  
14 operate the home in accordance with the requirements of this  
15 chapter and all rules promulgated thereunder.

16           (2)

17           (b) A hearing shall be conducted within 5 days of the  
18 filing of the petition, at which time all interested parties  
19 shall have the opportunity to present evidence pertaining to  
20 the petition. The agency ~~department~~ shall notify the owner or  
21 operator of the facility named in the petition of its filing  
22 and the date set for the hearing.

23           (c) The court shall grant the petition only upon  
24 finding that the health, safety, or welfare of residents of  
25 the facility would be threatened if a condition existing at  
26 the time the petition was filed is permitted to continue. A  
27 receiver may not be appointed ex parte unless the court  
28 determines that one or more of the conditions in subsection  
29 (1) exist; that the facility owner or operator cannot be  
30 found; that all reasonable means of locating the owner or  
31 operator and notifying him or her of the petition and hearing

1 have been exhausted; or that the owner or operator after  
2 notification of the hearing chooses not to attend. After such  
3 findings, the court may appoint any person qualified by  
4 education, training, or experience to carry out the  
5 responsibilities of receiver pursuant to this section, except  
6 that the court may not appoint any owner or affiliate of the  
7 facility which is in receivership. Before the appointment as  
8 receiver of a person who is the operator, manager, or  
9 supervisor of another facility, the court shall determine that  
10 the person can reasonably operate, manage, or supervise more  
11 than one facility. The receiver may be appointed for up to 90  
12 days with the option of petitioning the court for 30-day  
13 extensions. The receiver may be selected from a list of  
14 persons qualified to act as receivers developed by the agency  
15 ~~department~~ and presented to the court with each petition for  
16 receivership. Under no circumstances may the agency ~~department~~  
17 or designated agency ~~departmental~~ employee be appointed as a  
18 receiver for more than 60 days; however, the agency  
19 ~~departmental~~ receiver may petition the court for 30-day  
20 extensions. The court shall grant an extension upon a showing  
21 of good cause. The agency ~~department~~ may petition the court  
22 to appoint a substitute receiver.

23 (d) During the first 60 days of the receivership, the  
24 agency ~~department~~ may not take action to decertify or revoke  
25 the license of a facility unless conditions causing imminent  
26 danger to the health and welfare of the residents exist and a  
27 receiver has been unable to remove those conditions. After  
28 the first 60 days of receivership, and every 60 days  
29 thereafter until the receivership is terminated, the agency  
30 ~~department~~ shall submit to the court the results of an  
31 assessment of the ability of the facility to assure the safety

1 and care of the residents. If the conditions at the facility  
2 or the intentions of the owner indicate that the purpose of  
3 the receivership is to close the facility rather than to  
4 facilitate its continued operation, the agency ~~department~~  
5 shall place the residents in appropriate alternate residential  
6 settings as quickly as possible. If, in the opinion of the  
7 court, the agency ~~department~~ has not been diligent in its  
8 efforts to make adequate arrangements for placement, the court  
9 shall find the agency ~~department~~ to be in contempt and shall  
10 order the agency ~~department~~ to submit its plans for moving the  
11 residents.

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

15 (e) May use the building, fixtures, furnishings, and  
16 any accompanying consumable goods in the provision of care and  
17 services to residents and to any other persons receiving  
18 services from the facility at the time the petition for  
19 receivership was filed. The receiver shall collect payments  
20 for all goods and services provided to residents or others  
21 during the period of the receivership at the same rate of  
22 payment charged by the owner at the time the petition for  
23 receivership was filed, or at a fair and reasonable rate  
24 otherwise approved by the court for private, paying residents.  
25 The receiver may apply to the agency ~~department~~ for a rate  
26 increase for residents under Title XIX of the Social Security  
27 Act if the facility is not receiving the state reimbursement  
28 cap and if expenditures justify an increase in the rate.

29 Section 48. Section 393.071, Florida Statutes, is  
30 amended to read:  
31

1           393.071 Client fees.--The agency ~~Department of~~  
2 ~~Children and Family Services~~ shall charge fees for services  
3 provided to clients in accordance with s. 402.33.

4           Section 49. Subsection (2) of section 393.075, Florida  
5 Statutes, is amended to read:

6           393.075 General liability coverage.--

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

30           Section 50. Section 393.115, Florida Statutes, is  
31 amended to read:



1           393.115 Discharge.--

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

3           (a) When any residential client reaches his or her  
4 18th birthday, the agency ~~department~~ shall give the resident  
5 or legal guardian the option to continue residential services  
6 or to be discharged from residential services.

7           (b) If the resident appears to meet the criteria for  
8 involuntary admission to residential services, as defined in  
9 s. 393.11, the agency ~~department~~ shall file a petition to  
10 determine the appropriateness of continued residential  
11 placement on an involuntary basis. The agency ~~department~~ shall  
12 file the petition for involuntary admission in the county in  
13 which the client resides. If the resident was originally  
14 involuntarily admitted to residential services pursuant to s.  
15 393.11, then the agency ~~department~~ shall file the petition in  
16 the court having continuing jurisdiction over the case.

17           (c) Nothing in this section shall in any way limit or  
18 restrict the resident's right to a writ of habeas corpus or  
19 the right of the agency ~~department~~ to transfer a resident  
20 receiving residential care to a program of appropriate  
21 services provided by the agency ~~department~~ when such program  
22 is the appropriate habilitative setting for the resident.

23           (2) DISCHARGE AFTER CRIMINAL OR JUVENILE  
24 COMMITMENT.--Any person with developmental disabilities  
25 committed to the custody of the agency ~~department~~ pursuant to  
26 the provisions of the applicable criminal or juvenile court  
27 law shall be discharged in accordance with the requirements of  
28 the applicable criminal or juvenile court law.

29           Section 51. Subsection (3) of section 393.12, Florida  
30 Statutes, is amended to read:

31           393.12 Capacity; appointment of guardian advocate.--

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

4           Section 52. Section 393.125, Florida Statutes, is  
5 amended to read:

6           393.125 Hearing rights.--

7           (1) REVIEW OF AGENCY ~~DEPARTMENT~~ DECISIONS.--

8           (a) Any developmental services applicant or client, or  
9 his or her parent, guardian, guardian advocate, or authorized  
10 representative, who has any substantial interest determined by  
11 the agency department, ~~has shall have~~ the right to request an  
12 administrative hearing pursuant to ss. 120.569 and 120.57.

13           (b) Notice of the right to an administrative hearing  
14 shall be given, both verbally and in writing, to the applicant  
15 or client, and his or her parent, guardian, guardian advocate,  
16 or authorized representative, at the same time that the agency  
17 ~~department~~ gives the applicant or client notice of the  
18 agency's department's ~~department's~~ action. The notice shall be given, both  
19 verbally and in writing, in the language of the client or  
20 applicant and in English.

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

24           (2) REVIEW OF PROVIDER DECISIONS.--The agency  
25 ~~department~~ shall adopt promulgate rules to establish uniform  
26 guidelines for the agency department and service providers  
27 relevant to termination, suspension, or reduction of client  
28 services by the service provider. The rules shall ensure the  
29 due process rights of service providers and clients.

30           Section 53. Subsections (3), (4), (5), and (6) of  
31 section 393.15, Florida Statutes, are amended to read:

1           393.15 Legislative intent; Community Resources  
2 Development Trust Fund.--

3           (3) There is created a Community Resources Development  
4 Trust Fund in the State Treasury to be used by the agency  
5 ~~Department of Children and Family Services~~ for the purpose of  
6 granting loans to eligible programs for the initial costs of  
7 development of the programs. Loans shall be made only to  
8 those facilities which are in compliance with the zoning  
9 regulations of the local community. Costs of development may  
10 include structural modification, the purchase of equipment and  
11 fire and safety devices, preoperational staff training, and  
12 the purchase of insurance. Such costs shall not include the  
13 actual construction of a facility.

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

29           (5) Any loan granted by the agency ~~department~~ under  
30 this section shall be repaid by the program within 5 years. A  
31 program that ~~which~~ operates as a nonprofit corporation meeting

1 the requirements of s. 501(c)(3) of the Internal Revenue Code,  
2 and ~~that which~~ seeks forgiveness of its loan shall submit to  
3 the agency ~~department~~ a statement setting forth the service it  
4 has provided during the year together with such other  
5 information as the agency ~~department~~ by rule shall require,  
6 and, upon approval of each such annual statement, the agency  
7 ~~department~~ shall forgive 20 percent of the principal of any  
8 such loan granted after June 30, 1975.

9 (6) If any program ~~that which~~ has received a loan  
10 under this section ceases to accept, or provide care,  
11 services, or maintenance to persons placed in the program by  
12 the department, or if such program files ~~shall file~~ papers of  
13 bankruptcy, at that point in time the loan shall become an  
14 interest-bearing loan at the rate of 5 percent per annum on  
15 the entire amount of the initial loan which shall be repaid  
16 within a 1-year period from the date on which the program  
17 ceases to provide care, services, or maintenance, or files  
18 papers in bankruptcy, and the amount of the loan due plus  
19 interest shall constitute a lien in favor of the state against  
20 all real and personal property of the program. The lien shall  
21 be perfected by the appropriate officer of the agency  
22 ~~department~~ by executing and acknowledging a statement of the  
23 name of the program and the amount due on the loan and a copy  
24 of the promissory note, which shall be recorded by the agency  
25 ~~department~~ with the clerk of the circuit court in the county  
26 wherein the program is located. If the program has filed a  
27 petition for bankruptcy, the agency ~~department~~ shall file and  
28 enforce the lien in the bankruptcy proceedings. Otherwise,  
29 the lien shall be enforced in the manner provided in s.  
30 85.011. All funds received by the agency ~~department~~ from the  
31

1 enforcement of the lien shall be deposited in the Community  
2 Resources Development Trust Fund.

3 Section 54. Subsection (1) of section 393.501, Florida  
4 Statutes, is amended to read:

5 393.501 Rulemaking.--

6 (1) The agency ~~department~~ shall adopt rules to carry  
7 out the provisions of this chapter.

8 Section 55. Section 393.503, Florida Statutes, is  
9 amended to read:

10 393.503 Respite and family care subsidy expenditures;  
11 funding.--The agency ~~Department of Children and Family~~  
12 ~~Services~~ shall determine the amount of expenditures per fiscal  
13 year for the respite and family care subsidy to families and  
14 individuals with developmental disabilities living in their  
15 own homes. This information shall be made available to the  
16 family care councils and to others requesting the information.  
17 The family care councils shall review the expenditures and  
18 make recommendations to the agency ~~department~~ with respect to  
19 any new funds that are made available for family care.

20 Section 56. Subsection (2) of section 393.506, Florida  
21 Statutes, is amended to read:

22 393.506 Administration of medication.--

23 (2) Each facility, institution, or program must  
24 include in its policies and procedures a plan for training  
25 designated staff to ensure the safe handling, storage, and  
26 administration of prescription medication. These policies and  
27 procedures must be approved by the agency ~~department~~ before  
28 unlicensed direct care services staff assist with medication.

29 Section 57. Section 393.135, Florida Statutes, is  
30 created to read:

31

1           393.135 Sexual misconduct prohibited; reporting  
2 required; penalties.--

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

4           (a) "Employee" includes any person under contract with  
5 the agency or the Agency for Health Care Administration and  
6 any paid staff member, volunteer, or intern of the agency or  
7 the Agency for Health Care Administration or any person under  
8 contract with the agency or the Agency for Health Care  
9 Administration or any person providing care or support to a  
10 client on behalf of the agency or the Agency for Health Care  
11 Administration or their providers.

12           (b) "Sexual activity" means:

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

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

20           3. Intentionally masturbating in the presence of  
21 another person;

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

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

29           (c) "Sexual misconduct" means any sexual activity  
30 between an employee and a client, regardless of the consent of  
31 the client. The term does not include an act done for a bona

1 fide medical purpose or an internal search conducted in the  
2 lawful performance of duty by an employee.

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

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

6 (b) Resides in a residential facility, including any  
7 comprehensive transitional education program, developmental  
8 disabilities institution, foster care facility, group home  
9 facility, intermediate care facility for the developmentally  
10 disabled, or residential habilitation center; or

11 (c) Receives services from a family care program

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

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

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

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

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

24 (5) An employee who witnesses sexual misconduct, or  
25 who otherwise knows or has reasonable cause to suspect that a  
26 person has engaged in sexual misconduct, shall immediately  
27 report the incident to the Department of Children and Family  
28 Services' central abuse hotline and to law enforcement. Such  
29 employee shall also prepare, date, and sign an independent  
30 report that specifically describes the nature of the sexual  
31 misconduct, the location and time of the incident, and the

1 persons involved. The employee shall deliver the report to the  
2 supervisor or program director, who is responsible for  
3 providing copies to the agency's inspector general. The  
4 inspector general shall immediately conduct an appropriate  
5 administrative investigation, and, if there is probable cause  
6 to believe that sexual misconduct has occurred, the inspector  
7 general shall notify the state attorney in the circuit in  
8 which the incident occurred.

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

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

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

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

28       Section 58. Section 394.4593, Florida Statutes, is  
29 created to read:

30       394.4593 Sexual misconduct prohibited; reporting  
31 required; penalties.--



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

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

7           (b) "Sexual activity" means:

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

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

15           3. Intentionally masturbating in the presence of  
16 another person;

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

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

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

29           (2) An employee who engages in sexual misconduct with  
30 a patient who:

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

1       (b) Resides in a receiving facility as defined in s.  
2 394.455(26) or a treatment facility as defined in s.  
3 394.455(30),

4  
5 commits a felony of the second degree, punishable as provided  
6 in s. 775.082, s. 775.083, or s. 775.084. An employee may be  
7 found guilty of violating this subsection without having  
8 committed the crime of sexual battery.

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

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

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

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

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

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

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

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

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

20           Section 59. Section 916.1075, Florida Statutes, is  
21 created to read:

22           916.1075 Sexual misconduct prohibited; reporting  
23 required; penalties.--

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

25           (a) "Employee" includes any person under contract with  
26 the department or the Agency for Persons with Disabilities and  
27 any paid staff member, volunteer, or intern of the department  
28 or the Agency for Persons with Disabilities or any person  
29 under contract with the department or the Agency for Persons  
30 with Disabilities or any person providing care or support to a  
31

1 client on behalf of the department or the Agency for Persons  
2 with Disabilities or their providers.

3 (b) "Sexual activity" means:

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

7 2. Intentionally touching in a lewd or lascivious  
8 manner the breasts, genitals, the genital area, or buttocks,  
9 or the clothing covering them, of a person, or forcing or  
10 enticing a person to touch the perpetrator;

11 3. Intentionally masturbating in the presence of  
12 another person;

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

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

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

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

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

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

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

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

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

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

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

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

12 Section 60. Subsection (2) of section 435.03, Florida  
13 Statutes, is amended to read:

14 435.03 Level 1 screening standards.--

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

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

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

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

29 ~~(d)(b)~~ Section 782.04, relating to murder.  
30  
31

1           ~~(e)~~(e) Section 782.07, relating to manslaughter,  
2 aggravated manslaughter of an elderly person or disabled  
3 adult, or aggravated manslaughter of a child.  
4           ~~(f)~~(d) Section 782.071, relating to vehicular  
5 homicide.  
6           ~~(g)~~(e) Section 782.09, relating to killing of an  
7 unborn child by injury to the mother.  
8           ~~(h)~~(f) Section 784.011, relating to assault, if the  
9 victim of the offense was a minor.  
10          ~~(i)~~(g) Section 784.021, relating to aggravated  
11 assault.  
12          ~~(j)~~(h) Section 784.03, relating to battery, if the  
13 victim of the offense was a minor.  
14          ~~(k)~~(i) Section 784.045, relating to aggravated  
15 battery.  
16          ~~(l)~~(j) Section 787.01, relating to kidnapping.  
17          ~~(m)~~(k) Section 787.02, relating to false imprisonment.  
18          ~~(n)~~(l) Section 794.011, relating to sexual battery.  
19          ~~(o)~~(m) Former s. 794.041, relating to prohibited acts  
20 of persons in familial or custodial authority.  
21          ~~(p)~~(n) Chapter 796, relating to prostitution.  
22          ~~(q)~~(o) Section 798.02, relating to lewd and lascivious  
23 behavior.  
24          ~~(r)~~(p) Chapter 800, relating to lewdness and indecent  
25 exposure.  
26          ~~(s)~~(q) Section 806.01, relating to arson.  
27          ~~(t)~~(r) Chapter 812, relating to theft, robbery, and  
28 related crimes, if the offense was a felony.  
29          ~~(u)~~(s) Section 817.563, relating to fraudulent sale of  
30 controlled substances, only if the offense was a felony.  
31

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

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

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

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

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

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

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

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

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

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

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

24           Section 61. Subsection (2) of section 435.04, Florida  
25 Statutes, is amended to read:

26           435.04 Level 2 screening standards.--

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



1 provisions of the Florida Statutes or under any similar  
2 statute of another jurisdiction:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

17           ~~(v)~~(t) Section 798.02, relating to lewd and lascivious  
18 behavior.

19           ~~(w)~~(u) Chapter 800, relating to lewdness and indecent  
20 exposure.

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

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

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

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

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

31

1           ~~(cc)~~~~(aa)~~ Section 825.103, relating to exploitation of  
2 an elderly person or disabled adult, if the offense was a  
3 felony.  
4           ~~(dd)~~~~(bb)~~ Section 826.04, relating to incest.  
5           ~~(ee)~~~~(cc)~~ Section 827.03, relating to child abuse,  
6 aggravated child abuse, or neglect of a child.  
7           ~~(ff)~~~~(dd)~~ Section 827.04, relating to contributing to  
8 the delinquency or dependency of a child.  
9           ~~(gg)~~~~(ee)~~ Former s. 827.05, relating to negligent  
10 treatment of children.  
11           ~~(hh)~~~~(ff)~~ Section 827.071, relating to sexual  
12 performance by a child.  
13           ~~(ii)~~~~(gg)~~ Section 843.01, relating to resisting arrest  
14 with violence.  
15           ~~(jj)~~~~(hh)~~ Section 843.025, relating to depriving a law  
16 enforcement, correctional, or correctional probation officer  
17 means of protection or communication.  
18           ~~(kk)~~~~(ii)~~ Section 843.12, relating to aiding in an  
19 escape.  
20           ~~(ll)~~~~(jj)~~ Section 843.13, relating to aiding in the  
21 escape of juvenile inmates in correctional institutions.  
22           ~~(mm)~~~~(kk)~~ Chapter 847, relating to obscene literature.  
23           ~~(nn)~~~~(ll)~~ Section 874.05(1), relating to encouraging or  
24 recruiting another to join a criminal gang.  
25           ~~(oo)~~~~(mm)~~ Chapter 893, relating to drug abuse  
26 prevention and control, only if the offense was a felony or if  
27 any other person involved in the offense was a minor.  
28           (pp) Section 916.0175, relating to sexual misconduct  
29 with certain forensic clients and reporting of such sexual  
30 misconduct.  
31

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

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

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

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

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

12           Section 62. Section 943.0585, Florida Statutes, is  
13 amended to read:

14           943.0585 Court-ordered expunction of criminal history  
15 records.--The courts of this state have jurisdiction over  
16 their own procedures, including the maintenance, expunction,  
17 and correction of judicial records containing criminal history  
18 information to the extent such procedures are not inconsistent  
19 with the conditions, responsibilities, and duties established  
20 by this section. Any court of competent jurisdiction may order  
21 a criminal justice agency to expunge the criminal history  
22 record of a minor or an adult who complies with the  
23 requirements of this section. The court shall not order a  
24 criminal justice agency to expunge a criminal history record  
25 until the person seeking to expunge a criminal history record  
26 has applied for and received a certificate of eligibility for  
27 expunction pursuant to subsection (2). A criminal history  
28 record that relates to a violation of s. 393.135, s. 394.4593,  
29 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
30 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
31 s. 847.0145, s. 893.135, s. 916.1075, or a violation

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

30  
31

1           (1) PETITION TO EXPUNGE A CRIMINAL HISTORY  
2 RECORD.--Each petition to a court to expunge a criminal  
3 history record is complete only when accompanied by:  
4           (a) A certificate of eligibility for expunction issued  
5 by the department pursuant to subsection (2).  
6           (b) The petitioner's sworn statement attesting that  
7 the petitioner:  
8           1. Has never, prior to the date on which the petition  
9 is filed, been adjudicated guilty of a criminal offense or  
10 comparable ordinance violation or adjudicated delinquent for  
11 committing a felony or a misdemeanor specified in s.  
12 943.051(3)(b).  
13           2. Has not been adjudicated guilty of, or adjudicated  
14 delinquent for committing, any of the acts stemming from the  
15 arrest or alleged criminal activity to which the petition  
16 pertains.  
17           3. Has never secured a prior sealing or expunction of  
18 a criminal history record under this section, former s.  
19 893.14, former s. 901.33, or former s. 943.058, or from any  
20 jurisdiction outside the state.  
21           4. Is eligible for such an expunction to the best of  
22 his or her knowledge or belief and does not have any other  
23 petition to expunge or any petition to seal pending before any  
24 court.  
25  
26 Any person who knowingly provides false information on such  
27 sworn statement to the court commits a felony of the third  
28 degree, punishable as provided in s. 775.082, s. 775.083, or  
29 s. 775.084.  
30           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior  
31 to petitioning the court to expunge a criminal history record,

1 a person seeking to expunge a criminal history record shall  
2 apply to the department for a certificate of eligibility for  
3 expunction. The department shall, by rule adopted pursuant to  
4 chapter 120, establish procedures pertaining to the  
5 application for and issuance of certificates of eligibility  
6 for expunction. The department shall issue a certificate of  
7 eligibility for expunction to a person who is the subject of a  
8 criminal history record if that person:

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

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

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

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

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

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

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

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

13 (f) Has never secured a prior sealing or expunction of  
14 a criminal history record under this section, former s.  
15 893.14, former s. 901.33, or former s. 943.058.

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

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

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

29 (a) In judicial proceedings under this section, a copy  
30 of the completed petition to expunge shall be served upon the  
31 appropriate state attorney or the statewide prosecutor and



1 upon the arresting agency; however, it is not necessary to  
2 make any agency other than the state a party. The appropriate  
3 state attorney or the statewide prosecutor and the arresting  
4 agency may respond to the court regarding the completed  
5 petition to expunge.

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

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

29 (d) On or after July 1, 1992, the department or any  
30 other criminal justice agency is not required to act on an  
31 order to expunge entered by a court when such order does not

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

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

28 |       (a) The person who is the subject of a criminal  
29 | history record that is expunged under this section or under  
30 | other provisions of law, including former s. 893.14, former s.  
31 | 901.33, and former s. 943.058, may lawfully deny or fail to

1 acknowledge the arrests covered by the expunged record, except  
2 when the subject of the record:

3 1. Is a candidate for employment with a criminal  
4 justice agency;

5 2. Is a defendant in a criminal prosecution;

6 3. Concurrently or subsequently petitions for relief  
7 under this section or s. 943.059;

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

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

15 110.1127(3), s. 393.063 ~~s. 393.063(15)~~, s. 394.4572(1), s.  
16 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
17 415.102(4), s. 916.106(10) and (13), s. 985.407, or chapter  
18 400; or

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

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

31

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

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

25 Section 63. Section 943.059, Florida Statutes, is  
26 amended to read:

27 943.059 Court-ordered sealing of criminal history  
28 records.--The courts of this state shall continue to have  
29 jurisdiction over their own procedures, including the  
30 maintenance, sealing, and correction of judicial records  
31 containing criminal history information to the extent such

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

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

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

15 (a) A certificate of eligibility for sealing issued by  
16 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 to  
27 seal 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, former s. 943.058, or from any  
31 jurisdiction outside the state.

1           4. Is eligible for such a sealing to the best of his  
2 or her knowledge or belief and does not have any other  
3 petition to seal or any petition to expunge 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 SEALING.--Prior to  
11 petitioning the court to seal a criminal history record, a  
12 person seeking to seal a criminal history record shall apply  
13 to the department for a certificate of eligibility for  
14 sealing. 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 sealing. The department shall issue a certificate of  
18 eligibility for sealing to a person who is the subject of a  
19 criminal history record provided that such person:

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

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

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

31

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

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

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

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

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

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



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

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

29           (e) An order sealing a criminal history record  
30 pursuant to this section does not require that such record be  
31 surrendered to the court, and such record shall continue to be

1 maintained by the department and other criminal justice  
2 agencies.

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

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

- 18 1. Is a candidate for employment with a criminal  
19 justice agency;
- 20 2. Is a defendant in a criminal prosecution;
- 21 3. Concurrently or subsequently petitions for relief  
22 under this section or s. 943.0585;
- 23 4. Is a candidate for admission to The Florida Bar;
- 24 5. Is seeking to be employed or licensed by or to  
25 contract with the Department of Children and Family Services  
26 or the Department of Juvenile Justice or to be employed or  
27 used by such contractor or licensee in a sensitive position  
28 having direct contact with children, the developmentally  
29 disabled, the aged, or the elderly as provided in s.  
30 110.1127(3), s. 393.063 ~~s. 393.063(15)~~, s. 394.4572(1), s.  
31 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.

1 415.102(4), s. 415.103, s. 916.106(10) and (13), s. 985.407,  
2 or chapter 400; or

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

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

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

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

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

7 Section 64. Paragraph (a) of subsection (2) of section  
8 400.215, Florida Statutes, is amended, and paragraphs (b) and  
9 (c) of subsection (2) and subsection (3) of that section are  
10 reenacted for the purpose of incorporating the amendments to  
11 sections 435.03 and 435.04, Florida Statutes, in references  
12 thereto, to read:

13 400.215 Personnel screening requirement.--

14 (2) Employers and employees shall comply with the  
15 requirements of s. 435.05.

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

25 (b) Employees qualified under the provisions of  
26 paragraph (a) who have not maintained continuous residency  
27 within the state for the 5 years immediately preceding the  
28 date of request for background screening must complete level 2  
29 screening, as provided in chapter 435. Such employees may work  
30 in a conditional status up to 180 days pending the receipt of  
31 written findings evidencing the completion of level 2

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

27 (c) The agency shall establish and maintain a database  
28 of background screening information which shall include the  
29 results of both level 1 and level 2 screening. The Department  
30 of Law Enforcement shall timely provide to the agency,  
31 electronically, the results of each statewide screening for

1 incorporation into the database. The agency shall, upon  
2 request from any facility, agency, or program required by or  
3 authorized by law to screen its employees or applicants,  
4 notify the administrator of the facility, agency, or program  
5 of the qualifying or disqualifying status of the employee or  
6 applicant named in the request.

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

20 Section 65. For the purpose of incorporating the  
21 amendments to sections 435.03 and 435.04, Florida Statutes, in  
22 references thereto, subsections (1) and (2) of section  
23 400.964, Florida Statutes, are reenacted, and subsection (7)  
24 of that section is amended and reenacted, to read:

25 400.964 Personnel screening requirement.--

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

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

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

17           Section 66. For the purposes of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraph (a) of subsection (1) of section 435.045,  
20 Florida Statutes, is amended and reenacted to read:

21           435.045 Requirements for placement of dependent  
22 children.--

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

30           1. In any case in which a record check reveals a  
31 felony conviction for child abuse, abandonment, or neglect;

1 | for spousal abuse; for a crime against children, including  
2 | child pornography, or for a crime involving violence,  
3 | including rape, sexual assault, or homicide but not including  
4 | other physical assault or battery, if the department finds  
5 | that a court of competent jurisdiction has determined that the  
6 | felony was committed at any time; and

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

12 |         Section 67. For the purpose of incorporating the  
13 | amendment to sections 435.03 and 435.04, Florida Statutes, in  
14 | references thereto, paragraphs (f) and (g) of subsection (1)  
15 | of section 400.414, Florida Statutes, are reenacted to read:

16 |             400.414 Denial, revocation, or suspension of license;  
17 | imposition of administrative fine; grounds.--

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

25 |             (f) A determination that a person subject to level 2  
26 | background screening under s. 400.4174(1) does not meet the  
27 | screening standards of s. 435.04 or that the facility is  
28 | retaining an employee subject to level 1 background screening  
29 | standards under s. 400.4174(2) who does not meet the screening  
30 | standards of s. 435.03 and for whom exemptions from  
31 | disqualification have not been provided by the agency.



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

9  
10 Administrative proceedings challenging agency action under  
11 this subsection shall be reviewed on the basis of the facts  
12 and conditions that resulted in the agency action.

13 Section 68. For the purpose of incorporating the  
14 amendment to sections 435.03 and 435.04, Florida Statutes, in  
15 references thereto, section 400.4174, Florida Statutes, is  
16 reenacted to read:

17 400.4174 Background screening; exemptions.--

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

22 1. The facility owner if an individual, the  
23 administrator, and the financial officer.

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

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

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

27 (c) The agency may grant a provisional license to a  
28 facility applying for an initial license when each individual  
29 required by this subsection to undergo screening has completed  
30 the Department of Law Enforcement background checks, but has  
31 not yet received results from the Federal Bureau of

1 Investigation, or when a request for an exemption from  
2 disqualification has been submitted to the agency pursuant to  
3 s. 435.07, but a response has not been issued.

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

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

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

27 (c) The person required to be screened is employed by  
28 a corporation or business entity or related corporation or  
29 business entity that owns, operates, or manages more than one  
30 facility or agency licensed under this chapter, and for whom a  
31

1 level 1 screening was conducted by the corporation or business  
2 entity as a condition of initial or continued employment.

3 Section 69. For the purpose of incorporating the  
4 amendment to sections 435.03 and 435.04, Florida Statutes, in  
5 references thereto, paragraphs (a), (b), (c), (d), (f), and  
6 (g) of subsection (4) of section 400.509, Florida Statutes,  
7 are reenacted to read:

8 400.509 Registration of particular service providers  
9 exempt from licensure; certificate of registration; regulation  
10 of registrants.--

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

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

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

31

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

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

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

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

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

21 Section 70. For the purpose of incorporating the  
22 amendment to sections 435.03 and 435.04, Florida Statutes, in  
23 references thereto, paragraph (c) of subsection (2) of section  
24 400.556, Florida Statutes, is reenacted to read:

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

27 (2) Each of the following actions by the owner of an  
28 adult day care center or by its operator or employee is a  
29 ground for action by the agency against the owner of the  
30 center or its operator or employee:  
31

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

8 Section 71. For the purpose of incorporating the  
9 amendment to sections 435.03 and 435.04, Florida Statutes, in  
10 references thereto, subsections (1), (2), and (4) of section  
11 400.6065, Florida Statutes, are reenacted to read:

12 400.6065 Background screening.--

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

18 (a) The hospice administrator and financial officer.

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

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

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

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

17 |         Section 72. For the purpose of incorporating the  
18 | amendment to sections 435.03 and 435.04, Florida Statutes, in  
19 | references thereto, paragraphs (a), (b), (c), (d), (f), and  
20 | (g) of subsection (4) of section 400.980, Florida Statutes,  
21 | are reenacted to read:

22 |             400.980 Health care services pools.--

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

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



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

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

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

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

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

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

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

31

1           Section 73. For the purpose of incorporating the  
2 amendment to sections 435.03 and 435.04, Florida Statutes, in  
3 references thereto, paragraph (k) of subsection (2) of section  
4 409.175, Florida Statutes, is reenacted to read:

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

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

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

18           Section 74. For the purpose of incorporating the  
19 amendment to sections 435.03 and 435.04, Florida Statutes, in  
20 references thereto, paragraph (d) of subsection (8) of section  
21 409.907, Florida Statutes, is reenacted to read:

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

1 (8)

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

12 Section 75. For the purpose of incorporating the  
13 amendment to sections 435.03 and 435.04, Florida Statutes, in  
14 references thereto, subsections (1) and (3) of section 435.05,  
15 Florida Statutes, are reenacted to read:

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

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

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

31

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

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

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

23           Section 76. For the purpose of incorporating the  
24 amendment to sections 435.03 and 435.04, Florida Statutes, in  
25 references thereto, section 744.3135, Florida Statutes, as  
26 amended by chapter 2003-402, Laws of Florida, is reenacted to  
27 read:

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

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

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

3 Section 77. For the purpose of incorporating the  
4 amendment to sections 435.03 and 435.04, Florida Statutes, in  
5 references thereto, subsection (2) of section 985.04, Florida  
6 Statutes, is reenacted to read:

7 985.04 Oaths; records; confidential information.--

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

26 Section 78. For the purpose of incorporating the  
27 amendment to section 435.03, Florida Statutes, in references  
28 thereto, section 400.512, Florida Statutes, is reenacted to  
29 read:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

14 |         Section 79. For the purpose of incorporating the  
15 | amendment to section 435.03, Florida Statutes, in references  
16 | thereto, subsection (4) of section 400.619, Florida Statutes,  
17 | is reenacted to read:

18 |             400.619 Licensure application and renewal.--

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

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

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

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

13 Section 80. For the purpose of incorporating the  
14 amendment to section 435.03, Florida Statutes, in references  
15 thereto, subsection (1) of section 400.6194, Florida Statutes,  
16 is reenacted to read:

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

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

24 Section 81. For the purpose of incorporating the  
25 amendment to section 435.03, Florida Statutes, in references  
26 thereto, section 400.953, Florida Statutes, is reenacted to  
27 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Section 82. For the purpose of incorporating the  
11 amendment to section 435.03, Florida Statutes, in references  
12 thereto, subsection (32) of section 409.912, Florida Statutes,  
13 is reenacted to read:

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

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

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

15 |         Section 83. For the purpose of incorporating the  
16 | amendment to section 435.03, Florida Statutes, in references  
17 | thereto, subsection (4) of section 435.07, Florida Statutes,  
18 | is reenacted to read:

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

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

29 |         Section 84. For the purpose of incorporating the  
30 | amendment to section 435.03, Florida Statutes, in references  
31 |



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

3 464.018 Disciplinary actions.--

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

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

13 Section 85. For the purpose of incorporating the  
14 amendment to section 435.03, Florida Statutes, in references  
15 thereto, subsection (3) of section 744.309, Florida Statutes,  
16 is reenacted to read:

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

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

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

15 Section 86. For the purpose of incorporating the  
16 amendment to section 435.03, Florida Statutes, in references  
17 thereto, subsection (12) of section 744.474, Florida Statutes,  
18 is reenacted to read:

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

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

27 Section 87. For the purpose of incorporating the  
28 amendment to section 435.03, Florida Statutes, in references  
29 thereto, subsection (4) of section 985.407, Florida Statutes,  
30 is reenacted to read:

31

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

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

7           Section 88. For the purpose of incorporating the  
8 amendment to section 435.04, Florida Statutes, in references  
9 thereto, paragraph (b) of subsection (2) of section 39.001,  
10 Florida Statutes, is reenacted to read:

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

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

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

24           Section 89. For the purpose of incorporating the  
25 amendment to section 435.04, Florida Statutes, in references  
26 thereto, subsection (1) of section 39.821, Florida Statutes,  
27 is reenacted to read:

28           39.821 Qualifications of guardians ad litem.--

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

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

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

6 Section 90. For the purpose of incorporating the  
7 amendment to section 435.04, Florida Statutes, in references  
8 thereto, paragraphs (a) and (c) of subsection (3) of section  
9 110.1127, Florida Statutes, are reenacted to read:

10 110.1127 Employee security checks.--

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

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

27 Section 91. For the purpose of incorporating the  
28 amendment to section 435.04, Florida Statutes, in references  
29 thereto, paragraph (a) of subsection (12) of section 112.0455,  
30 Florida Statutes, is reenacted to read:

31 112.0455 Drug-Free Workplace Act.--

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

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

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

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

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

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

31

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

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

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

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

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

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

26 (I) Has falsely represented a material fact in the  
27 application required by sub-subparagraph e. or  
28 sub-subparagraph f., or has omitted any material fact from the  
29 application required by sub-subparagraph e. or  
30 sub-subparagraph f.; or  
31



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

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

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

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

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

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

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

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

22 Section 92. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, subsections (1), (2), and (4) of section 381.0059,  
25 Florida Statutes, are reenacted to read:

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

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

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

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

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

16 |         Section 93. For the purpose of incorporating the  
17 | amendment to section 435.04, Florida Statutes, in references  
18 | thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
19 | subsection (1) of section 381.60225, Florida Statutes, are  
20 | reenacted to read:

21 |             381.60225 Background screening.--

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

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

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

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

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

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

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

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

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

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

3 Section 94. For the purpose of incorporating the  
4 amendment to section 435.04, Florida Statutes, in references  
5 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
6 subsection (7) of section 383.305, Florida Statutes, are  
7 reenacted to read:

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

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

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

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

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

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

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

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

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

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

19 |         Section 95. For the purpose of incorporating the  
20 | amendment to section 435.04, Florida Statutes, in references  
21 | thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
22 | subsection (3) of section 390.015, Florida Statutes, are  
23 | reenacted to read:

24 |             390.015 Application for license.--

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

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

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

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

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

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



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

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

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

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

3 Section 96. Paragraph (a) of subsection (1) of section  
4 394.4572, Florida Statutes, is amended to read:

5 394.4572 Screening of mental health personnel.--

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

17 Section 97. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
20 subsection (13) of section 394.875, Florida Statutes, are  
21 reenacted to read:

22 394.875 Crisis stabilization units, residential  
23 treatment facilities, and residential treatment centers for  
24 children and adolescents; authorized services; license  
25 required; penalties.--

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

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

1 officer, or other similarly titled individual who is  
2 responsible for the financial operation of the facility,  
3 including billings for client care and services. The applicant  
4 must comply with the procedures for level 2 background  
5 screening as set forth in chapter 435, as well as the  
6 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 98. For the purpose of incorporating the  
4 amendment to section 435.04, Florida Statutes, in references  
5 thereto, subsections (1), (2), (3), (4), (6), and (8) of  
6 section 395.0055, Florida Statutes, are reenacted to read:

7 395.0055 Background screening.--Each applicant for  
8 licensure must comply with the following requirements:

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

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

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

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

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

17 |         (6) 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.

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

30 |         Section 99. For the purpose of incorporating the  
31 | amendment to section 435.04, Florida Statutes, in references

1 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
2 subsection (4) of section 395.0199, Florida Statutes, are  
3 reenacted to read:

4 395.0199 Private utilization review.--

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 2 standards for screening set forth  
10 in chapter 435, of the managing employee or other similarly  
11 titled individual who is responsible for the operation of the  
12 entity. The applicant must comply with the procedures for  
13 level 2 background screening as set forth in chapter 435, as  
14 well as the requirements of s. 435.03(3).

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

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

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

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

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



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

3 |         (g) A registration may not be granted to an applicant  
4 | if the applicant or managing employee has been found guilty  
5 | of, 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 100. For the purpose of incorporating the  
11 | amendment to section 435.04, Florida Statutes, in references  
12 | thereto, paragraph (a) of subsection (1) of section 397.451,  
13 | Florida Statutes, is reenacted to read:

14 |             397.451 Background checks of service provider  
15 | personnel.--

16 |             (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
17 | EXCEPTIONS.--

18 |             (a) Background checks shall apply as follows:

19 |             1. All owners, directors, and chief financial officers  
20 | of service providers are subject to level 2 background  
21 | screening as provided under chapter 435.

22 |             2. All service provider personnel who have direct  
23 | contact with children receiving services or with adults who  
24 | are developmentally disabled receiving services are subject to  
25 | level 2 background screening as provided under chapter 435.

26 |         Section 101. For the purpose of incorporating the  
27 | amendment to section 435.04, Florida Statutes, in references  
28 | thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
29 | (4) of section 400.071, Florida Statutes, are reenacted to  
30 | read:

31 |             400.071 Application for license.--

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

13           (b) The agency may require background screening for a  
14 member of the board of directors of the licensee or an officer  
15 or an individual owning 5 percent or more of the licensee if  
16 the agency has probable cause to believe that such individual  
17 has been convicted of an offense prohibited under the level 2  
18 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 or assisted living licensure requirements of this  
23 state is acceptable in fulfillment of paragraph (a). Proof of  
24 compliance with background screening which has been submitted  
25 within the previous 5 years to fulfill the requirements of the  
26 Financial Services Commission and the Office of Insurance  
27 Regulation pursuant to chapter 651 as part of an application  
28 for a certificate of authority to operate a continuing care  
29 retirement community is acceptable in fulfillment of the  
30 Department of Law Enforcement and Federal Bureau of  
31 Investigation background check.

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

23           (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 shall 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 Section 102. For the purpose of incorporating the  
11 amendment to section 435.04, Florida Statutes, in references  
12 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
13 subsection (4) of section 400.471, Florida Statutes, are  
14 reenacted to read:

15 400.471 Application for license; fee; provisional  
16 license; temporary permit.--

17 (4) 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 of  
21 the applicant, in accordance with the level 2 standards for  
22 screening set forth in chapter 435. As used in this  
23 subsection, the term "applicant" means the administrator, or a  
24 similarly titled person who is responsible for the day-to-day  
25 operation of the licensed home health agency, and the  
26 financial officer, or similarly titled individual who is  
27 responsible for the financial operation of the licensed home  
28 health agency.

29 (b) The agency may require background screening for a  
30 member of the board of directors of the licensee or an officer  
31 or an individual owning 5 percent or more of the licensee if

1 | the agency reasonably suspects that such individual has been  
2 | convicted of an offense prohibited under the level 2 standards  
3 | 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 or assisted living licensure requirements of this  
8 | state is acceptable in fulfillment of paragraph (a). Proof of  
9 | compliance with background screening which has been submitted  
10 | within the previous 5 years to fulfill the requirements of the  
11 | Financial Services Commission and the Office of Insurance  
12 | Regulation pursuant to chapter 651 as part of an application  
13 | for a certificate of authority to operate a continuing care  
14 | retirement community is acceptable in fulfillment of the  
15 | Department of Law Enforcement and Federal Bureau of  
16 | Investigation background check.

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. A standard license may be  
23 | granted to the licensee upon the agency's receipt of a report  
24 | of the results of the Federal Bureau of Investigation  
25 | background screening for each individual required by this  
26 | section to undergo background screening which confirms that  
27 | all standards have been met, or upon the granting of a  
28 | disqualification exemption by the agency as set forth in  
29 | chapter 435. Any other person who is required to undergo level  
30 | 2 background screening may serve in his or her capacity  
31 | pending the agency's receipt of the report from the Federal

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

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

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

31

1           Section 103. 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 (2) of section 400.506, Florida Statutes, are  
5 reenacted to read:

6           400.506 Licensure of nurse registries; requirements;  
7 penalties.--

8           (2) 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, in  
12 accordance with the level 2 standards for screening set forth  
13 in chapter 435, of the managing employee, or other similarly  
14 titled individual who is responsible for the daily operation  
15 of the nurse registry, and of the financial officer, or other  
16 similarly titled individual who is responsible for the  
17 financial operation of the registry, including billings for  
18 patient care and services. The applicant shall comply with the  
19 procedures for level 2 background screening as set forth in  
20 chapter 435.

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

26           (c) Proof of compliance with the level 2 background  
27 screening requirements of chapter 435 which has been submitted  
28 within the previous 5 years in compliance with any other  
29 health care or assisted living licensure requirements of this  
30 state is acceptable in fulfillment of the requirements of  
31 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. A standard license may be  
7 granted to the applicant upon the agency's receipt of a report  
8 of the results of the Federal Bureau of Investigation  
9 background screening for each individual required by this  
10 section to undergo background screening which confirms that  
11 all standards have been met, or upon the granting of a  
12 disqualification exemption by the agency as set forth in  
13 chapter 435. Any other person who is required to undergo level  
14 2 background screening may serve in his or her capacity  
15 pending the agency's receipt of the report from the Federal  
16 Bureau of Investigation. However, the person may not continue  
17 to serve if the report indicates any violation of background  
18 screening standards and a disqualification exemption has not  
19 been requested of and granted by the agency as set forth in  
20 chapter 435.

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



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

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

15 Section 104. For the purpose of incorporating the  
16 amendment to section 435.04, Florida Statutes, in references  
17 thereto, section 400.5572, Florida Statutes, is reenacted to  
18 read:

19 400.5572 Background screening.--

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

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

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

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

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

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

29 |         (2) The owner or administrator of an adult day care  
30 | center must conduct level 1 background screening as set forth  
31 | in chapter 435 on all employees hired on or after October 1,

1 1998, who provide basic services or supportive and optional  
2 services to the participants. Such persons satisfy this  
3 requirement if:

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

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

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

26 Section 105. For the purpose of incorporating the  
27 amendment to section 435.04, Florida Statutes, in references  
28 thereto, paragraph (a) of subsection (3) of section 400.607,  
29 Florida Statutes, is reenacted to read:

30 400.607 Denial, suspension, or revocation of license;  
31 imposition of administrative fine; grounds; injunctions.--

1           (3) The agency may deny or revoke a license upon a  
2 determination that:

3           (a) Persons subject to level 2 background screening  
4 under s. 400.6065 do not meet the screening standards of s.  
5 435.04, and exemptions from disqualification have not been  
6 provided by the agency.

7           Section 106. For the purpose of incorporating the  
8 amendment to section 435.04, Florida Statutes, in references  
9 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
10 subsection (4) of section 400.801, Florida Statutes, are  
11 reenacted to read:

12           400.801 Homes for special services.--

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

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

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

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

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

29           (f) 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 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 paragraph.

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

23 Section 107. For the purpose of incorporating the  
24 amendment to section 435.04, Florida Statutes, in references  
25 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
26 subsection (3) of section 400.805, Florida Statutes, are  
27 reenacted to read:

28 400.805 Transitional living facilities.--

29 (3) Each applicant for licensure must comply with the  
30 following requirements:  
31

1           (a) Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening, in  
3 accordance with the level 2 standards for screening set forth  
4 in chapter 435, of the managing employee, or other similarly  
5 titled individual who is responsible for the daily operation  
6 of the facility, and of the financial officer, or other  
7 similarly titled individual who is responsible for the  
8 financial operation of the facility, including billings for  
9 client care and services. The applicant must comply with the  
10 procedures for level 2 background screening as set forth in  
11 chapter 435.

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

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

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

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

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



1 (g) 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 108. 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 (5) of section 400.906, Florida Statutes, are  
12 reenacted to read:

13 400.906 Initial application for license.--

14 (5) Each applicant for licensure must comply with the  
15 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 operator, and of the financial officer,  
20 or other similarly titled individual who is responsible for  
21 the financial operation of the center, including billings for  
22 patient care and services. The applicant must comply with the  
23 procedures for level 2 background screening as set forth in  
24 chapter 435, as well as the requirements of s. 435.03(3).

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

31

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

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

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

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

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

22 Section 109. For the purpose of incorporating the  
23 amendment to section 435.04, Florida Statutes, in references  
24 thereto, paragraphs (a), (b), (c), (e), and (f) of subsection  
25 (5) of section 400.931, Florida Statutes, are reenacted to  
26 read:

27 400.931 Application for license; fee; provisional  
28 license; temporary permit.--

29 (5) Each applicant for licensure must comply with the  
30 following requirements:

31

1           (a) Upon receipt of a completed, signed, and dated  
2 application, the agency shall require background screening of  
3 the applicant, in accordance with the level 2 standards for  
4 screening set forth in chapter 435. As used in this  
5 subsection, the term "applicant" means the general manager and  
6 the financial officer or similarly titled individual who is  
7 responsible for the financial operation of the licensed  
8 facility.

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

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

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

1 financial interest and has no family members with a financial  
2 interest in the corporation or organization, provided that the  
3 director and the not-for-profit corporation or organization  
4 include in the application a statement affirming that the  
5 director's relationship to the corporation satisfies the  
6 requirements of this provision.

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

14 Section 110. For the purpose of incorporating the  
15 amendment to section 435.04, Florida Statutes, in references  
16 thereto, paragraphs (a), (b), (c), (d), and (f) of subsection  
17 (10) of section 400.962, Florida Statutes, are reenacted to  
18 read:

19 400.962 License required; license application.--

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

30 (b) The agency may require background screening for a  
31 member of the board of directors of the licensee or an officer

1 or an individual owning 5 percent or more of the licensee if  
2 the agency has probable cause to believe that such individual  
3 has been convicted of an offense prohibited under the level 2  
4 standards for screening set forth in chapter 435.

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

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

1 agency as set forth in chapter 435. Any other person who is  
2 required to undergo level 2 background screening may serve in  
3 his or her capacity pending the agency's receipt of the report  
4 from the Federal Bureau of Investigation; however, the person  
5 may not continue to serve if the report indicates any  
6 violation of background screening standards and a  
7 disqualification exemption has not been granted by the agency  
8 as set forth 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 by a  
12 member of the board of directors of the applicant, its  
13 officers, or any individual owning 5 percent or more of the  
14 applicant. This requirement does not apply to a director of a  
15 not-for-profit corporation or organization if the director  
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 has no family members with a financial  
22 interest in the corporation or organization, provided that the  
23 director and the not-for-profit corporation or organization  
24 include in the application a statement affirming that the  
25 director's relationship to the corporation satisfies the  
26 requirements of this paragraph.

27 Section 111. For the purpose of incorporating the  
28 amendment to section 435.04, Florida Statutes, in references  
29 thereto, paragraphs (b) and (d) of subsection (7) of section  
30 400.991, Florida Statutes, are reenacted to read:

31

1           400.991 License requirements; background screenings;  
2 prohibitions.--

3           (7) Each applicant for licensure shall comply with the  
4 following requirements:

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

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

23           Section 112. For the purpose of incorporating the  
24 amendment to section 435.04, Florida Statutes, in references  
25 thereto, paragraph (e) of subsection (2) of section 402.302,  
26 Florida Statutes, is reenacted to read:

27           402.302 Definitions.--

28           (2) "Child care facility" includes any child care  
29 center or child care arrangement which provides child care for  
30 more than five children unrelated to the operator and which  
31 receives a payment, fee, or grant for any of the children



1 receiving care, wherever operated, and whether or not operated  
2 for profit. The following are not included:

3 (e) Operators of transient establishments, as defined  
4 in chapter 509, which provide child care services solely for  
5 the guests of their establishment or resort, provided that all  
6 child care personnel of the establishment are screened  
7 according to the level 2 screening requirements of chapter  
8 435.

9 Section 113. For the purpose of incorporating the  
10 amendment to section 435.04, Florida Statutes, in references  
11 thereto, paragraph (a) of subsection (2) of section 402.305,  
12 Florida Statutes, is reenacted to read:

13 402.305 Licensing standards; child care facilities.--

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

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

19 Section 114. For the purpose of incorporating the  
20 amendment to section 435.04, Florida Statutes, in references  
21 thereto, subsection (3) of section 402.3054, Florida Statutes,  
22 is reenacted to read:

23 402.3054 Child enrichment service providers.--

24 (3) A child enrichment service provider shall be of  
25 good moral character based upon screening. This screening  
26 shall be conducted as provided in chapter 435, using the level  
27 2 standards for screening set forth in that chapter. A child  
28 enrichment service provider must meet the screening  
29 requirements prior to providing services to a child in a child  
30 care facility. A child enrichment service provider who has met  
31

1 the screening standards shall not be required to be under the  
2 direct and constant supervision of child care personnel.

3 Section 115. 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 (2) of section 483.30, Florida Statutes, are  
7 reenacted to read:

8 483.30 Licensing of centers.--

9 (2) 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 center, and of the financial officer, or other  
17 similarly titled individual who is responsible for the  
18 financial operation of the center, including billings for  
19 patient services. The applicant must comply with the  
20 procedures for level 2 background screening as set forth in  
21 chapter 435, as well as the requirements of s. 435.03(3).

22 (b) The agency may require background screening of any  
23 other individual who is an applicant if the agency has  
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 license may be granted to the applicant upon the  
10 agency's receipt of a report of the results of the Federal  
11 Bureau of Investigation background screening for each  
12 individual required by this section to undergo background  
13 screening which confirms that all standards have been met, or  
14 upon the granting of a disqualification exemption by the  
15 agency as set forth in chapter 435. Any other person who is  
16 required to undergo level 2 background screening may serve in  
17 his or her capacity pending the agency's receipt of the report  
18 from the Federal Bureau of Investigation. However, the person  
19 may not continue to serve if the report indicates any  
20 violation of background screening standards and a  
21 disqualification exemption has not been requested of and  
22 granted by the agency as set forth in chapter 435.

23           (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 116. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraphs (a), (b), (c), (d), (f), and (g) of  
20 subsection (2) of section 483.101, Florida Statutes, are  
21 reenacted to read:

22 483.101 Application for clinical laboratory license.--

23 (2) Each applicant for licensure must comply with the  
24 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 director or other similarly  
29 titled individual who is responsible for the daily operation  
30 of the laboratory and of the financial officer, or other  
31 similarly titled individual who is responsible for the

1 financial operation of the laboratory, including billings for  
2 patient 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  
7 probable cause to believe that he or she has been convicted of  
8 a crime or has committed any other offense prohibited under  
9 the level 2 standards for 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 the requirements of paragraph (a).

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

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

31

1           Section 117. For the purpose of incorporating the  
2 amendment to section 435.04, Florida Statutes, in references  
3 thereto, subsection (5) of section 744.1085, Florida Statutes,  
4 is reenacted to read:

5           744.1085 Regulation of professional guardians;  
6 application; bond required; educational requirements.--

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

11          Section 118. For the purpose of incorporating the  
12 amendment to section 435.04, Florida Statutes, in references  
13 thereto, paragraph (b) of subsection (2) of section 984.01,  
14 Florida Statutes, is reenacted to read:

15          984.01 Purposes and intent; personnel standards and  
16 screening.--

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

24          (b) The Department of Juvenile Justice and the  
25 Department of Children and Family Services shall require  
26 employment screening pursuant to chapter 435, using the level  
27 2 standards set forth in that chapter for personnel in  
28 programs for children or youths.

29          Section 119. For the purpose of incorporating the  
30 amendment to section 435.04, Florida Statutes, in references  
31

1 thereto, paragraph (b) of subsection (2) of section 985.01,  
2 Florida Statutes, is reenacted to read:

3           985.01 Purposes and intent; personnel standards and  
4 screening.--

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

12           (b) The Department of Juvenile Justice and the  
13 Department of Children and Family Services shall require  
14 employment screening pursuant to chapter 435, using the level  
15 2 standards set forth in that chapter for personnel in  
16 programs for children or youths.

17           Section 120. For the purpose of incorporating the  
18 amendment to section 435.04, Florida Statutes, in references  
19 thereto, paragraphs (a) and (b) of subsection (7) of section  
20 1002.36, Florida Statutes, are reenacted to read:

21           1002.36 Florida School for the Deaf and the Blind.--

22           (7) PERSONNEL SCREENING.--

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



1 | school shall be paid by the school. The cost of such a  
2 | screening and investigation for an applicant for employment  
3 | may be paid by the school.

4 |       (b) As a prerequisite for initial and continuing  
5 | employment at the Florida School for the Deaf and the Blind:

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

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

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

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

1 | the Florida School for the Deaf and the Blind. Failure to  
2 | supply missing information within 30 days or to show  
3 | reasonable efforts to obtain such information shall result in  
4 | automatic disqualification of an applicant and automatic  
5 | termination of an employee.

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

10 |         Section 121. For the purpose of incorporating the  
11 | amendments to sections 943.0585 and 943.059, Florida Statutes,  
12 | in references thereto, paragraph (a) of subsection (2) and  
13 | subsection (6) of section 943.0582, Florida Statutes, are  
14 | reenacted to read:

15 |             943.0582 Prearrest, postarrest, or teen court  
16 | diversion program expunction.--

17 |             (2)(a) As used in this section, the term "expunction"  
18 | has the same meaning ascribed in and effect as s. 943.0585,  
19 | except that:

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

31 |

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

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

10           Section 122. For the purpose of incorporating the  
11 amendment to section 943.059, Florida Statutes, in references  
12 thereto, subsections (7), (8), and (9) of section 943.053,  
13 Florida Statutes, are reenacted to read:

14           943.053 Dissemination of criminal justice information;  
15 fees.--

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

28           (8) Notwithstanding the provisions of s. 943.0525, and  
29 any user agreements adopted pursuant thereto, and  
30 notwithstanding the confidentiality of sealed records as  
31 provided for in s. 943.059, the Department of Corrections

1 shall provide, in a timely manner, copies of the Florida  
2 criminal history records for inmates housed in a private state  
3 correctional facility to the private entity under contract to  
4 operate the facility pursuant to the provisions of s. 944.105  
5 or s. 957.03. The department may assess a charge for the  
6 Florida criminal history records pursuant to the provisions of  
7 chapter 119. Sealed records received by the private entity  
8 under this section remain confidential and exempt from the  
9 provisions of s. 119.07(1).

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

31

1           Section 123. Sections 393.135, 394.4593, and 916.1075,  
2 Florida Statutes, as created by this act, shall apply to  
3 offenses committed on or after July 1, 2004.

4           Section 124. Subsection (3) of section 39.304, Florida  
5 Statutes, is amended to read:

6           39.304 Photographs, medical examinations, X rays, and  
7 medical treatment of abused, abandoned, or neglected child.--

8           (3) Any facility licensed under chapter 395 shall  
9 provide to the department, its agent, a law enforcement  
10 agency, or a child protection team that contracts with the  
11 department any photograph or report on examinations made or X  
12 rays taken under ~~pursuant to~~ this section, or copies thereof,  
13 for the purpose of investigation or assessment of cases of  
14 abuse, abandonment, neglect, or exploitation of children.

15           Section 125. Section 39.302, Florida Statutes, is  
16 amended to read:

17           39.302 Protective investigations of institutional  
18 child abuse, abandonment, or neglect.--

19           (1) The department shall conduct a child protective  
20 investigation of each report of institutional child abuse,  
21 abandonment, or neglect. Upon receipt of a report that  
22 alleges that an employee or agent of the department, or any  
23 other entity or person covered by s. 39.01(31) or (47), acting  
24 in an official capacity, has committed an act of child abuse,  
25 abandonment, or neglect, the department shall initiate a child  
26 protective investigation within the timeframe established by  
27 the central abuse hotline pursuant to s. 39.201(5).

28           (a) Upon initiation of the child protective  
29 investigation, the department shall ~~and~~ orally notify the  
30 appropriate ~~state attorney,~~ law enforcement agency, and  
31 licensing or oversight agency of the allegation of child

1 ~~abuse, abandonment, or neglect. These agencies shall~~  
2 ~~immediately conduct~~ A joint investigation shall be conducted,  
3 unless independent investigations are more feasible. When  
4 conducting a joint investigation, these agencies shall be  
5 entitled to full access to the information gathered by the  
6 department in the course of the investigation, as allowed by  
7 law.

8 (b) The department shall inform the owner or operator  
9 of the facility of the report. When conducting investigations  
10 onsite or having face-to-face interviews with the child, such  
11 investigation visits shall be unannounced unless it is  
12 determined by the department or its agent that such  
13 unannounced visits would threaten the safety of the child. The  
14 department shall notify the child's parent or legal custodian  
15 of the allegation within 48 hours after commencement of the  
16 investigation. If determined necessary or if there is a need  
17 for further services, an on-site visit to the child's place of  
18 residence shall be conducted as part of the protective  
19 investigation. When a facility is exempt from licensing, the  
20 department shall inform the owner or operator of the facility  
21 of the report. Each agency conducting a joint investigation  
22 shall be entitled to full access to the information gathered  
23 by the department in the course of the investigation. A  
24 protective investigation must include an onsite visit of the  
25 child's place of residence. In all cases, the department shall  
26 make a full written report to the state attorney within 3  
27 working days after making the oral report. A criminal  
28 investigation shall be coordinated, whenever possible, with  
29 the child protective investigation of the department. Any  
30 interested person who has information regarding the offenses  
31 described in this subsection may forward a statement to the

1 ~~state attorney as to whether prosecution is warranted and~~  
2 ~~appropriate. Within 15 days after the completion of the~~  
3 ~~investigation, the state attorney shall report the findings to~~  
4 ~~the department and shall include in such report a~~  
5 ~~determination of whether or not prosecution is justified and~~  
6 ~~appropriate in view of the circumstances of the specific case.~~

7 (2)(a) If in the course of the child protective  
8 investigation, the department finds that ~~a subject of a~~  
9 ~~report, by continued contact with children in care,~~  
10 ~~constitutes~~ a threatened harm to the physical health, mental  
11 health, or welfare of the child continues to exist, the agency  
12 or department responsible for the ongoing regulation or  
13 oversight of the particular facility shall ensure that the  
14 facility immediately implements the actions identified by the  
15 department in order to respond to the immediate safety  
16 concern. Such actions may include, but are not limited to,  
17 restricting children, the department may restrict a subject's  
18 access to the child ~~children~~ pending the outcome of the  
19 investigation. The agency or department responsible for the  
20 ongoing regulation or oversight of the facility shall ensure  
21 that the facility continues the implemented action pending the  
22 outcome of the investigation. The department or its agent  
23 shall employ the least restrictive means necessary to  
24 safeguard the physical health, mental health, and welfare of  
25 the children in care. This authority applies ~~shall apply~~ only  
26 to a child protective investigation ~~investigations~~ in which  
27 there is some evidence that child abuse, abandonment, or  
28 neglect has occurred and must be authorized by the protective  
29 investigative supervisor. A subject of a report whose access  
30 to the child ~~children~~ in care has been restricted and a  
31 facility that is required to implement an action to respond to

1 the immediate safety concern pursuant to this subsection are  
2 ~~is~~ entitled to petition the circuit court for judicial review.  
3 The court shall enter written findings of fact based upon the  
4 preponderance of evidence that child abuse, abandonment, or  
5 neglect did occur and that the department's restrictive action  
6 ~~against a subject of the report~~ was justified in order to  
7 safeguard the physical health, mental health, and welfare of  
8 the child ~~children~~ in care. The restrictive action of the  
9 department shall be effective for no more than 90 days without  
10 a judicial finding supporting the actions of the department.

11 (b) Upon completion of the department's child  
12 protective investigation, the department may recommend  
13 corrective action to the facility, and to the agency or  
14 department with ongoing regulation or oversight, in order to  
15 prevent further abusive acts. The department may also make  
16 application to the circuit court for continued restrictive  
17 action against any person necessary to safeguard the physical  
18 health, mental health, and welfare of the children in care.

19 ~~(3) Pursuant to the restrictive actions described in~~  
20 ~~subsection (2), in cases of institutional abuse, abandonment,~~  
21 ~~or neglect in which the removal of a subject of a report will~~  
22 ~~result in the closure of the facility, and when requested by~~  
23 ~~the owner of the facility, the department may provide~~  
24 ~~appropriate personnel to assist in maintaining the operation~~  
25 ~~of the facility. The department may provide assistance when it~~  
26 ~~can be demonstrated by the owner that there are no reasonable~~  
27 ~~alternatives to such action. The length of the assistance~~  
28 ~~shall be agreed upon by the owner and the department; however,~~  
29 ~~the assistance shall not be for longer than the course of the~~  
30 ~~restrictive action imposed pursuant to subsection (2). The~~  
31



1 ~~owner shall reimburse the department for the assistance of~~  
2 ~~personnel provided.~~

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

10       ~~(4)(5)~~ The department shall notify the state attorney  
11 and the appropriate law enforcement agency of any case of  
12 ~~other~~ child abuse, abandonment, or neglect ~~case~~ in which  
13 criminal conduct is suspected or for any other reason, a  
14 criminal investigation is deemed appropriate by the  
15 department. A criminal investigation shall be coordinated,  
16 whenever possible, with the child protective investigation of  
17 the department.

18       ~~(6)~~ ~~In cases of institutional child abuse,~~  
19 ~~abandonment, or neglect in which the multiplicity of reports~~  
20 ~~of abuse, abandonment, or neglect or the severity of the~~  
21 ~~allegations indicates the need for specialized investigation~~  
22 ~~by the department in order to afford greater safeguards for~~  
23 ~~the physical health, mental health, and welfare of the~~  
24 ~~children in care, the department shall provide a team of~~  
25 ~~persons specially trained in the areas of child abuse,~~  
26 ~~abandonment, and neglect investigations, diagnosis, and~~  
27 ~~treatment to assist the local office of the department in~~  
28 ~~expediting its investigation and in making recommendations for~~  
29 ~~restrictive actions and to assist in other ways deemed~~  
30 ~~necessary by the department in order to carry out the~~  
31 ~~provisions of this section. The specially trained team shall~~

1 ~~also provide assistance to any investigation of the~~  
2 ~~allegations by local law enforcement and the Department of Law~~  
3 ~~Enforcement.~~

4       (5) The department shall adopt by rule procedures for  
5 child protective investigations within each type of facility  
6 subject to this section. The rule must include, but need not  
7 be limited to, procedures for the conduct of investigations  
8 within the facilities; the use of child safety assessments  
9 that are specific to each broad category of institution; the  
10 sharing of information among and collaboration between the  
11 department, the facilities, and the licensing or oversight  
12 agencies; and the implementation of this section.

13       Section 126. The Department of Children and Family  
14 Services shall develop and adopt by rule minimum requirements  
15 for hiring and training child protective staff. The rules  
16 shall provide minimum requirements for:

17       (1) Education and experience for child protective  
18 investigators and child protective investigative supervisors,  
19 as recommended in the Protective Investigator Retention  
20 Workgroup report dated December 31, 2003, and for screening  
21 and hiring, including, but not limited to, exposure to the job  
22 functions prior to actual employment, thorough background  
23 checks, use of an effective characteristic-based screening  
24 tool, and involvement of the supervisor in the selection  
25 decision; and

26       (2) Training processes, which must include, but need  
27 not be limited to, requirements for preservice training and  
28 certification, requirements for local-service-area-specific  
29 training that incorporates a strong on-the-job training  
30 component and requires a protected caseload for newly hired  
31 employees, and the provision of specialty or advanced

1 training, including training in the investigation of  
2 institutional child abuse.

3       Section 127. The Department of Children and Family  
4 Services shall submit a report by December 31, 2004, to the  
5 Governor, the President of the Senate, and the Speaker of the  
6 House of Representatives regarding the implementation of the  
7 recommendations of Interim Project Report 2004-113 and the  
8 Protective Investigator Retention Workgroup Report dated  
9 December 31, 2003. Specifically, this report must contain:

10       (1) A full program design, as a pilot project, for an  
11 alternative response system in Florida which is based, to the  
12 extent possible, on the model recommended in the Protective  
13 Investigator Retention Workgroup Report, including detailed  
14 requirements of the multiple elements involved in the proposed  
15 system, the expectations of each of the entities, possible  
16 sites for the pilot project, and an evaluation component. This  
17 alternative response system shall provide for different levels  
18 of investigative activities, including a streamlined track, a  
19 family assessment track, and a traditional investigative  
20 track. The program design shall be developed in collaboration  
21 with all potential stakeholders, including, but not limited  
22 to, district protective investigative staff, the sheriffs'  
23 offices conducting child protective investigations, and  
24 community-based-care lead agencies.

25       (2) The results of an examination of the information  
26 needed by the court at each stage of a dependency case and  
27 recommendations for any revisions to the information that is  
28 required to be provided or for revisions in the timing of the  
29 submission of such information to the court. This examination  
30 and development of recommendations shall be conducted jointly  
31

1 with the Steering Committee of Families and Children of the  
2 Supreme Court.

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

6 (4) The actions taken to implement the remaining  
7 recommendations of the Protective Investigative Retention  
8 Workgroup.

9 Section 128. Subsections (3), (4), (5), and (6) of  
10 section 61.21, Florida Statutes, are amended to read:

11 61.21 Parenting course authorized; fees; required  
12 attendance authorized; contempt.--

13 (3) Each course provider offering a parenting course  
14 pursuant to this section must be approved by the Department of  
15 Children and Family Services. The provider and course must  
16 comply with this section and the rules developed under this  
17 section.

18 (a) The Department of Children and Family Services  
19 shall provide each judicial circuit with a statewide list of  
20 approved course providers and sites at which the parent  
21 education and family stabilization course may be completed.  
22 Each judicial circuit must make information regarding all  
23 approved course providers available to all parents.

24 (b) Parent education and family stabilization course  
25 providers may charge a reasonable fee for each course  
26 participant. The Department of Children and Family Services  
27 shall include on the list of approved course providers and  
28 sites for each circuit at least one site in that circuit where  
29 the parent education and family stabilization course may be  
30 completed on a sliding fee scale, if available.

31

1           (c) The Department of Children and Family Services  
2 shall include on the list of approved course providers,  
3 without limitation as to the area of the state for which the  
4 course is approved, a minimum of one statewide approved course  
5 to be provided through the Internet and one statewide approved  
6 course to be provided through correspondence. The purpose of  
7 the Internet and correspondence courses is to ensure that the  
8 parent education and stabilization course is available in the  
9 home county of each state resident and to those out-of-state  
10 persons subject to this section.

11           (d) The Department of Children and Family Services may  
12 remove a provider from the list of approved course providers  
13 for noncompliance with the requirements of this section or the  
14 rules adopted under this section.

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

17           ~~(4)(3)~~ All parties to a dissolution of marriage  
18 proceeding with minor children or a paternity action which  
19 involves issues of parental responsibility shall be required  
20 to complete the Parent Education and Family Stabilization  
21 Course prior to the entry by the court of a final judgment.  
22 The court may excuse a party from attending the parenting  
23 course for good cause.

24           ~~(5)(4)~~ All parties required to complete a parenting  
25 course under this section shall begin the course as  
26 expeditiously as possible after filing for dissolution of  
27 marriage and shall file proof of compliance with the court  
28 prior to the entry of the final judgment.

29           ~~(6)(5)~~ All parties to a modification of a final  
30 judgment involving shared parental responsibilities, custody,  
31 or visitation may be required to complete a court-approved

1 parenting course prior to the entry of an order modifying the  
2 final judgment.

3 ~~(6) The department shall provide each judicial circuit~~  
4 ~~with a list of approved course providers and sites at which~~  
5 ~~the parent education and family stabilization course required~~  
6 ~~by this section may be completed. The department shall also~~  
7 ~~include on the list of course providers and sites at least one~~  
8 ~~site in each circuit at which the parent education and family~~  
9 ~~stabilization course may be completed on a sliding fee scale,~~  
10 ~~if available.~~

11 Section 129. Paragraphs (a) and (c) of subsection (2)  
12 of section 839.13, Florida Statutes, are amended to read:

13 839.13 Falsifying records.--

14 (2)(a) Any person who knowingly falsifies, alters,  
15 destroys, defaces, overwrites, removes, or discards ~~by~~  
16 ~~altering, destroying, defacing, overwriting, removing, or~~  
17 ~~discarding~~ an official record relating to an individual in the  
18 care and custody of a state agency, which act has the  
19 potential to detrimentally affect the health, safety, or  
20 welfare of that individual, commits a felony of the third  
21 degree, punishable as provided in s. 775.082, s. 775.083, or  
22 s. 775.084. For the purposes of this paragraph, the term "care  
23 and custody" includes, but is not limited to, a child abuse  
24 protective investigation, protective supervision, foster care  
25 and related services, or a protective investigation or  
26 protective supervision of a vulnerable adult, as defined in  
27 chapter 39, chapter 409, or chapter 415.

28 (c) Any person who knowingly falsifies, alters,  
29 destroys, defaces, overwrites, removes, or discards ~~by~~  
30 ~~altering, destroying, defacing, overwriting, removing, or~~  
31 ~~discarding~~ records of the Department of Children and Family

1 Services or its contract provider with the intent to conceal a  
2 fact material to a child abuse protective investigation,  
3 protective supervision, foster care and related services, or a  
4 protective investigation or protective supervision of a  
5 vulnerable adult, as defined in chapter 39, chapter 409, or  
6 chapter 415, commits a felony of the third degree, punishable  
7 as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing  
8 in this paragraph prohibits prosecution for a violation of  
9 paragraph (a) or paragraph (b) involving records described in  
10 this paragraph.

11 Section 130. Section 39.0016, Florida Statutes, is  
12 created to read:

13 39.0016 Education of abused, neglected, and abandoned  
14 children.--

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

16 (a) "Children known to the department" means children  
17 who are found to be dependent or children in shelter care.

18 (b) "Department" means the Department of Children and  
19 Family Services or a community-based care lead agency acting  
20 on behalf of the Department of Children and Family Services,  
21 as appropriate.

22 (2) The provisions of this section establish goals and  
23 not rights. This section does not require the delivery of any  
24 particular service or level of service in excess of existing  
25 appropriations. A person may not maintain a cause of action  
26 against the state or any of its subdivisions, agencies,  
27 contractors, subcontractors, or agents based upon this section  
28 becoming law or failure by the Legislature to provide adequate  
29 funding for the achievement of these goals. This section does  
30 not require the expenditure of funds to meet the goals

31

1 established in this section except funds specifically  
2 appropriated for such purpose.

3 (3) The department shall enter into an agreement with  
4 the Department of Education regarding the education and  
5 related care of children known to the department. Such  
6 agreement shall be designed to provide educational access to  
7 children known to the department for the purpose of  
8 facilitating the delivery of services or programs to children  
9 known to the department. The agreement shall avoid duplication  
10 of services or programs and shall provide for combining  
11 resources to maximize the availability or delivery of services  
12 or programs.

13 (4) The department shall enter into agreements with  
14 district school boards or other local educational entities  
15 regarding education and related services for children known to  
16 the department who are of school age and children known to the  
17 department who are younger than school age but who would  
18 otherwise qualify for services from the district school board.  
19 Such agreements shall include, but are not limited to:

20 (a) A requirement that the department shall:

21 1. Enroll children known to the department in school.  
22 The agreement shall provide for continuing the enrollment of a  
23 child known to the department at the same school, if possible,  
24 with the goal of avoiding disruption of education.

25 2. Notify the school and school district in which a  
26 child known to the department is enrolled of the name and  
27 phone number of the child known to the department caregiver  
28 and caseworker for child safety purposes.

29 3. Establish a protocol for the department to share  
30 information about a child known to the department with the  
31 school district, consistent with the Family Educational Rights



1 and Privacy Act, since the sharing of information will assist  
2 each agency in obtaining education and related services for  
3 the benefit of the child.

4 4. Notify the school district of the department's case  
5 planning for a child known to the department, both at the time  
6 of plan development and plan review. Within the plan  
7 development or review process, the school district may provide  
8 information regarding the child known to the department if the  
9 school district deems it desirable and appropriate.

10 (b) A requirement that the district school board  
11 shall:

12 1. Provide the department with a general listing of  
13 the services and information available from the district  
14 school board, including, but not limited to, the current  
15 Sunshine State Standards, the Surrogate Parent Training  
16 Manual, and other resources accessible through the Department  
17 of Education or local school districts to facilitate  
18 educational access for a child known to the department.

19 2. Identify all educational and other services  
20 provided by the school and school district which the school  
21 district believes are reasonably necessary to meet the  
22 educational needs of a child known to the department.

23 3. Determine whether transportation is available for a  
24 child known to the department when such transportation will  
25 avoid a change in school assignment due to a change in  
26 residential placement. Recognizing that continued enrollment  
27 in the same school throughout the time the child known to the  
28 department is in out-of-home care is preferable unless  
29 enrollment in the same school would be unsafe or otherwise  
30 impractical, the department, the district school board, and  
31

1 the Department of Education shall assess the availability of  
2 federal, charitable, or grant funding for such transportation.

3 4. Provide individualized student intervention or an  
4 individual educational plan when a determination has been made  
5 through legally appropriate criteria that intervention  
6 services are required. The intervention or individual  
7 educational plan must include strategies to enable the child  
8 known to the department to maximize the attainment of  
9 educational goals.

10 (c) A requirement that the department and the district  
11 school board shall cooperate in accessing the services and  
12 supports needed for a child known to the department who has or  
13 is suspected of having a disability to receive an appropriate  
14 education consistent with the Individuals with Disabilities  
15 Education Act and state implementing laws, rules, and  
16 assurances. Coordination of services for a child known to the  
17 department who has or is suspected of having a disability may  
18 include:

19 1. Referral for screening.

20 2. Sharing of evaluations between the school district  
21 and the department where appropriate.

22 3. Provision of education and related services  
23 appropriate for the needs and abilities of the child known to  
24 the department.

25 4. Coordination of services and plans between the  
26 school and the residential setting to avoid duplication or  
27 conflicting service plans.

28 5. Appointment of a surrogate parent, consistent with  
29 the Individuals with Disabilities Education Act, for  
30 educational purposes for a child known to the department who  
31 qualifies as soon as the child is determined to be dependent

1 and without a parent to act for the child. The surrogate  
2 parent shall be appointed by the school district without  
3 regard to where the child known to the department is placed so  
4 that one surrogate parent can follow the education of the  
5 child known to the department during his or her entire time in  
6 state custody.

7 6. For each child known to the department 14 years of  
8 age and older, transition planning by the department and all  
9 providers, including the department's independent living  
10 program staff, to meet the requirements of the local school  
11 district for educational purposes.

12 (5) The department shall incorporate an education  
13 component into all training programs of the department  
14 regarding children known to the department. Such training  
15 shall be coordinated with the Department of Education and the  
16 local school districts. The department shall offer  
17 opportunities for education personnel to participate in such  
18 training. Such coordination shall include, but not be limited  
19 to, notice of training sessions, opportunities to purchase  
20 training materials, proposals to avoid duplication of services  
21 by offering joint training, and incorporation of materials  
22 available from the Department of Education and local school  
23 districts into the department training when appropriate. The  
24 department training components shall include:

25 (a) Training for surrogate parents to include how an  
26 ability to learn of a child known to the department is  
27 affected by abuse, abandonment, neglect, and removal from the  
28 home.

29 (b) Training for parents in cases in which  
30 reunification is the goal, or for preadoptive parents when  
31 adoption is the goal, so that such parents learn how to access

1 the services the child known to the department needs and the  
2 importance of their involvement in the education of the child  
3 known to the department.

4 (c) Training for caseworkers and foster parents to  
5 include information on the right of the child known to the  
6 department to an education, the role of an education in the  
7 development and adjustment of a child known to the department,  
8 the proper ways to access education and related services for  
9 the child known to the department, and the importance and  
10 strategies for parental involvement in education for the  
11 success of the child known to the department.

12 (d) Training of caseworkers regarding the services and  
13 information available through the Department of Education and  
14 local school districts, including, but not limited to, the  
15 current Sunshine State Standards, the Surrogate Parent  
16 Training Manual, and other resources accessible through the  
17 Department of Education or local school districts to  
18 facilitate educational access for a child known to the  
19 department.

20 Section 131. Paragraph (d) of subsection (3) of  
21 section 1002.22, Florida Statutes, is amended to read:

22 1002.22 Student records and reports; rights of parents  
23 and students; notification; penalty.--

24 (3) RIGHTS OF PARENT OR STUDENT.--The parent of any  
25 student who attends or has attended any public school, area  
26 technical center, or public postsecondary educational  
27 institution shall have the following rights with respect to  
28 any records or reports created, maintained, and used by any  
29 public educational institution in the state. However,  
30 whenever a student has attained 18 years of age, or is  
31 attending a postsecondary educational institution, the

1 | permission or consent required of, and the rights accorded to,  
2 | the parents of the student shall thereafter be required of and  
3 | accorded to the student only, unless the student is a  
4 | dependent student of such parents as defined in 26 U.S.C. s.  
5 | 152 (s. 152 of the Internal Revenue Code of 1954). The State  
6 | Board of Education shall adopt rules whereby parents or  
7 | students may exercise these rights:

8 |         (d) Right of privacy.--Every student shall have a  
9 | right of privacy with respect to the educational records kept  
10 | on him or her. Personally identifiable records or reports of a  
11 | student, and any personal information contained therein, are  
12 | confidential and exempt from the provisions of s. 119.07(1).  
13 | A ~~No~~ state or local educational agency, board, public school,  
14 | technical center, or public postsecondary educational  
15 | institution may not ~~shall~~ permit the release of such records,  
16 | reports, or information without the written consent of the  
17 | student's parent, or of the student himself or herself if he  
18 | or she is qualified as provided in this subsection, to any  
19 | individual, agency, or organization. However, personally  
20 | identifiable records or reports of a student may be released  
21 | to the following persons or organizations without the consent  
22 | of the student or the student's parent:

23 |             1. Officials of schools, school systems, technical  
24 | centers, or public postsecondary educational institutions in  
25 | which the student seeks or intends to enroll; and a copy of  
26 | such records or reports shall be furnished to the parent or  
27 | student upon request.

28 |             2. Other school officials, including teachers within  
29 | the educational institution or agency, who have legitimate  
30 | educational interests in the information contained in the  
31 | records.

1           3. The United States Secretary of Education, the  
2 Director of the National Institute of Education, the Assistant  
3 Secretary for Education, the Comptroller General of the United  
4 States, or state or local educational authorities who are  
5 authorized to receive such information subject to the  
6 conditions set forth in applicable federal statutes and  
7 regulations of the United States Department of Education, or  
8 in applicable state statutes and rules of the State Board of  
9 Education.

10           4. Other school officials, in connection with a  
11 student's application for or receipt of financial aid.

12           5. Individuals or organizations conducting studies for  
13 or on behalf of an institution or a board of education for the  
14 purpose of developing, validating, or administering predictive  
15 tests, administering student aid programs, or improving  
16 instruction, if such studies are conducted in such a manner as  
17 will not permit the personal identification of students and  
18 their parents by persons other than representatives of such  
19 organizations and if such information will be destroyed when  
20 no longer needed for the purpose of conducting such studies.

21           6. Accrediting organizations, in order to carry out  
22 their accrediting functions.

23           7. School readiness coalitions and the Florida  
24 Partnership for School Readiness in order to carry out their  
25 assigned duties.

26           8. For use as evidence in student expulsion hearings  
27 conducted by a district school board pursuant to the  
28 provisions of chapter 120.

29           9. Appropriate parties in connection with an  
30 emergency, if knowledge of the information in the student's  
31

1 | educational records is necessary to protect the health or  
2 | safety of the student or other individuals.

3 |         10. The Auditor General and the Office of Program  
4 | Policy Analysis and Government Accountability in connection  
5 | with their official functions; however, except when the  
6 | collection of personally identifiable information is  
7 | specifically authorized by law, any data collected by the  
8 | Auditor General and the Office of Program Policy Analysis and  
9 | Government Accountability is confidential and exempt from the  
10 | provisions of s. 119.07(1) and shall be protected in such a  
11 | way as will not permit the personal identification of students  
12 | and their parents by other than the Auditor General, the  
13 | Office of Program Policy Analysis and Government  
14 | Accountability, and their staff, and such personally  
15 | identifiable data shall be destroyed when no longer needed for  
16 | the Auditor General's and the Office of Program Policy  
17 | Analysis and Government Accountability's official use.

18 |         11.a. A court of competent jurisdiction in compliance  
19 | with an order of that court or the attorney of record pursuant  
20 | to a lawfully issued subpoena, upon the condition that the  
21 | student and the student's parent are notified of the order or  
22 | subpoena in advance of compliance therewith by the educational  
23 | institution or agency.

24 |         b. A person or entity pursuant to a court of competent  
25 | jurisdiction in compliance with an order of that court or the  
26 | attorney of record pursuant to a lawfully issued subpoena,  
27 | upon the condition that the student, or his or her parent if  
28 | the student is either a minor and not attending a  
29 | postsecondary educational institution or a dependent of such  
30 | parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal  
31 | Revenue Code of 1954), is notified of the order or subpoena in

1 advance of compliance therewith by the educational institution  
2 or agency.

3           12. Credit bureaus, in connection with an agreement  
4 for financial aid that the student has executed, provided that  
5 such information may be disclosed only to the extent necessary  
6 to enforce the terms or conditions of the financial aid  
7 agreement. Credit bureaus shall not release any information  
8 obtained pursuant to this paragraph to any person.

9           13. Parties to an interagency agreement among the  
10 Department of Juvenile Justice, school and law enforcement  
11 authorities, and other signatory agencies for the purpose of  
12 reducing juvenile crime and especially motor vehicle theft by  
13 promoting cooperation and collaboration, and the sharing of  
14 appropriate information in a joint effort to improve school  
15 safety, to reduce truancy and in-school and out-of-school  
16 suspensions, and to support alternatives to in-school and  
17 out-of-school suspensions and expulsions that provide  
18 structured and well-supervised educational programs  
19 supplemented by a coordinated overlay of other appropriate  
20 services designed to correct behaviors that lead to truancy,  
21 suspensions, and expulsions, and that support students in  
22 successfully completing their education. Information provided  
23 in furtherance of such interagency agreements is intended  
24 solely for use in determining the appropriate programs and  
25 services for each juvenile or the juvenile's family, or for  
26 coordinating the delivery of such programs and services, and  
27 as such is inadmissible in any court proceedings prior to a  
28 dispositional hearing unless written consent is provided by a  
29 parent or other responsible adult on behalf of the juvenile.

30           14. Consistent with the Family Educational Rights and  
31 Privacy Act, the Department of Children and Family Services or



1 a community-based care lead agency acting on behalf of the  
2 Department of Children and Family Services, as appropriate.

3  
4 This paragraph does not prohibit any educational institution  
5 from publishing and releasing to the general public directory  
6 information relating to a student if the institution elects to  
7 do so. However, no educational institution shall release, to  
8 any individual, agency, or organization that is not listed in  
9 subparagraphs 1.-14. ~~1.-13.~~, directory information relating to  
10 the student body in general or a portion thereof unless it is  
11 normally published for the purpose of release to the public in  
12 general. Any educational institution making directory  
13 information public shall give public notice of the categories  
14 of information that it has designated as directory information  
15 with respect to all students attending the institution and  
16 shall allow a reasonable period of time after such notice has  
17 been given for a parent or student to inform the institution  
18 in writing that any or all of the information designated  
19 should not be released.

20 Section 132. Subsection (6) of section 410.604,  
21 Florida Statutes, is repealed.

22 Section 133. Except as otherwise expressly provided in  
23 this act, this act shall take effect July 1, 2004.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3                                   CS Senate Bill 2808

4 Agency for Person with Disabilities

5 Removes the Developmental Disabilities program from the  
6 Department of Children and Family Services and establishes the  
7 program as the Agency for Persons with Disabilities.

8 Houses the newly created Agency for Persons with Disabilities  
9 within the department for administrative purposes but  
10 establishes the agency as a separate budget entity that is not  
11 subject to the control, supervision, or direction of the  
12 department.

13 Specifies that the director for the Agency for Persons with  
14 Disabilities is to be appointed by the Governor to administer  
15 the affairs of the agency and is authorized to hire staff  
16 within available resources.

17 Provides that the Agency for Persons with Disabilities has  
18 programmatic responsibility for the provision of all services  
19 for persons with developmental disabilities pursuant to  
20 chapter 393 of the Florida Statutes.

21 Specifies that the fiscal management of the home and  
22 community-based waiver services is to be managed by the Agency  
23 for Health Care Administration.

24 Directs that the Agency for Persons with Disabilities will  
25 retain the fiscal and programmatic management of the  
26 developmental disabilities institutions and those  
27 community-based services funded by general revenue.

28 Deletes the current provisions relating to the certification  
29 of behavior analysts and provides language authorizing the  
30 Agency for Persons with Disabilities to recognize the  
31 certification of behavior analysts that is awarded by a  
nonprofit corporation that meets certain requirements.

Requires that the Developmental Disabilities program and the  
developmental disabilities institutional programs in the  
department are to be transferred to the Agency for Persons  
with Disabilities.

Directs the Agency for Persons with Disabilities and the  
department to work with the Department of Management Services  
to determine the number of positions and the resources within  
the department that are to be transferred to the agency  
including staff persons from the department who are to provide  
administrative support.

Directs the Director of the Agency for Persons with  
Disabilities to work with the Secretaries from the department  
and the Agency for Health Care Administration or their  
designees to develop a transition plan that is to be submitted  
to the Executive Office of the Governor and the Legislature by  
September 1, 2004.

1 Requires the Agency for Persons with Disabilities to enter  
2 into interagency agreements with the Agency for Health Care  
3 Administration and the department that delineate the  
4 responsibilities of each organization and that also address  
5 the operational support of the new agency as well as  
6 reimbursement mechanisms.

7 Directs the Agency for Persons with Disabilities, the Agency  
8 for Health Care Administration, and the department to work  
9 together to develop a plan to ensure all necessary electronic  
10 and paper-based data is accessible to the Medicaid program.  
11 Electronic records are to be migrated to a new system that is  
12 compatible with the Florida Medicaid Management Information  
13 System.

14 Directs that a plan be developed for the relocation of the  
15 local Agency for Persons with Disabilities staff to the Agency  
16 for Health Care Administration area offices.

17 Requires the Agency for Persons with Disabilities to enter  
18 into an agreement with the Department of Children and Families  
19 for the provision of day-to-day administrative and operational  
20 needs or until such services are no longer needed.

21 Directs the Office of Program Policy and Government  
22 Accountability to identify and evaluate statewide entities  
23 receiving state funding to provide services for persons with  
24 disabilities and provide a report to the Governor and the  
25 Legislature by December 2005.

26 Confirms certain sections of the sexual misconduct provisions  
27 with the new Agency for Persons with Disabilities.

28 Prohibited Conduct

29 Clarifies that the sanctions provided in the bill relative to  
30 sexual misconduct are in addition to any other penalty  
31 currently provided in law.

Provides that the act of falsifying records of the department  
applies not just to acts that change an existing record but  
also to acts that falsify information when creating the  
initial record.

32 Child Protection

33 Clarifies that for the department's approval process for the  
Parent Education and Family Stabilization Course, all approved  
courses will be available for any parent in any area of the  
state.

Requires interagency agreements between the education system  
and the Department of Children and Families at the state and  
local level relative to the education of dependent children.

Permits the release of educational records to the Department  
of Children and Families or a community-based care lead agency  
under certain circumstances.

Expands the list of persons to whom child abuse, neglect, and  
abandonment records held by the Department of Children and  
Families may be released to include staff of the child

1 | advocacy centers.

2 | Miscellaneous

3 | Removes outdated provisions from ch. 393, F.S., and updates  
4 | provisions to reflect current practice and policy.

5 | Removes reference to the Public Employee Relation Commission.

6 | Removes the requirement that the department use a competitive  
7 | bid process to contract in two pilot districts for the  
8 | performance of certain eligibility determination functions for  
9 | public assistance programs.

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