

1 A bill to be entitled
2 An act relating to persons with disabilities; amending s.
3 39.202, F.S.; providing a right to access to reports and
4 records in abuse and neglect cases of by the Agency for
5 Persons with Disabilities; providing administrative duties
6 of the agency; amending s. 39.502, F.S.; requiring the
7 agency to provide certain notice of services to certain
8 parties in dependency proceedings; amending s. 383.14,
9 F.S.; revising membership on the Genetics and Newborn
10 Advisory Screening Council; repealing s. 393.061, F.S., to
11 repeal the short title for the Developmental Disabilities
12 Prevention and Community Services Act; amending s.
13 393.062, F.S.; revising legislative findings and intent;
14 amending s. 393.063, F.S.; revising definitions; amending
15 s. 393.064, F.S.; requiring the agency to provide certain
16 prevention services; amending s. 393.0641, F.S.; defining
17 "severe self-injurious behavior"; amending s. 393.065,
18 F.S.; revising provisions relating to application for
19 services and determination of eligibility; authorizing the
20 agency to adopt rules; amending s. 393.0651, F.S.;
21 requiring the agency to provide for family or individual
22 support plans; amending s. 393.0655, F.S.; revising
23 provisions relating to screening of direct service
24 providers; requiring the agency to adopt rules; amending
25 s. 393.0657, F.S.; revising provisions relating to
26 refingerprinting and rescreening; amending s. 393.066,
27 F.S.; revising provisions relating to services for persons
28 with developmental disabilities; amending s. 393.067,

29 F.S.; revising provisions relating to licensure of
30 residential facilities and comprehensive transitional
31 education programs; amending s. 393.0673, F.S.; revising
32 language relating to denial, suspension, or revocation of
33 licenses and administrative fines; amending s. 393.0674,
34 F.S.; providing penalties for providing or attempting to
35 provide supports or services with direct service providers
36 not in compliance with certain screening requirements;
37 amending s. 393.0675, F.S.; authorizing injunctive
38 proceedings against providers not in compliance with
39 screening requirements under ch. 393, F.S.; amending s.
40 393.0678, F.S.; revising provisions relating to
41 receivership proceedings; amending s. 393.068, F.S.;
42 revising provisions relating to family care program;
43 amending s. 393.0695, F.S.; providing for in-home
44 subsidies to be reassessed quarterly; amending s. 393.075,
45 F.S.; revising language relating to general liability
46 coverage, to conform; amending s. 393.11, F.S.; revising
47 provisions relating to involuntary admission to
48 residential services; providing for agency participation;
49 amending s. 393.122, F.S.; correcting and conforming
50 references; amending s. 393.125, F.S.; revising provision
51 relating to the review of provider decisions; amending s.
52 393.13, F.S.; revising legislative intent with regard to
53 treatment of persons with developmental disabilities;
54 revising provisions relating to client rights in
55 residential facilities and extending certain rights to
56 clients in intermediate care facilities; providing for a

57 | program of resident government in intermediate care
 58 | facilities; revising provisions relating to resident
 59 | government; amending s. 393.135, F.S.; revising provisions
 60 | relating to the prohibition and reporting of sexual
 61 | misconduct and penalties therefor; revising definitions;
 62 | amending s. 393.15, F.S.; providing for a Community
 63 | Resources Development Loan Program; providing criteria for
 64 | eligibility; requiring repayment of loans within a
 65 | specified time period; providing for deposit of funds in
 66 | the Agency for Health Care Administration Administrative
 67 | Trust Fund and providing purposes for said funds; creating
 68 | s. 393.18, F.S.; creating a comprehensive transitional
 69 | education program; providing for purpose, duties,
 70 | staffing, types of services, licensing requirements, and
 71 | limitation on number of residents served; amending s.
 72 | 393.501, F.S.; revising provisions relating to rulemaking;
 73 | amending s. 393.506, F.S.; revising policies and
 74 | procedures for the administration of medication to persons
 75 | with developmental disabilities; amending s. 397.405,
 76 | F.S.; conforming a reference; amending s. 400.419, F.S.;
 77 | including the Agency for Health Care Administration on a
 78 | list of agencies receiving information regarding
 79 | facilities that have been sanctioned or fined; amending s.
 80 | 400.464, F.S.; conforming a cross reference; amending s.
 81 | 400.960, F.S.; deleting and revising definitions;
 82 | amending s. 400.967, F.S.; transferring rulemaking
 83 | authority for administration of intermediate care
 84 | facilities for persons with disabilities from the

85 Department of Children and Family Services to the Agency
86 for Persons with Disabilities; amending s. 402.20, F.S.;
87 providing for county contracts for services for persons
88 with mental illness or developmental disabilities;
89 requiring compliance with agency standards; amending s.
90 402.22, F.S.; providing for the agency to coordinate
91 educational services for students residing in certain
92 residential care facilities; amending s. 408.036, F.S.;
93 conforming language; amending s. 409.908, F.S.; conforming
94 a reference; deleting obsolete provision; amending s.
95 409.9127, F.S.; requiring the Agency for Health Care
96 Administration to help the Agency for Persons with
97 Disabilities conduct certain assessments; amending s.
98 411.224, F.S.; requiring certain populations served by the
99 Agency for Persons with Disabilities to be included in a
100 family support plan; amending s. 415.1055, F.S.; requiring
101 notification to certain administrative agencies regarding
102 allegations that an employee or agent of the agency has
103 committed an act of abuse, neglect, or exploitation or
104 that a vulnerable adult resident of a facility licensed by
105 the agency has been the victim of abuse, neglect, or
106 exploitation; amending s. 415.107, F.S.; providing that
107 certain confidential reports and records may be released
108 to the agency for certain purposes; amending s. 419.001,
109 F.S.; revising and providing definitions; requiring the
110 agency to notify local government that a community
111 residential home is licensed at the time of occupancy;
112 requiring the agency to provide certain data identifying

113 community residential homes in certain districts;
 114 prohibiting the agency from issuing a license to a
 115 sponsoring agency not in compliance with notification
 116 requirements; amending s. 435.03, F.S.; revising language
 117 relating to screening for employees and employers of
 118 intermediate care facilities for persons with
 119 developmental disabilities; amending ss. 490.014, 491.014,
 120 916.107, 916.301, and 916.3025, F.S.; conforming language
 121 to changes made by the act; amending s. 944.602, F.S.;
 122 requiring the Department of Corrections to notify the
 123 agency prior to release of a mentally retarded inmate;
 124 amending s. 945.025, F.S.; requiring the Department of
 125 Corrections to cooperate with the agency to ensure
 126 delivery of certain services to certain offenders;
 127 deleting obsolete language; amending s. 947.185, F.S.;
 128 requiring an inmate to apply for mental retardation
 129 services from the as a condition of parole; amending s.
 130 984.19, F.S.; providing for evaluation of a child alleged
 131 to have a developmental disability by the agency; amending
 132 s. 984.225, F.S.; providing for referral to the agency for
 133 placement of a child with a developmental disability in a
 134 staff-secure shelter; amending s. 984.226, F.S.; providing
 135 for referral to the agency for placement of a child with a
 136 developmental disability in a physically secure setting;
 137 amending s. 985.224, F.S.; authorizing the court to order
 138 a child named in a detention petition or petition for
 139 delinquency to be evaluated by the agency, under certain
 140 circumstances; amending s. 1003.58, F.S.; requiring

141 district school boards to provide educational programs to
 142 students in residential care facilities operated by the
 143 agency; providing duties of the agency; providing an
 144 effective date.

145

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

147

148 Section 1. Paragraphs (a) and (h) of subsection (2) of
 149 section 39.202, Florida Statutes, are amended to read:

150 39.202 Confidentiality of reports and records in cases of
 151 child abuse or neglect.--

152 (2) Except as provided in subsection (4), access to such
 153 records, excluding the name of the reporter which shall be
 154 released only as provided in subsection (5), shall be granted
 155 only to the following persons, officials, and agencies:

156 (a) Employees, authorized agents, or contract providers of
 157 the department, the Department of Health, the Agency for Persons
 158 with Disabilities, or county agencies responsible for carrying
 159 out:

- 160 1. Child or adult protective investigations;
- 161 2. Ongoing child or adult protective services;
- 162 3. Healthy Start services; or
- 163 4. Licensure or approval of adoptive homes, foster homes,
 164 ~~or~~ child care facilities, facilities licensed under chapter 393
 165 or family day care homes, or informal child care providers who
 166 receive subsidized child care funding, or other homes used to
 167 provide for the care and welfare of children.

168 5. Services for victims of domestic violence when provided
 169 by certified domestic violence centers working at the
 170 department's request as case consultants or with shared clients.
 171

172 Also, employees or agents of the Department of Juvenile Justice
 173 responsible for the provision of services to children, pursuant
 174 to chapters 984 and 985.

175 (h) Any appropriate official of the department or the
 176 Agency for Persons with Disabilities responsible for:

177 1. Administration or supervision of the department's
 178 program for the prevention, investigation, or treatment of child
 179 abuse, abandonment, or neglect, or abuse, neglect, or
 180 exploitation of a vulnerable adult, when carrying out his or her
 181 official function;

182 2. Taking appropriate administrative action concerning a
 183 department or agency ~~an employee of the department~~ alleged to
 184 have perpetrated child abuse, abandonment, or neglect, or abuse,
 185 neglect, or exploitation of a vulnerable adult; or

186 3. Employing and continuing employment of personnel of the
 187 department or agency.

188 Section 2. Subsection (15) of section 39.502, Florida
 189 Statutes, is amended to read:

190 39.502 Notice, process, and service.--

191 (15) A party who is identified as a person with mental
 192 illness or with a developmental disability must be informed by
 193 the court of the availability of advocacy services through the
 194 department, the Agency for Persons with Disabilities Association
 195 ~~for Retarded Citizens~~, or other appropriate mental health or

196 developmental disability advocacy groups and encouraged to seek
 197 such services.

198 Section 3. Subsection (5) of section 383.14, Florida
 199 Statutes, is amended to read:

200 383.14 Screening for metabolic disorders, other hereditary
 201 and congenital disorders, and environmental risk factors.--

202 (5) ADVISORY COUNCIL.--There is established a Genetics and
 203 Newborn Screening Advisory Council made up of 15 members
 204 appointed by the Secretary of Health. The council shall be
 205 composed of two consumer members, three practicing
 206 pediatricians, at least one of whom must be a pediatric
 207 hematologist, one representative from each of the four medical
 208 schools in the state, the Secretary of Health or his or her
 209 designee, one representative from the Department of Health
 210 representing Children's Medical Services, one representative
 211 from the Florida Hospital Association, one individual with
 212 experience in newborn screening programs, one individual
 213 representing audiologists, and one representative from the
 214 Agency for Persons with Disabilities ~~Developmental Disabilities~~
 215 ~~Program Office of the Department of Children and Family~~
 216 ~~Services~~. All appointments shall be for a term of 4 years. The
 217 chairperson of the council shall be elected from the membership
 218 of the council and shall serve for a period of 2 years. The
 219 council shall meet at least semiannually or upon the call of the
 220 chairperson. The council may establish ad hoc or temporary
 221 technical advisory groups to assist the council with specific
 222 topics which come before the council. Council members shall
 223 serve without pay. Pursuant to the provisions of s. 112.061, the

224 council members are entitled to be reimbursed for per diem and
 225 travel expenses. It is the purpose of the council to advise the
 226 department about:

227 (a) Conditions for which testing should be included under
 228 the screening program and the genetics program.

229 (b) Procedures for collection and transmission of
 230 specimens and recording of results.

231 (c) Methods whereby screening programs and genetics
 232 services for children now provided or proposed to be offered in
 233 the state may be more effectively evaluated, coordinated, and
 234 consolidated.

235 Section 4. Section 393.061, Florida Statutes, is repealed.

236 Section 5. Section 393.062, Florida Statutes, is amended
 237 to read:

238 393.062 Legislative findings and declaration of
 239 intent.--The Legislature finds and declares that existing state
 240 programs for the treatment of individuals who are
 241 developmentally disabled, which often unnecessarily place
 242 clients in institutions, are unreasonably costly, are
 243 ineffective in bringing the individual client to his or her
 244 maximum potential, and are in fact debilitating to many ~~a great~~
 245 ~~majority of~~ clients. A redirection in state treatment programs
 246 for individuals who are developmentally disabled is necessary if
 247 any significant amelioration of the problems faced by such
 248 individuals is ever to take place. Such redirection should place
 249 primary emphasis on programs that ~~have the potential to~~ prevent
 250 or reduce the severity of developmental disabilities. ~~Further,~~
 251 The ~~Legislature declares that~~ greatest priority should ~~shall~~ be

252 given to the development and implementation of community-based
 253 residential placements, services, and treatment programs ~~for~~
 254 ~~individuals who are developmentally disabled~~ which will enable
 255 ~~such~~ individuals who are developmentally disabled to achieve
 256 their greatest potential for independent and productive living,
 257 ~~which will~~ enable them to live in their own homes or in
 258 residences located in their own communities, and ~~which will~~
 259 permit them to be diverted or removed from unnecessary
 260 institutional placements. This goal ~~The Legislature finds that~~
 261 ~~the eligibility criteria for intermediate-care facilities for~~
 262 ~~the developmentally disabled which are specified in the Medicaid~~
 263 ~~state plan in effect on the effective date of this act are~~
 264 ~~essential to the system of residential services. The Legislature~~
 265 ~~declares that the goal of this act, to improve the quality of~~
 266 life of all ~~developmentally disabled~~ persons with developmental
 267 disabilities by the development and implementation of community-
 268 based residential placements, services, and treatment, cannot be
 269 met without ensuring the availability of community residential
 270 opportunities for ~~developmentally disabled~~ persons with
 271 developmental disabilities in the residential areas of this
 272 state. The Legislature, therefore, declares that all persons
 273 with developmental disabilities who live in licensed community
 274 homes shall have a family living environment comparable to other
 275 Floridians. ~~The Legislature intends that~~ Such residences shall
 276 be considered and treated as a functional equivalent of a family
 277 unit and not as an institution, business, or boarding home.
 278 Therefore, the Legislature declares that, in developing
 279 community-based programs and services for individuals who are

280 | developmentally disabled, private businesses, not-for-profit
 281 | corporations, units of local government, and other organizations
 282 | capable of providing needed services to clients in a cost-
 283 | efficient manner shall be given preference in lieu of operation
 284 | of programs directly by state agencies. Finally, it is the
 285 | intent of the Legislature that all caretakers unrelated to
 286 | individuals with developmental disabilities receiving care shall
 287 | be of good moral character.

288 | Section 6. Section 393.063, Florida Statutes, is amended
 289 | to read:

290 | 393.063 Definitions.--For the purposes of this chapter:

291 | (1) "Agency" means the Agency for Persons with
 292 | Disabilities established in s. 20.197.

293 | (2) "Autism" means a pervasive, neurologically based
 294 | developmental disability of extended duration which causes
 295 | severe learning, communication, and behavior disorders with age
 296 | of onset during infancy or childhood. Individuals with autism
 297 | exhibit impairment in reciprocal social interaction, impairment
 298 | in verbal and nonverbal communication and imaginative ability,
 299 | and a markedly restricted repertoire of activities and
 300 | interests.

301 | (3) "Cerebral palsy" means a group of disabling symptoms
 302 | of extended duration which results from damage to the developing
 303 | brain that may occur before, during, or after birth and that
 304 | results in the loss or impairment of control over voluntary
 305 | muscles. For the purposes of this definition, cerebral palsy
 306 | does not include those symptoms or impairments resulting solely
 307 | from a stroke.

308 (4) "Client" means any person determined eligible by the
 309 agency for services under this chapter.

310 (5) "Client advocate" means a friend or relative of the
 311 client, or of the client's immediate family, who advocates for
 312 the best interests of the client in any proceedings under this
 313 chapter in which the client or his or her family has the right
 314 or duty to participate.

315 (6) "Comprehensive assessment" means the process used to
 316 determine eligibility for services under this chapter.

317 (7) "Comprehensive transitional education program" means
 318 the program established in s. 393.18. ~~a group of jointly~~
 319 ~~operating centers or units, the collective purpose of which is~~
 320 ~~to provide a sequential series of educational care, training,~~
 321 ~~treatment, habilitation, and rehabilitation services to persons~~
 322 ~~who have developmental disabilities and who have severe or~~
 323 ~~moderate maladaptive behaviors. However, nothing in this~~
 324 ~~subsection shall require such programs to provide services only~~
 325 ~~to persons with developmental disabilities. All such services~~
 326 ~~shall be temporary in nature and delivered in a structured~~
 327 ~~residential setting with the primary goal of incorporating the~~
 328 ~~normalization principle to establish permanent residence for~~
 329 ~~persons with maladaptive behaviors in facilities not associated~~
 330 ~~with the comprehensive transitional education program. The staff~~
 331 ~~shall include psychologists and teachers who shall be available~~
 332 ~~to provide services in each component center or unit of the~~
 333 ~~program. The psychologists shall be individuals who are licensed~~
 334 ~~in this state and certified as behavior analysts in this state,~~

335 ~~or individuals who are certified as behavior analysts pursuant~~
 336 ~~to s. 393.17.~~

337 ~~(a) Comprehensive transitional education programs shall~~
 338 ~~include a minimum of two component centers or units, one of~~
 339 ~~which shall be either an intensive treatment and educational~~
 340 ~~center or a transitional training and educational center, which~~
 341 ~~provide services to persons with maladaptive behaviors in the~~
 342 ~~following sequential order:~~

343 ~~1. Intensive treatment and educational center. This~~
 344 ~~component is a self-contained residential unit providing~~
 345 ~~intensive psychological and educational programming for persons~~
 346 ~~with severe maladaptive behaviors, whose behaviors preclude~~
 347 ~~placement in a less restrictive environment due to the threat of~~
 348 ~~danger or injury to themselves or others.~~

349 ~~2. Transitional training and educational center. This~~
 350 ~~component is a residential unit for persons with moderate~~
 351 ~~maladaptive behaviors, providing concentrated psychological and~~
 352 ~~educational programming emphasizing a transition toward a less~~
 353 ~~restrictive environment.~~

354 ~~3. Community transition residence. This component is a~~
 355 ~~residential center providing educational programs and such~~
 356 ~~support services, training, and care as are needed to assist~~
 357 ~~persons with maladaptive behaviors to avoid regression to more~~
 358 ~~restrictive environments while preparing them for more~~
 359 ~~independent living. Continuous shift staff shall be required for~~
 360 ~~this component.~~

361 ~~4. Alternative living center. This component is a~~
 362 ~~residential unit providing an educational and family living~~

363 ~~environment for persons with maladaptive behaviors, in a~~
 364 ~~moderately unrestricted setting. Residential staff shall be~~
 365 ~~required for this component.~~

366 ~~5. Independent living education center. This component is~~
 367 ~~a facility providing a family living environment for persons~~
 368 ~~with maladaptive behaviors, in a largely unrestricted setting~~
 369 ~~which includes education and monitoring appropriate to support~~
 370 ~~the development of independent living skills.~~

371 ~~(b) Centers or units that are components of a~~
 372 ~~comprehensive transitional education program are subject to the~~
 373 ~~license issued to the comprehensive transitional education~~
 374 ~~program and may be located on either single or multiple sites.~~

375 ~~(c) Comprehensive transitional education programs shall~~
 376 ~~develop individual education plans for each person with~~
 377 ~~maladaptive behaviors who receives services therein. Such~~
 378 ~~individual education plans shall be developed in accordance with~~
 379 ~~the criteria specified in 20 U.S.C. ss. 401 et seq., and 34~~
 380 ~~C.F.R. part 300.~~

381 ~~(d) In no instance shall the total number of persons with~~
 382 ~~maladaptive behaviors being provided services in a comprehensive~~
 383 ~~transitional education program exceed 120.~~

384 ~~(e) This subsection shall authorize licensure for~~
 385 ~~comprehensive transitional education programs which by July 1,~~
 386 ~~1989:~~

- 387 ~~1. Are in actual operation; or~~
- 388 ~~2. Own a fee simple interest in real property for which a~~
- 389 ~~county or city government has approved zoning allowing for the~~
- 390 ~~placement of the facilities described in this subsection, and~~

391 ~~have registered an intent with the department to operate a~~
392 ~~comprehensive transitional education program. However, nothing~~
393 ~~shall prohibit the assignment by such a registrant to another~~
394 ~~entity at a different site within the state, so long as there is~~
395 ~~compliance with all criteria of the comprehensive transitional~~
396 ~~education program and local zoning requirements and provided~~
397 ~~that each residential facility within the component centers or~~
398 ~~units of the program authorized under this subparagraph shall~~
399 ~~not exceed a capacity of 15 persons.~~

400 (8) "Day habilitation facility" means any nonresidential
401 facility which provides day habilitation services.

402 (9) "Day habilitation service" means assistance with the
403 acquisition, retention, or improvement in self-help,
404 socialization, and adaptive skills which takes place in a
405 nonresidential setting, separate from the home or facility in
406 which the individual resides. Day habilitation services shall
407 focus on enabling the individual to attain or maintain his or
408 her maximum functional level and shall be coordinated with any
409 physical, occupational, or speech therapies listed in the plan
410 of care.

411 (10) "Developmental disability" means a disorder or
412 syndrome that is attributable to retardation, cerebral palsy,
413 autism, spina bifida, or Prader-Willi syndrome and that
414 constitutes a substantial handicap that can reasonably be
415 expected to continue indefinitely.

416 (11) "Developmental disabilities institution" means a
417 state-owned and state-operated facility, formerly known as a

418 "Sunland Center," providing for the care, habilitation, and
 419 rehabilitation of clients with developmental disabilities.

420 (12) "Direct service provider," also known as "caregiver"
 421 in chapters 39 and 415 or "caretaker" in provisions relating to
 422 employment security checks, means a person 18 years of age or
 423 older who has direct contact with individuals with developmental
 424 disabilities, or has access to a client's living areas or to a
 425 client's funds or personal property, and is not a relative of
 426 such individuals.

427 ~~(13) "Domicile" means the place where a client legally~~
 428 ~~resides, which place is his or her permanent home. Domicile may~~
 429 ~~be established as provided in s. 222.17. Domicile may not be~~
 430 ~~established in Florida by a minor who has no parent domiciled in~~
 431 ~~Florida, or by a minor who has no legal guardian domiciled in~~
 432 ~~Florida, or by any alien not classified as a resident alien.~~

433 ~~(14) "Enclave" means a work station in public or private~~
 434 ~~business or industry where a small group of persons with~~
 435 ~~developmental disabilities is employed and receives training and~~
 436 ~~support services or follow-along services among nonhandicapped~~
 437 ~~workers.~~

438 (13)~~(15)~~ "Epilepsy" means a chronic brain disorder of
 439 various causes which is characterized by recurrent seizures due
 440 to excessive discharge of cerebral neurons. When found
 441 concurrently with retardation, autism, or cerebral palsy,
 442 epilepsy is considered a secondary disability for which the
 443 client is eligible to receive services to ameliorate this
 444 condition pursuant to this chapter.

445 (14)~~(16)~~ "Express and informed consent" means consent
 446 voluntarily given in writing with sufficient knowledge and
 447 comprehension of the subject matter involved to enable the
 448 person giving consent to make an understanding and enlightened
 449 decision without any element of force, fraud, deceit, duress, or
 450 other form of constraint or coercion.

451 (15)~~(17)~~ "Family care program" means the program
 452 established in s. 393.068.

453 ~~(18) "Follow along services" means those support services~~
 454 ~~provided to persons with developmental disabilities in all~~
 455 ~~supported employment programs and may include, but are not~~
 456 ~~limited to, family support, assistance in meeting transportation~~
 457 ~~and medical needs, employer intervention, performance~~
 458 ~~evaluation, advocacy, replacement, retraining or promotional~~
 459 ~~assistance, or other similar support services.~~

460 (16)~~(19)~~ "Foster care facility" means a residential
 461 facility which provides a family living environment including
 462 supervision and care necessary to meet the physical, emotional,
 463 and social needs of its residents. The capacity of such a
 464 facility shall not be more than three residents.

465 (17)~~(20)~~ "Group home facility" means a residential
 466 facility which provides a family living environment including
 467 supervision and care necessary to meet the physical, emotional,
 468 and social needs of its residents. The capacity of such a
 469 facility shall be at least 4 but not more than 15 residents. For
 470 the purposes of this chapter, group home facilities shall not be
 471 considered commercial enterprises.

472 ~~(18)~~~~(21)~~ "Guardian advocate" means a person appointed by a
 473 written order of the court to represent a person with
 474 developmental disabilities under s. 393.12.

475 ~~(19)~~~~(22)~~ "Habilitation" means the process by which a
 476 client is assisted to acquire and maintain those life skills
 477 which enable the client to cope more effectively with the
 478 demands of his or her condition and environment and to raise the
 479 level of his or her physical, mental, and social efficiency. It
 480 includes, but is not limited to, programs of formal structured
 481 education and treatment.

482 ~~(20)~~~~(23)~~ "High-risk child" means, for the purposes of this
 483 chapter, a child from birth to 5 years of age with one or more
 484 of the following characteristics:

485 (a) A developmental delay in cognition, language, or
 486 physical development.

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

490 (c) A child with a parent or guardian with developmental
 491 disabilities who requires assistance in meeting the child's
 492 developmental needs.

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

495 ~~(21)~~~~(24)~~ "Intermediate care facility" means an
 496 intermediate care facility for the developmentally disabled" ~~or~~
 497 ~~"ICF/DD" means a residential facility licensed and certified~~
 498 pursuant to part XI of chapter 400.

499 ~~(25) "Job coach" means a person who provides employment-~~
 500 ~~related training at a work site to individuals with~~
 501 ~~developmental disabilities.~~

502 (22)~~(26)~~ "Medical/dental services" means medically
 503 necessary those services which are provided or ordered for a
 504 client by a person licensed under ~~pursuant to the provisions of~~
 505 chapter 458, chapter 459, or chapter 466. Such services may
 506 include, but are not limited to, prescription drugs, specialized
 507 therapies, nursing supervision, hospitalization, dietary
 508 services, prosthetic devices, surgery, specialized equipment and
 509 supplies, adaptive equipment, and other services as required to
 510 prevent or alleviate a medical or dental condition.

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

514 ~~(28) "Normalization principle" means the principle of~~
 515 ~~letting the client obtain an existence as close to the normal as~~
 516 ~~possible, making available to the client patterns and conditions~~
 517 ~~of everyday life which are as close as possible to the norm and~~
 518 ~~patterns of the mainstream of society.~~

519 (23)~~(29)~~ "Personal services" include, but are not limited
 520 to, such services as: individual assistance with or supervision
 521 of essential activities of daily living for self-care, including
 522 ambulation, bathing, dressing, eating, grooming, and toileting,
 523 and other similar services that the agency may define by rule.
 524 "Personal services" shall not be construed to mean the provision
 525 of medical, nursing, dental, or mental health services by the
 526 staff of a facility, except as provided in this chapter. In

527 addition, an emergency response device installed in the
 528 apartment or living area of a resident shall not be classified
 529 as a personal service.

530 ~~(24)(30)~~ "Prader-Willi syndrome" means an inherited
 531 condition typified by neonatal hypotonia with failure to thrive,
 532 hyperphagia or an excessive drive to eat which leads to obesity
 533 usually at 18 to 36 months of age, mild to moderate retardation,
 534 hypogonadism, short stature, mild facial dysmorphism, and a
 535 characteristic neurobehavior.

536 (25) "Principles of self-determination" means an
 537 individual's freedom to exercise the same rights as all other
 538 citizens, authority to exercise control over funds needed for
 539 one's own support, including the reprioritization of these funds
 540 when necessary, responsibility for the wise use of public funds,
 541 and the opportunity to speak and advocate for oneself and others
 542 who cannot do so in order to gain independence and ensure that
 543 all individuals with a developmental disability are treated
 544 equally.

545 ~~(26)(31)~~ "Reassessment" means a process which periodically
 546 develops, through annual review and revision of a client's
 547 family or individual support plan, a knowledgeable statement of
 548 current needs and past development for each client.

549 ~~(27)(32)~~ "Relative" means an individual who is connected
 550 by affinity or consanguinity to the client and who is 18 years
 551 of age or more.

552 ~~(28)(33)~~ "Resident" means any person who is
 553 developmentally disabled residing at a residential facility in
 554 the state, whether or not such person is a client of the agency.

555 (29)~~(34)~~ "Residential facility" means a facility providing
 556 room and board and personal care for persons with developmental
 557 disabilities.

558 (30)~~(35)~~ "Residential habilitation" means assistance
 559 provided with acquisition, retention, or improvement in skills
 560 related to activities of daily living, such as personal grooming
 561 and cleanliness, bedmaking and household chores, eating and the
 562 preparation of food, and the social and adaptive skills
 563 necessary to enable the individual to reside in a
 564 noninstitutional setting.

565 (31)~~(36)~~ "Residential habilitation center" means a
 566 community residential facility that provides residential
 567 habilitation. The capacity of such a facility shall not be fewer
 568 than nine residents. After October 1, 1989, no new residential
 569 habilitation centers shall be licensed and the licensed capacity
 570 shall not be increased for any existing residential habilitation
 571 center.

572 (32)~~(37)~~ "Respite service" means appropriate, short-term,
 573 temporary care that is provided to a person with developmental
 574 disabilities to meet the planned or emergency needs of the
 575 person or the family or other direct service provider.

576 (33)~~(38)~~ "Retardation" means significantly subaverage
 577 general intellectual functioning existing concurrently with
 578 deficits in adaptive behavior and manifested during the period
 579 from conception to age 18. "Significantly subaverage general
 580 intellectual functioning," for the purpose of this definition,
 581 means performance which is two or more standard deviations from
 582 the mean score on a standardized intelligence test specified in

583 the rules of the agency. "Adaptive behavior," for the purpose of
 584 this definition, means the effectiveness or degree with which an
 585 individual meets the standards of personal independence and
 586 social responsibility expected of his or her age, cultural
 587 group, and community.

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

593 (34)~~(40)~~ "Specialized therapies" means those treatments or
 594 activities prescribed by and provided by an appropriately
 595 trained, licensed, or certified professional or staff person and
 596 may include, but are not limited to, physical therapy, speech
 597 therapy, respiratory therapy, occupational therapy, behavior
 598 therapy, physical management services, and related specialized
 599 equipment and supplies.

600 (35)~~(41)~~ "Spina bifida" means, for purposes of this
 601 chapter, a person with a medical diagnosis of spina bifida
 602 cystica or myelomeningocele.

603 (36)~~(42)~~ "Support coordinator" means a person who is
 604 designated by the agency to assist individuals and families in
 605 identifying their capacities, needs, and resources, as well as
 606 finding and gaining access to necessary supports and services;
 607 coordinating the delivery of supports and services; ~~advocating~~
 608 ~~on behalf of the individual and family;~~ maintaining relevant
 609 records; and monitoring and evaluating the delivery of supports
 610 and services to determine the extent to which they meet the

611 needs and expectations identified by the individual, family, and
612 others who participated in the development of the support plan.
613 The decision whether to use the services of a support
614 coordinator as well as the frequency, scope, and intensity of
615 the support coordinator's activities shall be determined by the
616 individual or individual's legal guardian.

617 ~~(37)~~~~(43)~~ "Supported employee" means a person who requires
618 and receives supported employment services in order to maintain
619 community-based employment.

620 ~~(38)~~~~(44)~~ "Supported employment" means employment located
621 or provided in a normal employment setting which provides at
622 least 20 hours employment per week in an integrated work
623 setting, with earnings paid on a commensurate wage basis, and
624 for which continued support is needed for job maintenance.

625 ~~(39)~~~~(45)~~ "Supported living" means a category of
626 individually determined services designed and coordinated in
627 such a manner as to provide assistance to adult clients who
628 require ongoing supports to live as independently as possible in
629 their own homes, to be integrated into the community, and to
630 participate in community life to the fullest extent possible.

631 ~~(40)~~~~(46)~~ "Training" means a planned approach to assisting
632 a client to attain or maintain his or her maximum potential and
633 includes services ranging from sensory stimulation to
634 instruction in skills for independent living and employment.

635 ~~(41)~~~~(47)~~ "Treatment" means the prevention, amelioration,
636 or cure of a client's physical and mental disabilities or
637 illnesses.

638 Section 7. Subsections (1), (2), and (4) of section
 639 393.064, Florida Statutes, are amended to read:

640 393.064 Prevention.--

641 (1) The agency shall give priority to the development,
 642 planning, and implementation of programs which have the
 643 potential to prevent, correct, cure, or reduce the severity of
 644 developmental disabilities. The agency shall direct an
 645 interagency and interprogram effort for the continued
 646 development of a prevention plan and program. The agency shall
 647 identify, through demonstration projects, through program
 648 evaluation, and through monitoring of programs and projects
 649 conducted outside of the agency, any medical, social, economic,
 650 or educational methods, techniques, or procedures that have the
 651 potential to effectively ameliorate, correct, or cure
 652 developmental disabilities. The agency ~~program~~ shall determine
 653 the costs and benefits that would be associated with such
 654 prevention efforts and shall implement, or recommend the
 655 implementation of, those methods, techniques, or procedures
 656 which are found likely to be cost-beneficial.

657 (2) Prevention services provided by the agency shall
 658 ~~developmental services program~~ include services to high-risk
 659 children and ~~developmentally disabled~~ children from birth to 5
 660 years of age with developmental disabilities, and their
 661 families, to meet the intent of chapter 411. Except for services
 662 for children from birth to 3 years of age that ~~Such services~~
 663 ~~shall include individual evaluations or assessments necessary to~~
 664 ~~diagnose a developmental disability or high-risk condition and~~
 665 ~~to determine appropriate individual family and support services,~~

666 ~~unless evaluations or assessments~~ are the responsibility of the
 667 Division of Children's Medical Services Prevention and
 668 Intervention of the Department of Health for children ages birth
 669 ~~to 3 years eligible for services under this chapter~~ or part H of
 670 the Individuals with Disabilities Education Act, such services
 671 ~~and~~ may include:

672 (a) Individual evaluations or assessments necessary to
 673 diagnose a developmental disability or high-risk condition and
 674 to determine appropriate individual family and support services.

675 (b)(a) Early intervention services, including
 676 developmental training and specialized therapies. ~~Early~~
 677 ~~intervention services, which are the responsibility of the~~
 678 ~~Division of Children's Medical Services Prevention and~~
 679 ~~Intervention for children ages birth to 3 years who are eligible~~
 680 ~~for services under this chapter or under part H of the~~
 681 ~~Individuals with Disabilities Education Act, shall not be~~
 682 ~~provided through the developmental services program unless~~
 683 ~~funding is specifically appropriated to the developmental~~
 684 ~~services program for this purpose.~~

685 (c)(b) Support services, such as respite care, parent
 686 education and training, parent-to-parent counseling, homemaker
 687 services, and other services which allow families to maintain
 688 and provide quality care to children in their homes. ~~The~~
 689 ~~Division of Children's Medical Services Prevention and~~
 690 ~~Intervention is responsible for the provision of services to~~
 691 ~~children from birth to 3 years who are eligible for services~~
 692 ~~under this chapter.~~

693 (4) There is created at the developmental disabilities
 694 ~~services~~ institution in Gainesville a research and education
 695 unit. Such unit shall be named the Raymond C. Philips Research
 696 and Education Unit. The functions of such unit shall include:

697 (a) Research into the etiology of developmental
 698 disabilities.

699 (b) Ensuring that new knowledge is rapidly disseminated
 700 throughout the ~~developmental services program of the~~ agency.

701 (c) Diagnosis of unusual conditions and syndromes
 702 associated with developmental disabilities in clients identified
 703 throughout ~~the~~ developmental disabilities ~~services~~ programs.

704 (d) Evaluation of families of clients with developmental
 705 disabilities of genetic origin in order to provide them with
 706 genetic counseling aimed at preventing the recurrence of the
 707 disorder in other family members.

708 (e) Ensuring that health professionals in the
 709 developmental disabilities ~~services~~ institution at Gainesville
 710 have access to information systems that will allow them to
 711 remain updated on newer knowledge and maintain their
 712 postgraduate education standards.

713 (f) Enhancing staff training for professionals throughout
 714 the agency in the areas of genetics and developmental
 715 disabilities.

716 Section 8. Section 393.0641, Florida Statutes, is amended
 717 to read:

718 393.0641 Program for the prevention and treatment of
 719 severe self-injurious behavior.--

720 (1) Contingent upon specific appropriations, there is
 721 created a diagnostic, treatment, training, and research program
 722 for clients exhibiting severe self-injurious behavior. For the
 723 purposes of this section, "severe self-injurious behavior" means
 724 any chronic behavior that results in injury to the person's own
 725 body, which includes, but is not limited to, self-hitting, head
 726 banging, self-biting, scratching, and the ingestion of harmful
 727 or potentially harmful nutritive or nonnutritive substances.

728 (2) This program shall:

729 (a) Serve as a resource center for information, training,
 730 and program development.

731 (b) Research the diagnosis and treatment of severe self-
 732 injurious behavior, and related disorders, and develop methods
 733 of prevention and treatment of self-injurious behavior.

734 (c) Identify individuals in critical need.

735 (d) Develop treatment programs which are meaningful to
 736 individuals with developmental disabilities, in critical need,
 737 while safeguarding and respecting the legal and human rights of
 738 the individuals.

739 (e) Disseminate research findings on the prevention and
 740 treatment of severe self-injurious behavior.

741 (f) Collect data on the type, severity, incidence, and
 742 demographics of individuals with severe self-injurious behavior,
 743 and disseminate the data.

744 ~~(3)~~ (2) ~~The~~ This program shall adhere to the provisions of
 745 s. 393.13.

746 ~~(4)~~ (3) The agency may contract for the provision of any
 747 portion or all of the services required by the program.

748 (5)~~(4)~~ The agency has ~~the~~ authority to license this
749 program and shall adopt rules to implement the program.

750 Section 9. Subsections (1) and (4) of section 393.065,
751 Florida Statutes, are amended, and a new subsection (5) is added
752 to said section, to read:

753 393.065 Application and eligibility determination.--

754 (1) Application for services shall be made in writing to
755 the agency, ~~in the district in which the applicant resides.~~
756 ~~Employees of the agency's developmental services program shall~~
757 review For children under 6 years of age each applicant shall be
758 reviewed for eligibility within 45 days after the date the
759 application is signed, and for all other applicants for children
760 under 6 years of age and within 60 days after the date the
761 application is signed ~~for all other applicants~~. When necessary
762 to definitively identify individual conditions or needs, the
763 agency shall provide a comprehensive assessment. Only
764 individuals whose domicile is in the state ~~Florida~~ are eligible
765 for services. Domicile may be established as provided in s.
766 222.17. Domicile may not be established in the state by a minor
767 who has no parent or legal guardian domiciled in the state or by
768 any alien not classified as a resident alien. Information
769 accumulated by other agencies, including professional reports
770 and collateral data, shall be considered in this process when
771 available.

772 (4) The agency shall assess the level of need and medical
773 necessity for prospective residents of intermediate-care
774 facilities for the developmentally disabled ~~after October 1,~~
775 ~~1999~~. The agency may enter into an agreement with the Department

776 of Elderly Affairs for its Comprehensive Assessment and Review
777 for Long-Term-Care Services (CARES) program to conduct
778 assessments to determine the level of need and medical necessity
779 for long-term-care services under this chapter. To the extent
780 permissible under federal law, the assessments shall ~~must~~ be
781 funded under Title XIX of the Social Security Act.

782 (5) The agency is authorized to adopt rules specifying
783 application procedures and eligibility criteria as needed to
784 implement this section.

785 Section 10. Section 393.0651, Florida Statutes, is amended
786 to read:

787 393.0651 Family or individual support plan.--The agency
788 shall provide directly or contract for the development of a an
789 ~~appropriate~~ family support plan for children ages birth to 18
790 years of age and an individual support plan for each client. The
791 ~~parent or guardian of the client or~~, if competent, the client's
792 parent or guardian the client, or, when appropriate, the client
793 advocate, shall be consulted in the development of the plan and
794 shall receive a copy of the plan. Each plan shall include the
795 most appropriate, least restrictive, and most cost-beneficial
796 environment for accomplishment of the objectives for client
797 progress and a specification of all services authorized. The
798 plan shall include provisions for the most appropriate level of
799 care for the client. Within the specification of needs and
800 services for each client, if ~~when~~ residential care is necessary,
801 the agency shall move toward placement of clients in residential
802 facilities based within the client's community. The ultimate
803 goal of each plan, whenever possible, shall be to enable the

804 client to live a dignified life in the least restrictive
805 setting, be that in the home or in the community. For children
806 under 6 years of age, the family support plan shall be developed
807 within the 45-day application period as specified in s.
808 393.065(1); for all applicants 6 years of age or older, the
809 family or individual support plan shall be developed within the
810 60-day period as specified in that subsection.

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

813 (2)~~(a)~~ The family or individual support plan shall be
814 integrated with the individual education plan (IEP) for all
815 clients who are public school students entitled to a free
816 appropriate public education under the Individuals with
817 Disabilities Education Act, I.D.E.A., as amended. The family or
818 individual support plan and IEP shall be implemented to maximize
819 the attainment of educational and habilitation goals.

820 (a) If the IEP for a student enrolled in a public school
821 program indicates placement in a public or private residential
822 program is necessary to provide special education and related
823 services to a client, the local education agency shall provide
824 for the costs of that service in accordance with the
825 requirements of the Individuals with Disabilities Education Act,
826 I.D.E.A., as amended. This shall not preclude local education
827 agencies and the agency from sharing the residential service
828 costs of students who are clients and require residential
829 placement. Under no circumstances shall clients entitled to a
830 public education or their parents be assessed a fee by the

831 agency under s. 393.071 ~~402.33~~ for placement in a residential
 832 program.

833 (b) For clients who are entering or exiting the school
 834 system, an interdepartmental staffing team composed of
 835 representatives of the agency and the local school system shall
 836 develop a written transitional living and training plan with the
 837 participation of the client or with the parent or guardian of
 838 the client, or the client advocate, as appropriate.

839 (3) Each family or individual support plan shall be
 840 facilitated through case management designed solely to advance
 841 the individual needs of the client.

842 (4) In the development of the family or individual support
 843 plan, a client advocate may be appointed by the support planning
 844 team for a client who is a minor or for a client who is not
 845 capable of express and informed consent when:

846 (a) The parent or guardian cannot be identified;

847 (b) The whereabouts of the parent or guardian cannot be
 848 discovered; or

849 (c) The state is the only legal representative of the
 850 client.

851
 852 Such appointment shall not be construed to extend the powers of
 853 the client advocate to include any of those powers delegated by
 854 law to a legal guardian.

855 (5) The agency shall place a client in the most
 856 appropriate and least restrictive, and cost-beneficial,
 857 residential setting ~~facility~~ according to his or her individual
 858 habilitation plan. ~~The parent or guardian of~~ The client ~~or~~, if

859 | competent, the client's parent or guardian ~~client~~, or, when
 860 | appropriate, the client advocate, and the administrator of the
 861 | ~~residential~~ facility to which placement is proposed shall be
 862 | consulted in determining the appropriate placement for the
 863 | client. Considerations for placement shall be made in the
 864 | following order:

865 | (a) Client's own home or the home of a family member or
 866 | direct service provider.

867 | (b) Foster care facility.

868 | (c) Group home facility.

869 | (d) Intermediate care facility ~~for the developmentally~~
 870 | ~~disabled~~.

871 | (e) Other facilities licensed by the agency which offer
 872 | special programs for people with developmental disabilities.

873 | (f) Developmental disabilities services institution.

874 | (6) In developing a client's annual family or individual
 875 | support plan, the individual or family with the assistance of
 876 | the support planning team shall identify measurable objectives
 877 | for client progress and shall specify a time period expected for
 878 | achievement of each objective. Services that are not having the
 879 | planned effect or services that have produced the maximum
 880 | benefit shall be reduced or discontinued.

881 | (7) ~~The individual, family, and support coordinator shall~~
 882 | ~~review progress in achieving the objectives specified in~~ Each
 883 | client's family or individual support plan shall be reviewed and
 884 | revised, ~~and shall revise the plan~~ annually, following
 885 | consultation with the client, if competent, or with the parent
 886 | or guardian of the client, or, when appropriate, the client

887 advocate. The agency shall annually report in writing to the
 888 client, if competent, or to the parent or guardian of the
 889 client, or to the client advocate, when appropriate, with
 890 respect to the client's habilitative and medical progress.

891 (8) Any client, or any parent of a minor client, or
 892 guardian, authorized guardian advocate, or client advocate for a
 893 client, who is substantially affected by the client's initial
 894 family or individual support plan, or the annual review thereof,
 895 shall have the right to file a notice to challenge the decision
 896 pursuant to ss. 120.569 and 120.57. Notice of such right to
 897 appeal shall be included in all support plans provided by the
 898 agency.

899 Section 11. Subsections (1) and (4) of section 393.0655,
 900 Florida Statutes, are amended, and subsection (5) is added to
 901 said section, to read:

902 393.0655 Screening of direct service providers.--

903 (1) MINIMUM STANDARDS.--The agency shall require level 2
 904 employment screening pursuant to chapter 435 for direct service
 905 providers who are unrelated to their clients, including support
 906 coordinators, and managers and supervisors of residential
 907 facilities or comprehensive transitional education programs
 908 licensed under s. 393.18 ~~393.067~~ and any other person, including
 909 volunteers, who provide care or services, who have access to a
 910 client's living areas, or who have access to a client's funds or
 911 personal property. Background screening shall include employment
 912 history checks as provided in s. 435.03(1) and local criminal
 913 records checks through local law enforcement agencies.

914 (a) A volunteer who assists on an intermittent basis for
 915 less than 40 hours per month does not have to be screened if the
 916 volunteer is under the direct and constant supervision of
 917 persons who meet the screening requirements of this section.

918 (b) Licensed physicians, nurses, or other professionals
 919 licensed and regulated by the Department of Health are not
 920 subject to background screening pursuant to this section if they
 921 are providing a service that is within their scope of licensed
 922 practice.

923 (c) A person selected by the family or the individual with
 924 developmental disabilities and paid by the family or the
 925 individual to provide supports or services is not required to
 926 have a background screening under this section.

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

931 (4) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY
 932 A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY; HEARINGS
 933 PROVIDED.--

934 (a) The agency shall deny, suspend, terminate, or revoke a
 935 license, certification, ~~rate agreement, purchase order, or~~
 936 ~~contract~~, or pursue other remedies provided in s. 393.0673, s.
 937 393.0675, or s. 393.0678 in addition to or in lieu of denial,
 938 suspension, termination, or revocation for failure to comply
 939 with this section.

940 (b) When the agency has reasonable cause to believe that
 941 grounds for denial or termination of employment exist, it shall

942 | notify, in writing, the employer and the person ~~direct service~~
 943 | ~~provider~~ affected, stating the specific record which indicates
 944 | noncompliance with the standards in this section.

945 | (c) The procedures established for hearing under chapter
 946 | 120 shall be available to the employer and the person affected
 947 | ~~direct service provider~~ in order to present evidence relating
 948 | either to the accuracy of the basis of exclusion or to the
 949 | denial of an exemption from disqualification.

950 | (d) Refusal on the part of an employer to dismiss a
 951 | manager, supervisor, or direct service provider who has been
 952 | found to be in noncompliance with standards of this section
 953 | shall result in automatic denial, termination, or revocation of
 954 | the license, certification, rate agreement, purchase order, or
 955 | contract, in addition to any other remedies pursued by the
 956 | agency.

957 | (5) RULES.--The agency shall adopt by rule procedures and
 958 | timeframes for conducting background screening under this
 959 | chapter.

960 | Section 12. Section 393.0657, Florida Statutes, is amended
 961 | to read:

962 | 393.0657 Persons not required to be refingerprinted or
 963 | rescreened.--~~Any provision of law to the contrary~~
 964 | ~~notwithstanding~~, Human resource personnel who have been
 965 | fingerprinted or screened pursuant to chapters 393, 394, 397,
 966 | 402, and 409, and teachers who have been fingerprinted pursuant
 967 | to chapter 1012, who have not been unemployed for more than 90
 968 | days thereafter, and who under the penalty of perjury attest to
 969 | the completion of such fingerprinting or screening and to

970 compliance with the provisions of this section ~~and the standards~~
 971 ~~for good moral character as contained in such provisions as ss.~~
 972 ~~110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and~~
 973 ~~409.175(6),~~ shall not be required to be refingerprinted or
 974 rescreened in order to comply with the ~~any direct service~~
 975 ~~provider~~ screening or fingerprinting requirements of this
 976 chapter.

977 Section 13. Subsections (1), (2), (3), and (8) of section
 978 393.066, Florida Statutes, are amended to read:

979 393.066 Community services and treatment for persons who
 980 are developmentally disabled.--

981 (1) The agency shall plan, develop, organize, and
 982 implement its programs of services and treatment for persons who
 983 are developmentally disabled to allow clients to live as
 984 independently as possible in their own homes or communities and
 985 to achieve productive lives as close to normal as possible. All
 986 elements of community-based services shall be made available,
 987 and eligibility for these services shall be consistent across
 988 the state. ~~In addition, all purchased services shall be approved~~
 989 ~~by the agency.~~

990 (2) All services needed shall be purchased instead of
 991 provided directly by the agency, when such arrangement is more
 992 cost-efficient than having those services provided directly. All
 993 purchased services must be approved by the agency.

994 (3) Community-based services that are medically necessary
 995 to prevent institutionalization shall, to the extent of
 996 available resources, include:

997 (a) Day habilitation services, including developmental
 998 training services.

999 (b) Family care services.

1000 (c) Guardian advocate referral services.

1001 (d) Medical/dental services, except that medical services
 1002 shall not be provided to clients with spina bifida except as
 1003 specifically appropriated by the Legislature.

1004 (e) Parent training.

1005 (f) Recreation.

1006 (g) Residential services.

1007 (h) Respite services.

1008 (i) Social services.

1009 (j) Specialized therapies.

1010 (k) Supported employment, ~~including enclave, job coach,~~
 1011 ~~mobile work crew, and follow-along services.~~

1012 (l) Supported living.

1013 (m) Training, including behavioral programming.

1014 (n) Transportation.

1015 (o) Other habilitative and rehabilitative services as
 1016 needed.

1017 (8) The agency may adopt rules relating to the
 1018 availability and purchase of ~~to ensure compliance with federal~~
 1019 ~~laws or regulations that apply to~~ services provided pursuant to
 1020 this section.

1021 Section 14. Section 393.067, Florida Statutes, is amended
 1022 to read:

1023 393.067 Licensure of residential facilities and
 1024 comprehensive transitional education programs.--

1025 (1) The agency shall provide through its licensing
 1026 authority and by rule a system of application procedures,
 1027 provider qualifications, standards, training criteria for
 1028 meeting standards, and monitoring for residential facilities and
 1029 comprehensive transitional education programs. Receipt of a
 1030 license under this section shall not create a property right in
 1031 the recipient. A license under this act is a public trust and a
 1032 privilege and is not an entitlement. This privilege must guide
 1033 the finder of fact or trier of law at any administrative
 1034 proceeding or court action initiated by the department.

1035 (2) The agency shall conduct inspections and reviews of
 1036 residential facilities and comprehensive transitional education
 1037 programs annually.

1038 (3) An application for a license for a residential
 1039 facility or a comprehensive transitional education program shall
 1040 be made to the agency on a form furnished by it and shall be
 1041 accompanied by the appropriate license fee.

1042 (4) The application shall be under oath and shall contain
 1043 the following:

1044 (a) The name and address of the applicant, if an applicant
 1045 is an individual; if the applicant is a firm, partnership, or
 1046 association, the name and address of each member thereof; if the
 1047 applicant is a corporation, its name and address and the name
 1048 and address of each director and each officer thereof; and the
 1049 name by which the facility or program is to be known.

1050 (b) The location of the facility or program for which a
 1051 license is sought.

1052 (c) The name of the person or persons under whose
 1053 management or supervision the facility or program will be
 1054 conducted.

1055 (d) The number and type of residents or clients for which
 1056 maintenance, care, education, or treatment is to be provided by
 1057 the facility or program.

1058 (e) The number and location of the component centers or
 1059 units which will compose the comprehensive transitional
 1060 education program.

1061 (f) A description of the types of services and treatment
 1062 to be provided by the facility or program.

1063 (g) Information relating to the number, experience, and
 1064 training of the employees of the facility or program.

1065 (h) Certification that the staff of the facility or
 1066 program will receive training to detect and prevent sexual abuse
 1067 of residents and clients.

1068 (i) Such other information as the agency determines is
 1069 necessary to carry out the provisions of this chapter.

1070 (5) ~~The applicant shall submit evidence which establishes~~
 1071 ~~the good moral character of the manager or supervisor of the~~
 1072 ~~facility or program and the direct service providers in the~~
 1073 ~~facility or program and its component centers or units. A~~
 1074 ~~license may be issued if all the screening materials have been~~
 1075 ~~timely submitted; however, a license may not be issued or~~
 1076 ~~renewed if any of the direct service providers have failed the~~
 1077 ~~screening required by s. 393.0655.~~

1078 ~~(a)1. A licensed residential facility or comprehensive~~
 1079 ~~transitional education program which applies for renewal of its~~

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1080 ~~license shall submit to the agency a list of direct service~~
1081 ~~providers who have worked on a continuous basis at the applicant~~
1082 ~~facility or program since submitting fingerprints to the agency~~
1083 ~~or the Department of Children and Family Services, identifying~~
1084 ~~those direct service providers for whom a written assurance of~~
1085 ~~compliance was provided by the agency or department and~~
1086 ~~identifying those direct service providers who have recently~~
1087 ~~begun working at the facility or program and are awaiting the~~
1088 ~~results of the required fingerprint check along with the date of~~
1089 ~~the submission of those fingerprints for processing. The agency~~
1090 ~~shall by rule determine the frequency of requests to the~~
1091 ~~Department of Law Enforcement to run state criminal records~~
1092 ~~checks for such direct service providers except for those direct~~
1093 ~~service providers awaiting the results of initial fingerprint~~
1094 ~~checks for employment at the applicant facility or program. The~~
1095 ~~agency shall review the records of the direct service providers~~
1096 ~~at the applicant facility or program with respect to the crimes~~
1097 ~~specified in s. 393.0655 and shall notify the facility or~~
1098 ~~program of its findings. When disposition information is missing~~
1099 ~~on a criminal record, it is the responsibility of the person~~
1100 ~~being screened, upon request of the agency, to obtain and supply~~
1101 ~~within 30 days the missing disposition information to the~~
1102 ~~agency. Failure to supply the missing information within 30 days~~
1103 ~~or to show reasonable efforts to obtain such information shall~~
1104 ~~result in automatic disqualification.~~

1105 ~~2. The applicant shall sign an affidavit under penalty of~~
1106 ~~perjury stating that all new direct service providers have been~~
1107 ~~fingerprinted and that the facility's or program's remaining~~

1108 ~~direct service providers have worked at the applicant facility~~
 1109 ~~or program on a continuous basis since being initially screened~~
 1110 ~~at that facility or program or have a written assurance of~~
 1111 ~~compliance from the agency or department.~~

1112 (b) As a prerequisite for issuance of the initial or
 1113 renewal license for ~~to~~ a residential facility or comprehensive
 1114 transitional education program, the applicant, manager,
 1115 supervisor, and all direct service providers must submit to
 1116 background screening as required under s. 393.0655. A license
 1117 may not be issued or renewed if the applicant and any of the
 1118 managers, supervisors, or direct service providers of the
 1119 facility or program have failed the screening required by s.
 1120 393.0655.÷

1121 1. ~~The applicant shall submit to the agency a complete set~~
 1122 ~~of fingerprints, taken by an authorized law enforcement agency~~
 1123 ~~or an employee of the agency who is trained to take~~
 1124 ~~fingerprints, for the manager, supervisor, or direct service~~
 1125 ~~providers of the facility or program;~~

1126 2. ~~The agency shall submit the fingerprints to the~~
 1127 ~~Department of Law Enforcement for state processing and for~~
 1128 ~~federal processing by the Federal Bureau of Investigation; and~~

1129 3. ~~The agency shall review the record of the manager or~~
 1130 ~~supervisor with respect to the crimes specified in s.~~
 1131 ~~393.0655(1) and shall notify the applicant of its findings. When~~
 1132 ~~disposition information is missing on a criminal record, it is~~
 1133 ~~the responsibility of the manager or supervisor, upon request of~~
 1134 ~~the agency, to obtain and supply within 30 days the missing~~
 1135 ~~disposition information to the agency. Failure to supply the~~

1136 ~~missing information within 30 days or to show reasonable efforts~~
1137 ~~to obtain such information shall result in automatic~~
1138 ~~disqualification.~~

1139 ~~(c) The agency or a residential facility or comprehensive~~
1140 ~~transitional education program may not use the criminal records~~
1141 ~~or juvenile records of a person obtained under this subsection~~
1142 ~~for any purpose other than determining if that person meets the~~
1143 ~~minimum standards for good moral character for a manager or~~
1144 ~~supervisor of, or direct service provider in, such a facility or~~
1145 ~~program. The criminal records or juvenile records obtained by~~
1146 ~~the agency or a residential facility or comprehensive~~
1147 ~~transitional education program for determining the moral~~
1148 ~~character of a manager, supervisor, or direct service provider~~
1149 ~~are exempt from s. 119.07(1).~~

1150 ~~(6) Each applicant for licensure as an intermediate care~~
1151 ~~facility for the developmentally disabled must comply with the~~
1152 ~~following requirements:~~

1153 ~~(a) Upon receipt of a completed, signed, and dated~~
1154 ~~application, the agency shall require background screening, in~~
1155 ~~accordance with the level 2 standards for screening set forth in~~
1156 ~~chapter 435, of the managing employee, or other similarly titled~~
1157 ~~individual who is responsible for the daily operation of the~~
1158 ~~facility, and of the financial officer, or other similarly~~
1159 ~~titled individual who is responsible for the financial operation~~
1160 ~~of the center, including billings for resident care and~~
1161 ~~services. The applicant must comply with the procedures for~~
1162 ~~level 2 background screening as set forth in chapter 435, as~~
1163 ~~well as the requirements of s. 435.03(3).~~

1164 ~~(b) The agency may require background screening of any~~
1165 ~~other individual who is an applicant if the agency has probable~~
1166 ~~cause to believe that he or she has been convicted of a crime or~~
1167 ~~has committed any other offense prohibited under the level 2~~
1168 ~~standards for screening set forth in chapter 435.~~

1169 ~~(c) Proof of compliance with the level 2 background~~
1170 ~~screening requirements of chapter 435 which has been submitted~~
1171 ~~within the previous 5 years in compliance with any other health~~
1172 ~~care licensure requirements of this state is acceptable in~~
1173 ~~fulfillment of the requirements of paragraph (a).~~

1174 ~~(d) A provisional license may be granted to an applicant~~
1175 ~~when each individual required by this section to undergo~~
1176 ~~background screening has met the standards for the Department of~~
1177 ~~Law Enforcement background check, but the agency has not yet~~
1178 ~~received background screening results from the Federal Bureau of~~
1179 ~~Investigation, or a request for a disqualification exemption has~~
1180 ~~been submitted to the agency as set forth in chapter 435, but a~~
1181 ~~response has not yet been issued. A standard license may be~~
1182 ~~granted to the applicant upon the agency's receipt of a report~~
1183 ~~of the results of the Federal Bureau of Investigation background~~
1184 ~~screening for each individual required by this section to~~
1185 ~~undergo background screening which confirms that all standards~~
1186 ~~have been met, or upon the granting of a disqualification~~
1187 ~~exemption by the agency as set forth in chapter 435. Any other~~
1188 ~~person who is required to undergo level 2 background screening~~
1189 ~~may serve in his or her capacity pending the agency's receipt of~~
1190 ~~the report from the Federal Bureau of Investigation. However,~~
1191 ~~the person may not continue to serve if the report indicates any~~

1192 ~~violation of background screening standards and a~~
1193 ~~disqualification exemption has not been requested of and granted~~
1194 ~~by the agency as set forth in chapter 435.~~

1195 ~~(e) Each applicant must submit to the agency, with its~~
1196 ~~application, a description and explanation of any exclusions,~~
1197 ~~permanent suspensions, or terminations of the applicant from the~~
1198 ~~Medicare or Medicaid programs. Proof of compliance with the~~
1199 ~~requirements for disclosure of ownership and control interests~~
1200 ~~under the Medicaid or Medicare programs shall be accepted in~~
1201 ~~lieu of this submission.~~

1202 ~~(f) Each applicant must submit to the agency a description~~
1203 ~~and explanation of any conviction of an offense prohibited under~~
1204 ~~the level 2 standards of chapter 435 by a member of the board of~~
1205 ~~directors of the applicant, its officers, or any individual~~
1206 ~~owning 5 percent or more of the applicant. This requirement does~~
1207 ~~not apply to a director of a not-for-profit corporation or~~
1208 ~~organization if the director serves solely in a voluntary~~
1209 ~~capacity for the corporation or organization, does not regularly~~
1210 ~~take part in the day-to-day operational decisions of the~~
1211 ~~corporation or organization, receives no remuneration for his or~~
1212 ~~her services on the corporation or organization's board of~~
1213 ~~directors, and has no financial interest and has no family~~
1214 ~~members with a financial interest in the corporation or~~
1215 ~~organization, provided that the director and the not-for-profit~~
1216 ~~corporation or organization include in the application a~~
1217 ~~statement affirming that the director's relationship to the~~
1218 ~~corporation satisfies the requirements of this paragraph.~~

1219 ~~(g) A license may not be granted to an applicant if the~~
 1220 ~~applicant or managing employee has been found guilty of,~~
 1221 ~~regardless of adjudication, or has entered a plea of nolo~~
 1222 ~~contendere or guilty to, any offense prohibited under the level~~
 1223 ~~2 standards for screening set forth in chapter 435, unless an~~
 1224 ~~exemption from disqualification has been granted by the agency~~
 1225 ~~as set forth in chapter 435.~~

1226 ~~(h) The agency may deny or revoke licensure if the~~
 1227 ~~applicant:~~

1228 ~~1. Has falsely represented a material fact in the~~
 1229 ~~application required by paragraph (e) or paragraph (f), or has~~
 1230 ~~omitted any material fact from the application required by~~
 1231 ~~paragraph (e) or paragraph (f); or~~

1232 ~~2. Has had prior action taken against the applicant under~~
 1233 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1234 ~~(i) An application for license renewal must contain the~~
 1235 ~~information required under paragraphs (e) and (f).~~

1236 (6)(7) The applicant shall furnish satisfactory proof of
 1237 financial ability to operate and conduct the facility or program
 1238 in accordance with the requirements of this chapter and all
 1239 adopted rules ~~promulgated hereunder.~~

1240 (7)(8) The agency shall adopt rules establishing minimum
 1241 standards for licensure of residential facilities and
 1242 comprehensive transitional education programs, including rules
 1243 requiring facilities and programs to train staff to detect and
 1244 prevent sexual abuse of residents and clients, minimum standards
 1245 of quality and adequacy of care, and uniform firesafety
 1246 standards established by the State Fire Marshal which are

1247 appropriate to the size of the facility or of the component
 1248 centers or units of the program.

1249 (8)(9) ~~The agency and the Agency for Health Care~~
 1250 ~~Administration~~, after consultation with the Department of
 1251 Community Affairs, shall adopt rules for residential facilities
 1252 ~~under the respective regulatory jurisdiction of each~~
 1253 establishing minimum standards for the preparation and annual
 1254 update of a comprehensive emergency management plan. At a
 1255 minimum, the rules must provide for plan components that address
 1256 emergency evacuation transportation; adequate sheltering
 1257 arrangements; postdisaster activities, including emergency
 1258 power, food, and water; postdisaster transportation; supplies;
 1259 staffing; emergency equipment; individual identification of
 1260 residents and transfer of records; and responding to family
 1261 inquiries. The comprehensive emergency management plan for all
 1262 comprehensive transitional education programs and for homes
 1263 serving individuals who have complex medical conditions is
 1264 subject to review and approval by the local emergency management
 1265 agency. During its review, the local emergency management agency
 1266 shall ensure that the agency and the Department of Community
 1267 Affairs ~~following agencies~~, at a minimum, are given the
 1268 opportunity to review the plan: ~~the Agency for Health Care~~
 1269 ~~Administration, the Agency for Persons with Disabilities, and~~
 1270 ~~the Department of Community Affairs~~. Also, appropriate volunteer
 1271 organizations must be given the opportunity to review the plan.
 1272 The local emergency management agency shall complete its review
 1273 within 60 days and either approve the plan or advise the
 1274 facility of necessary revisions.

1275 (9)~~(10)~~ The agency may conduct unannounced inspections to
 1276 determine compliance by residential facilities and comprehensive
 1277 transitional education programs with the applicable provisions
 1278 of this chapter and the rules adopted pursuant hereto, including
 1279 the rules adopted for training staff of a facility or a program
 1280 to detect and prevent sexual abuse of residents and clients. The
 1281 facility or program shall make copies of inspection reports
 1282 available to the public upon request.

1283 (10)~~(11)~~ An alternative living center and an independent
 1284 living education center, as described ~~defined~~ in s. 393.18
 1285 ~~393.063~~, shall be subject to the provisions of s. 419.001,
 1286 except that such centers shall be exempt from the 1,000-foot-
 1287 radius requirement of s. 419.001(2) if:

1288 (a) Such centers are located on a site zoned in a manner
 1289 so that all the component centers of a comprehensive transition
 1290 education center may be located thereon; or

1291 (b) There are no more than three such centers within said
 1292 radius of 1,000 feet.

1293 (11)~~(12)~~ Each residential facility or comprehensive
 1294 transitional education program licensed by the agency shall
 1295 forward annually to the agency a true and accurate sworn
 1296 statement of its costs of providing care to clients funded by
 1297 the agency.

1298 (12)~~(13)~~ The agency may audit the records of any
 1299 residential facility or comprehensive transitional education
 1300 program that it has reason to believe may not be in full
 1301 compliance with the provisions of this section; provided that,

1302 any financial audit of such facility or program shall be limited
 1303 to the records of clients funded by the agency.

1304 (13)~~(14)~~ The agency shall establish, for the purpose of
 1305 control of licensure costs, a uniform management information
 1306 system and a uniform reporting system with uniform definitions
 1307 and reporting categories.

1308 (14)~~(15)~~ Facilities and programs licensed pursuant to this
 1309 section shall adhere to all rights specified in s. 393.13,
 1310 including those enumerated in s. 393.13(4).

1311 (15)~~(16)~~ No unlicensed residential facility or
 1312 comprehensive transitional education program shall receive state
 1313 funds. A license for the operation of a facility or program
 1314 shall not be renewed if the licensee has any outstanding fines
 1315 assessed pursuant to this chapter wherein final adjudication of
 1316 such fines has been entered.

1317 (16)~~(17)~~ The agency shall not be required to contract with
 1318 new facilities licensed after October 1, 1989, pursuant to this
 1319 chapter. Pursuant to chapter 287, the agency shall continue to
 1320 contract within available resources for residential services
 1321 with facilities licensed prior to October 1, 1989, if such
 1322 facilities comply with the provisions of this chapter and all
 1323 other applicable laws and regulations.

1324 Section 15. Subsections (1) and (2) of section 393.0673,
 1325 Florida Statutes, are amended to read:

1326 393.0673 Denial, suspension, revocation of license;
 1327 moratorium on admissions; administrative fines; procedures.--

1328 (1) The agency may deny, revoke, or suspend a license or
 1329 impose an administrative fine, not to exceed \$1,000 per

1330 violation per day, for a violation of any provision of s.
 1331 393.0655 or s. 393.067 or adopted rules ~~adopted pursuant~~
 1332 ~~thereto~~. All hearings shall be held within the county in which
 1333 the licensee or applicant operates or applies for a license to
 1334 operate a facility as defined herein.

1335 (2) The agency, as a part of any final order issued by it
 1336 pursuant to ~~under~~ the provisions of this chapter, may impose
 1337 such fine as it deems proper, except that such fine may not
 1338 exceed \$1,000 for each violation. Each day a violation of this
 1339 chapter occurs constitutes a separate violation and is subject
 1340 to a separate fine, but in no event may the aggregate amount of
 1341 any fine exceed \$10,000. Fines paid by any facility licensee
 1342 under the provisions of this subsection shall be deposited in
 1343 the Resident Protection Trust Fund and expended as provided in
 1344 s. 400.063.

1345 Section 16. Subsection (1) of section 393.0674, Florida
 1346 Statutes, is amended to read:

1347 393.0674 Penalties.--

1348 (1) It is a misdemeanor of the first degree, punishable as
 1349 provided in s. 775.082 or s. 775.083, for any person willfully,
 1350 knowingly, or intentionally to:

1351 (a) Fail, by false statement, misrepresentation,
 1352 impersonation, or other fraudulent means, to disclose in any
 1353 application for voluntary or paid employment a material fact
 1354 used in making a determination as to such person's
 1355 qualifications to be a direct service provider;

1356 (b) Provide or attempt to provide supports or services
 1357 with direct service providers who are not in compliance

1358 ~~noncompliance~~ with the background screening requirements set
 1359 forth ~~minimum standards for good moral character as contained in~~
 1360 this chapter; or

1361 (c) Use information from the criminal records or central
 1362 abuse hotline obtained under s. 393.0655, s. 393.066, or s.
 1363 393.067 for any purpose other than screening that person for
 1364 employment as specified in those sections or release such
 1365 information to any other person for any purpose other than
 1366 screening for employment as specified in those sections.

1367 Section 17. Subsection (3) of section 393.0675, Florida
 1368 Statutes, is amended to read:

1369 393.0675 Injunctive proceedings authorized.--

1370 (3) The agency may institute proceedings for an injunction
 1371 in a court of competent jurisdiction to terminate the operation
 1372 of a provider of supports or services if such provider has
 1373 willfully and knowingly refused to comply with the screening
 1374 requirement for direct service providers or has refused to
 1375 terminate direct service providers found not to be in compliance
 1376 with such ~~the requirements for good moral character.~~

1377 Section 18. Paragraph (a) of subsection (1) and subsection
 1378 (11) of section 393.0678, Florida Statutes, are amended to read:

1379 393.0678 Receivership proceedings.--

1380 (1) The agency may petition a court of competent
 1381 jurisdiction for the appointment of a receiver for ~~an~~
 1382 ~~intermediate care facility for the developmentally disabled, a~~
 1383 residential habilitation center, or a group home facility owned
 1384 and operated by a corporation or partnership when any of the
 1385 following conditions exist:

1386 (a) Any person is operating a facility without a license
 1387 and refuses to make application for a license as required by s.
 1388 393.067 ~~or, in the case of an intermediate care facility for the~~
 1389 ~~developmentally disabled, as required by ss. 393.067 and~~
 1390 ~~400.062.~~

1391 (11) Nothing in this section shall be deemed to relieve
 1392 any owner, operator, or employee of a facility placed in
 1393 receivership of any civil or criminal liability incurred, or any
 1394 duty imposed by law, by reason of acts or omissions of the
 1395 owner, operator, or employee before the appointment of a
 1396 receiver; nor shall anything contained in this section be
 1397 construed to suspend during the receivership any obligation of
 1398 the owner, operator, or employee for payment of taxes or other
 1399 operating and maintenance expenses of the facility or any
 1400 obligation of the owner, operator, or employee or any other
 1401 person for the payment of mortgages or liens. The owner shall
 1402 retain the right to sell or mortgage any facility under
 1403 receivership, subject to the approval of the court which ordered
 1404 the receivership. ~~A receivership imposed under the provisions of~~
 1405 ~~this chapter shall be subject to the Resident Protection Trust~~
 1406 ~~Fund pursuant to s. 400.063. The owner of a facility placed in~~
 1407 ~~receivership by the court shall be liable for all expenses and~~
 1408 ~~costs incurred by the Resident Protection Trust Fund which occur~~
 1409 ~~as a result of the receivership.~~

1410 Section 19. Subsections (1) and (3) of section 393.068,
 1411 Florida Statutes, are amended to read:

1412 393.068 Family care program.--

1413 (1) The family care program is established for the purpose
 1414 of providing services and support to families and individuals
 1415 with developmental disabilities in order to maintain the
 1416 individual in the home environment and avoid costly out-of-home
 1417 residential placement. Services and support available to
 1418 families and individuals with developmental disabilities shall
 1419 emphasize community living, the principles of self-
 1420 determination, and enable individuals with developmental
 1421 disabilities to enjoy typical lifestyles. One way to accomplish
 1422 this is to recognize that families are the greatest resource
 1423 available to individuals who have developmental disabilities and
 1424 must be supported in their role as primary care givers.

1425 (3) When it is determined by the agency to be more cost-
 1426 effective and in the best interest of the client to maintain
 1427 such client in the home of a direct service provider, the parent
 1428 or guardian of the client or, if competent, the client may
 1429 enroll the client in the family care program. The direct service
 1430 provider of a client enrolled in the family care program shall
 1431 be reimbursed according to a rate schedule set by the agency.
 1432 ~~In-home subsidies cited in paragraph (1)(d) shall be provided~~
 1433 ~~according to s. 393.0695 and are not subject to any other~~
 1434 ~~payment method or rate schedule provided for in this section.~~

1435 Section 20. Subsection (3) of section 393.0695, Florida
 1436 Statutes, is amended to read:

1437 393.0695 Provision of in-home subsidies.--

1438 (3) In-home subsidies must be based on an individual
 1439 determination of need and must not exceed maximum amounts set by
 1440 the agency and reassessed by the agency quarterly ~~annually~~.

1441 Section 21. Subsection (2) of section 393.075, Florida
 1442 Statutes, is amended to read:

1443 393.075 General liability coverage.--

1444 (2) The Division of Risk Management of the Department of
 1445 Financial Services shall provide coverage through the agency to
 1446 any person who owns or operates a foster care facility or group
 1447 home facility solely for the agency, who cares for children
 1448 placed by developmental disabilities services staff of the
 1449 agency, and who is licensed pursuant to s. 393.067 to provide
 1450 such supervision and care in his or her place of residence. The
 1451 coverage shall be provided from the general liability account of
 1452 the State Risk Management Trust Fund. The coverage is limited to
 1453 general liability claims arising from the provision of
 1454 supervision and care of children in a foster care facility or
 1455 group home facility pursuant to an agreement with the agency and
 1456 pursuant to guidelines established through policy, rule, or
 1457 statute. Coverage shall be subject to the limits provided in ss.
 1458 284.38 and 284.385, and the exclusions set forth therein,
 1459 together with other exclusions as may be set forth in the
 1460 certificate of coverage issued by the trust fund. A person
 1461 covered under the general liability account pursuant to this
 1462 subsection shall immediately notify the Division of Risk
 1463 Management of the Department of Financial Services of any
 1464 potential or actual claim.

1465 Section 22. Subsection (1), paragraph (a) of subsection
 1466 (2), paragraph (b) of subsection (3), subsections (4) and (5),
 1467 paragraph (a) of subsection (6), paragraphs (a) and (c) of
 1468 subsection (7), paragraphs (d) and (e) of subsection (8),

1469 paragraph (b) of subsection (10), paragraph (b) of subsection
 1470 (12), and subsection (13) of section 393.11, Florida Statutes,
 1471 are amended to read:

1472 393.11 Involuntary admission to residential services.--

1473 (1) JURISDICTION.--When a person is mentally retarded or
 1474 autistic and requires involuntary admission to residential
 1475 services provided by the agency, the circuit court of the county
 1476 in which the person resides shall have jurisdiction to conduct a
 1477 hearing and enter an order involuntarily admitting the person in
 1478 order that the person may receive the care, treatment,
 1479 habilitation, and rehabilitation which the person needs. For the
 1480 purpose of identifying mental retardation or autism, diagnostic
 1481 capability shall be established by the agency. The involuntary
 1482 commitment of a person with retardation or autism who is charged
 1483 with a felony offense shall be determined in accordance with s.
 1484 916.302. ~~Except as otherwise specified, the proceedings under~~
 1485 this section shall be governed by the Florida Rules of Civil
 1486 Procedure.

1487 (2) PETITION.--

1488 (a) A petition for involuntary admission to residential
 1489 services may be executed by a petitioning commission. ~~For~~
 1490 ~~proposed involuntary admission to residential services arising~~
 1491 ~~out of chapter 916, the petition may be filed by a petitioning~~
 1492 ~~commission, the agency, the state attorney of the circuit from~~
 1493 ~~which the defendant was committed, or the defendant's attorney.~~

1494 (3) NOTICE.--

1495 (b) Whenever a motion or petition has been filed pursuant
 1496 to s. 916.303(2) to dismiss criminal charges against a defendant

1497 with retardation or autism, and a petition is filed to
 1498 involuntarily admit the defendant to residential services under
 1499 this section, the notice of the filing of the petition shall
 1500 also be given to the defendant's attorney and to the state
 1501 attorney of the circuit from which the defendant was committed.

1502 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

1503 (a) Upon receiving the petition, the court shall
 1504 immediately order the ~~developmental services program of the~~
 1505 agency to examine the person being considered for involuntary
 1506 admission to residential services.

1507 (b) Following the examination, the agency shall file ~~After~~
 1508 ~~the developmental services program examines the person,~~ a
 1509 written report ~~shall be filed~~ with the court not less than 10
 1510 working days before the date of the hearing. The report shall be
 1511 served on the petitioner, the person with mental retardation or
 1512 autism, and the person's attorney at the time the report is
 1513 filed with the court.

1514 (c) The report shall contain the findings of the agency
 1515 ~~developmental services program~~ evaluation and any
 1516 recommendations deemed appropriate.

1517 (5) EXAMINING COMMITTEE.--

1518 (a) Upon receiving the petition, the court shall
 1519 immediately appoint an examining committee to examine the person
 1520 being considered for involuntary admission to residential
 1521 services ~~of the developmental services program of the agency~~.

1522 (b) The court shall appoint no fewer than three
 1523 disinterested experts who have demonstrated to the court an
 1524 expertise in the diagnosis, evaluation, and treatment of persons

1525 with mental retardation or autism. The committee shall include
 1526 at least one licensed and qualified physician, one licensed and
 1527 qualified psychologist, and one qualified professional with a
 1528 minimum of a masters degree in social work, special education,
 1529 or vocational rehabilitation counseling, to examine the person
 1530 and to testify at the hearing on the involuntary admission to
 1531 residential services.

1532 (c) Counsel for the person who is being considered for
 1533 involuntary admission to residential services and counsel for
 1534 the petition commission shall have the right to challenge the
 1535 qualifications of those appointed to the examining committee.

1536 (d) Members of the committee shall not be employees of the
 1537 agency or be associated with each other in practice or in
 1538 employer-employee relationships. Members of the committee shall
 1539 not have served as members of the petitioning commission.
 1540 Members of the committee shall not be employees of the members
 1541 of the petitioning commission or be associated in practice with
 1542 members of the commission.

1543 (e) The committee shall prepare a written report for the
 1544 court. The report shall explicitly document the extent that the
 1545 person meets the criteria for involuntary admission. The report,
 1546 and expert testimony, shall include, but not be limited to:

- 1547 1. The degree of the person's mental retardation or
 1548 autism;
- 1549 2. Whether, because of the person's degree of mental
 1550 retardation or autism, the person:

1551 a. Lacks sufficient capacity to give express and informed
 1552 consent to a voluntary application for services pursuant to s.
 1553 393.065;

1554 b. Lacks basic survival and self-care skills to such a
 1555 degree that close supervision and habilitation in a residential
 1556 setting is necessary and if not provided would result in a real
 1557 and present threat of substantial harm to the person's well-
 1558 being; or

1559 c. Is likely to physically injure others if allowed to
 1560 remain at liberty.

1561 3. The purpose to be served by residential care;

1562 4. A recommendation on the type of residential placement
 1563 which would be the most appropriate and least restrictive for
 1564 the person; and

1565 5. The appropriate care, habilitation, and treatment.

1566 (f) The committee shall file the report with the court not
 1567 less than 10 working days before the date of the hearing. The
 1568 report shall be served on the petitioner, the person with mental
 1569 retardation or autism, and the person's attorney at the time the
 1570 report is filed with the court.

1571 (g) Members of the examining committee shall receive a
 1572 reasonable fee to be determined by the court. The fees are to be
 1573 paid from the general revenue fund of the county in which the
 1574 person with mental retardation or autism resided when the
 1575 petition was filed.

1576 (h) The agency shall develop and prescribe by rule one or
 1577 more standard forms to be used as a guide for members of the
 1578 examining committee.

1579 (6) COUNSEL; GUARDIAN AD LITEM.--

1580 (a) The person with mental retardation or autism shall be
 1581 represented by counsel at all stages of the judicial proceeding.
 1582 In the event the person is indigent and cannot afford counsel,
 1583 the court shall appoint a public defender not less than 20
 1584 working days before the scheduled hearing. The person's counsel
 1585 shall have full access to the records of the service provider
 1586 and the agency. In all cases, the attorney shall represent the
 1587 rights and legal interests of the person with mental retardation
 1588 or autism, regardless of who may initiate the proceedings or pay
 1589 the attorney's fee.

1590 (7) HEARING.--

1591 (a) The hearing for involuntary admission shall be
 1592 conducted, and the order shall be entered, in the county in
 1593 which the petition is filed ~~person is residing or be as~~
 1594 ~~convenient to the person as may be consistent with orderly~~
 1595 ~~procedure~~. The hearing shall be conducted in a physical setting
 1596 not likely to be injurious to the person's condition.

1597 (c) The court may appoint a general or special magistrate
 1598 to preside. Except as otherwise specified, the magistrate's
 1599 proceeding shall be governed by the ~~rule 1.490,~~ Florida Rules of
 1600 Civil Procedure.

1601 (8) ORDER.--

1602 (d) If an order of involuntary admission to residential
 1603 services provided by the ~~developmental services program of the~~
 1604 agency is entered by the court, a copy of the written order
 1605 shall be served upon the person, the person's counsel, the
 1606 agency, and the state attorney and the person's defense counsel,

1607 if applicable. The order of involuntary admission sent to the
 1608 agency shall also be accompanied by a copy of the examining
 1609 committee's report and other reports contained in the court
 1610 file.

1611 (e) Upon receiving the order, the agency shall, within 45
 1612 days, provide the court with a copy of the person's family or
 1613 individual support plan and copies of all examinations and
 1614 evaluations, outlining the treatment and rehabilitative
 1615 programs. The agency shall document that the person has been
 1616 placed in the most appropriate, least restrictive and cost-
 1617 beneficial residential setting ~~facility~~. A copy of the family or
 1618 individual support plan and other examinations and evaluations
 1619 shall be served upon the person and the person's counsel at the
 1620 same time the documents are filed with the court.

1621 (10) COMPETENCY.--

1622 (b) The issue of the competency of a person with mental
 1623 retardation or autism for the purposes of assigning guardianship
 1624 shall be determined in a separate proceeding according to the
 1625 procedures and requirements of chapter 744 ~~and the Florida~~
 1626 ~~Probate Rules~~. The issue of the competency of a person with
 1627 mental retardation or autism for the purpose of determining
 1628 whether the person is competent to proceed in a criminal trial
 1629 shall be determined in accordance with chapter 916.

1630 (12) APPEAL.--

1631 (b) The filing of an appeal by the person with mental
 1632 retardation or autism shall stay admission of the person into
 1633 residential care. The stay shall remain in effect during the

1634 pendency of all review proceedings in Florida courts until a
 1635 mandate issues.

1636 (13) HABEAS CORPUS.--At any time and without notice, any
 1637 person involuntarily admitted into residential care ~~to the~~
 1638 ~~developmental services program of the agency~~, or the person's
 1639 parent or legal guardian in his or her behalf, is entitled to
 1640 file a petition for a writ of habeas corpus to question the
 1641 cause, legality, and appropriateness of the person's involuntary
 1642 admission. Each person, or the person's parent or legal
 1643 guardian, shall receive specific written notice of the right to
 1644 petition for a writ of habeas corpus at the time of his or her
 1645 involuntary placement.

1646 Section 23. Section 393.122, Florida Statutes, is amended
 1647 to read:

1648 393.122 Applications for continued residential services.--

1649 (1) If a client is discharged from residential services
 1650 under the provisions of s. 393.115 ~~this section~~, application for
 1651 needed services shall be encouraged.

1652 (2) No client receiving services from the state department
 1653 as of July 1, 1977, shall be denied continued services due to
 1654 any change in eligibility requirements by chapter 77-335, Laws
 1655 of Florida.

1656 Section 24. Subsection (2) of section 393.125, Florida
 1657 Statutes, is amended to read:

1658 393.125 Hearing rights.--

1659 (2) REVIEW OF PROVIDER DECISIONS.--The agency shall adopt
 1660 rules to establish uniform guidelines ~~for the agency and service~~
 1661 ~~providers~~ relevant to termination, suspension, or reduction of

1662 client services by the service provider. The rules shall ensure
 1663 the due process rights of service providers and clients.

1664 Section 25. Paragraphs (b) and (d) of subsection (2),
 1665 paragraph (a) of subsection (3), paragraphs (a), (b), (c), (g),
 1666 (i), (j), and (k) of subsection (4), and subsection (7) of
 1667 section 393.13, Florida Statutes, are amended to read:

1668 393.13 ~~Personal~~ Treatment of persons with developmental
 1669 disabilities ~~who are developmentally disabled.~~--

1670 (2) LEGISLATIVE INTENT.--

1671 (b) The Legislature further finds and declares that the
 1672 design and delivery of treatment and services to persons with
 1673 developmental disabilities ~~who are developmentally disabled~~
 1674 should be directed by the principles of self-determination
 1675 ~~normalization~~ and therefore should:

- 1676 1. Abate the use of large institutions.
- 1677 2. Continue the development of community-based services
 1678 which provide reasonable alternatives to institutionalization in
 1679 settings that are least restrictive to the client.
- 1680 3. Provide training and education to individuals with
 1681 developmental disabilities ~~who are developmentally disabled~~
 1682 which will maximize their potential to lead independent and
 1683 productive lives and which will afford opportunities for outward
 1684 mobility from institutions.
- 1685 4. Reduce the use of sheltered workshops and other
 1686 noncompetitive employment day activities and promote
 1687 opportunities for gainful employment for persons with
 1688 developmental disabilities who choose to seek such employment.

1689 (d) It is the intent of the Legislature:

1690 1. To articulate the existing legal and human rights of
 1691 persons with developmental disabilities ~~who are developmentally~~
 1692 ~~disabled~~ so that they may be exercised and protected. Persons
 1693 with developmental disabilities shall have all the rights
 1694 enjoyed by citizens of the state and the United States.

1695 2. To provide a mechanism for the identification,
 1696 evaluation, and treatment of persons with developmental
 1697 disabilities.

1698 3. To divert those individuals from institutional
 1699 commitment who, by virtue of comprehensive assessment, can be
 1700 placed in less costly, more effective community environments and
 1701 programs.

1702 4. To fund improvements in the program in accordance with
 1703 the availability of state resources and yearly priorities
 1704 determined by the Legislature.

1705 5. To ensure that persons with developmental disabilities
 1706 receive treatment and habilitation which fosters the
 1707 developmental potential of the individual.

1708 6. To provide programs for the proper habilitation and
 1709 treatment of persons with developmental disabilities which shall
 1710 include, but not be limited to, comprehensive medical/dental
 1711 care, education, recreation, specialized therapies, training,
 1712 social services, transportation, guardianship, family care
 1713 programs, day habilitation services, and habilitative and
 1714 rehabilitative services suited to the needs of the individual
 1715 regardless of age, degree of disability, or handicapping
 1716 condition. ~~No person with developmental disabilities shall be~~

1717 ~~deprived of these enumerated services by reason of inability to~~
 1718 ~~pay.~~

1719 7. To fully effectuate the principles of self-
 1720 determination normalization principle through the establishment
 1721 of community services for persons with developmental
 1722 disabilities as a viable and practical alternative to
 1723 institutional care at each stage of individual life development.
 1724 If care in a residential facility or intermediate care facility
 1725 becomes necessary, it shall be in the least restrictive setting.

1726 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
 1727 DISABILITIES.--The rights described in this subsection shall
 1728 apply to all persons with developmental disabilities, whether or
 1729 not such persons are clients of the agency.

1730 (a) Persons with developmental disabilities shall have a
 1731 right to dignity, privacy, and humane care, including the right
 1732 to be free from sexual abuse in residential facilities and
 1733 intermediate care facilities.

1734 (4) CLIENT RIGHTS.--For purposes of this subsection, the
 1735 term "client," as defined in s. 393.063, shall also include any
 1736 person served in a facility licensed pursuant to s. 393.067.

1737 (a) Clients shall have an unrestricted right to
 1738 communication:

1739 1. Each client shall be allowed to receive, send, and mail
 1740 sealed, unopened correspondence. No client's incoming or
 1741 outgoing correspondence shall be opened, delayed, held, or
 1742 censored by the facility unless there is reason to believe that
 1743 it contains items or substances which may be harmful to the
 1744 client or others, in which case the chief administrator of the

1745 facility may direct reasonable examination of such mail and
 1746 regulate the disposition of such items or substances.

1747 2. Clients in residential facilities and intermediate care
 1748 facilities shall be afforded reasonable opportunities for
 1749 telephone communication, to make and receive confidential calls,
 1750 unless there is reason to believe that the content of the
 1751 telephone communication may be harmful to the client or others,
 1752 in which case the chief administrator of the facility may direct
 1753 reasonable observation and monitoring to the telephone
 1754 communication.

1755 3. Clients shall have an unrestricted right to visitation
 1756 subject to reasonable rules of the facility. However, nothing in
 1757 this provision shall be construed to permit infringement upon
 1758 other clients' rights to privacy.

1759 (b) Each client has the right to the possession and use of
 1760 his or her own clothing and personal effects, except in those
 1761 specific instances where the use of some of these items as
 1762 reinforcers is essential for training the client as part of an
 1763 appropriately approved behavioral program. The chief
 1764 administrator of the facility may take temporary custody of such
 1765 effects when it is essential to do so for medical or safety
 1766 reasons. Custody of such personal effects shall be promptly
 1767 recorded in the client's record, and a receipt for such effects
 1768 shall be immediately given to the client, if competent, or the
 1769 client's parent or legal guardian.

1770 1. All money belonging to a client shall be held by the
 1771 agency as a trustee ~~shall be held in compliance with s.~~
 1772 ~~402.17(2).~~

1773 2. All interest on money received and held for the
1774 personal use and benefit of a client shall be the property of
1775 that client and shall not accrue to the general welfare of all
1776 clients or be used to defray the cost of residential care.
1777 Interest so accrued shall be used or conserved for the personal
1778 use or benefit of the individual client as provided in s.
1779 402.17(2).

1780 3. Upon the discharge or death of a client, a final
1781 accounting shall be made of all personal effects and money
1782 belonging to the client held by the agency. All such personal
1783 effects and money, including interest, shall be promptly turned
1784 over to the client or his or her heirs.

1785 (c) Each client shall receive prompt and appropriate
1786 medical treatment and care for physical and mental ailments and
1787 for the prevention of any illness or disability. Medical
1788 treatment shall be consistent with the accepted standards of
1789 medical practice in the community.

1790 1. Medication shall be administered only at the written
1791 order of a physician. Medication shall not be used as
1792 punishment, for the convenience of staff, as a substitute for
1793 implementation of an individual or family support plan or
1794 behavior modification programming, or in unnecessary or
1795 excessive quantities.

1796 2. Daily notation of medication received by each client in
1797 a residential facility or intermediate care facility shall be
1798 kept in the client's record.

1799 3. Periodically, but no less frequently than every 6
1800 months, the drug regimen of each client in a residential

1801 facility or intermediate care facility shall be reviewed by the
 1802 attending physician or other appropriate monitoring body,
 1803 consistent with appropriate standards of medical practice. All
 1804 prescriptions shall have a termination date.

1805 4. When pharmacy services are provided at any residential
 1806 facility or intermediate care facility, such services shall be
 1807 directed or supervised by a professionally competent pharmacist
 1808 licensed according to the provisions of chapter 465.

1809 5. Pharmacy services shall be delivered in accordance with
 1810 the provisions of chapter 465.

1811 6. Prior to instituting a plan of experimental medical
 1812 treatment or carrying out any necessary surgical procedure,
 1813 express and informed consent shall be obtained from the client,
 1814 if competent, or the client's parent or legal guardian.
 1815 Information upon which the client shall make necessary treatment
 1816 and surgery decisions shall include, but not be limited to:

- 1817 a. The nature and consequences of such procedures.
- 1818 b. The risks, benefits, and purposes of such procedures.
- 1819 c. Alternate procedures available.

1820 7. When the parent or legal guardian of the client is
 1821 unknown or unlocatable and the physician is unwilling to perform
 1822 surgery based solely on the client's consent, a court of
 1823 competent jurisdiction shall hold a hearing to determine the
 1824 appropriateness of the surgical procedure. The client shall be
 1825 physically present, unless the client's medical condition
 1826 precludes such presence, represented by counsel, and provided
 1827 the right and opportunity to be confronted with, and to cross-
 1828 examine, all witnesses alleging the appropriateness of such

1829 procedure. In such proceedings, the burden of proof by clear and
 1830 convincing evidence shall be on the party alleging the
 1831 appropriateness of such procedures. The express and informed
 1832 consent of a person described in subparagraph 6. may be
 1833 withdrawn at any time, with or without cause, prior to treatment
 1834 or surgery.

1835 8. The absence of express and informed consent
 1836 notwithstanding, a licensed and qualified physician may render
 1837 emergency medical care or treatment to any client who has been
 1838 injured or who is suffering from an acute illness, disease, or
 1839 condition if, within a reasonable degree of medical certainty,
 1840 delay in initiation of emergency medical care or treatment would
 1841 endanger the health of the client.

1842 (g) No client shall be subjected to a treatment program to
 1843 eliminate bizarre or unusual behaviors without first being
 1844 examined by a physician who in his or her best judgment
 1845 determines that such behaviors are not organically caused.

1846 1. Treatment programs involving the use of noxious or
 1847 painful stimuli shall be prohibited.

1848 2. All alleged violations of this paragraph shall be
 1849 reported immediately to the chief administrative officer of the
 1850 facility and ~~or the district administrator, the agency head, and~~
 1851 ~~the Florida local advocacy council~~. A thorough investigation of
 1852 each incident shall be conducted and a written report of the
 1853 finding and results of such investigation shall be submitted to
 1854 the chief administrative officer of the facility ~~or the district~~
 1855 ~~administrator~~ and ~~to~~ the agency head within 24 hours of the
 1856 occurrence or discovery of the incident.

1857 3. The agency shall adopt by rule a system for the
1858 oversight of behavioral programs. Such system shall establish
1859 guidelines and procedures governing the design, approval,
1860 implementation, and monitoring of all behavioral programs
1861 involving clients. The system shall ensure statewide and local
1862 review by committees of professionals certified as behavior
1863 analysts pursuant to s. 393.17. No behavioral program shall be
1864 implemented unless reviewed according to the rules established
1865 by the agency under this section. ~~Nothing stated in this section~~
1866 ~~shall prohibit the review of programs by the Florida statewide~~
1867 ~~or local advocacy councils.~~

1868 (i) Clients shall have the right to be free from
1869 unnecessary physical, chemical, or mechanical restraint.
1870 Restraints shall be employed only in emergencies or to protect
1871 the client from imminent injury to himself or herself or others.
1872 Restraints shall not be employed as punishment, for the
1873 convenience of staff, or as a substitute for a habilitative
1874 plan. Restraints shall impose the least possible restrictions
1875 consistent with their purpose and shall be removed when the
1876 emergency ends. Restraints shall not cause physical injury to
1877 the client and shall be designed to allow the greatest possible
1878 comfort.

1879 1. Mechanical supports used in normative situations to
1880 achieve proper body position and balance shall not be considered
1881 restraints, but shall be prescriptively designed and applied
1882 under the supervision of a qualified professional with concern
1883 for principles of good body alignment, circulation, and
1884 allowance for change of position.

1885 2. Totally enclosed cribs and barred enclosures shall be
1886 considered restraints.

1887 3. Daily reports on the employment of physical, chemical,
1888 or mechanical restraints by those specialists authorized in the
1889 use of such restraints shall be made to the appropriate chief
1890 administrator of the facility, and a monthly summary of such
1891 reports shall be relayed to the agency ~~district administrator~~
1892 ~~and the Florida local advocacy council~~. The reports shall
1893 summarize all such cases of restraints, the type used, the
1894 duration of usage, and the reasons therefor. ~~Districts shall~~
1895 ~~submit districtwide quarterly reports of these summaries to the~~
1896 ~~state Developmental Disabilities Program Office.~~

1897 4. The agency shall post a copy of the rules adopted under
1898 this section in each living unit of residential facilities. A
1899 copy of the rules adopted under this section shall be given to
1900 all staff members of licensed facilities and made a part of all
1901 preservice and inservice training programs.

1902 (j)1. Each client shall have a central record. The record
1903 shall include data pertaining to admission and such other
1904 information as may be required under rules of the agency.

1905 2. Unless waived by the client, if competent, or the
1906 client's parent or legal guardian if the client is incompetent,
1907 the client's central record shall be confidential and exempt
1908 from the provisions of s. 119.07(1), and no part of it shall be
1909 released except:

1910 a. The record may be released to physicians, attorneys,
1911 and government agencies having need of the record to aid the

1912 client, as designated by the client, if competent, or the
 1913 client's parent or legal guardian, if the client is incompetent.

1914 b. The record shall be produced in response to a subpoena
 1915 or released to persons authorized by order of court, excluding
 1916 matters privileged by other provisions of law.

1917 c. The record or any part thereof may be disclosed to a
 1918 qualified researcher, a staff member of the facility, or an
 1919 employee of the agency when the administrator of the facility or
 1920 the director of the agency deems it necessary for the treatment
 1921 of the client, maintenance of adequate records, compilation of
 1922 treatment data, or evaluation of programs.

1923 d. Information from the records may be used for
 1924 statistical and research purposes if the information is
 1925 abstracted in such a way to protect the identity of individuals.

1926 3. All central records for each client in residential
 1927 facilities or intermediate care facilities shall be kept on
 1928 uniform forms distributed by the agency. The central record
 1929 shall accurately summarize each client's history and present
 1930 condition.

1931 4. The client, if competent, or the client's parent or
 1932 legal guardian if the client is incompetent, shall be supplied
 1933 with a copy of the client's central record upon request.

1934 (k) Each client residing in a residential facility or an
 1935 intermediate care facility who is eligible to vote in public
 1936 elections according to the laws of the state shall have the
 1937 right to vote. Facilities operators shall arrange the means to
 1938 exercise the client's right to vote.

1939 (7) RESIDENT GOVERNMENT.--Each residential facility or
 1940 intermediate care facility providing services to clients who are
 1941 desirous and capable of participating shall initiate and develop
 1942 a program of resident government to hear the views and represent
 1943 the interests of all clients served by the facility. The
 1944 resident government shall be composed of residents elected by
 1945 other residents, staff advisers skilled in the administration of
 1946 community organizations, ~~and a representative of the Florida~~
 1947 ~~local advocacy council. The resident government shall work~~
 1948 ~~closely with the Florida local advocacy council and the district~~
 1949 ~~administrator to promote the interests and welfare of all~~
 1950 ~~residents in the facility.~~

1951 Section 26. Subsections (1), (2), (4), and (5) of section
 1952 393.135, Florida Statutes, are amended to read:

1953 393.135 Sexual misconduct prohibited; reporting required;
 1954 penalties.--

1955 (1) As used in this section, the term:

1956 (a) "Employee" includes any paid staff member, volunteer,
 1957 or intern of the agency ~~or the department~~; any person under
 1958 contract with the agency ~~or the department~~; and any person
 1959 providing care or support to a client on behalf of the agency
 1960 ~~department~~ or its providers.

1961 (b) "Sexual activity" means:

1962 1. Fondling the genital area, groin, inner thighs,
 1963 buttocks, or breasts of a person.

1964 2. The oral, anal, or vaginal penetration by or union with
 1965 the sexual organ of another or the anal or vaginal penetration
 1966 of another by any other object.

1967 3. Intentionally touching in a lewd or lascivious manner
 1968 the breasts, genitals, the genital area, or buttocks, or the
 1969 clothing covering them, of a person, or forcing or enticing a
 1970 person to touch the perpetrator.

1971 4. Intentionally masturbating in the presence of another
 1972 person.

1973 5. Intentionally exposing the genitals in a lewd or
 1974 lascivious manner in the presence of another person.

1975 6. Intentionally committing any other sexual act that does
 1976 not involve actual physical or sexual contact with the victim,
 1977 including, but not limited to, sadomasochistic abuse, sexual
 1978 bestiality, or the simulation of any act involving sexual
 1979 activity in the presence of a victim.

1980 (c) "Sexual misconduct" means any sexual activity between
 1981 an employee and a client to whom the employee renders services,
 1982 care, or support on behalf of the agency or its providers or
 1983 between the employee and another client who lives in the same
 1984 home as the client to whom the employee is rendering the
 1985 services, care, or support, regardless of the consent of the
 1986 client. The term does not include an act done for a bona fide
 1987 medical purpose or an internal search conducted in the lawful
 1988 performance of duty by an employee.

1989 (2) An employee who engages in sexual misconduct with an
 1990 individual with a developmental disability who:

1991 (a) Is in the custody of the department;

1992 (b) Resides in a residential facility, including any
 1993 comprehensive transitional education program, developmental
 1994 disabilities ~~services~~ institution, foster care facility, group

1995 | home facility, intermediate care facility for the
 1996 | developmentally disabled, or residential habilitation center; or
 1997 | (c) Is eligible to receive ~~Receives~~ services from the
 1998 | agency under this chapter ~~a family care program,~~

1999 |
 2000 | commits a felony of the second degree, punishable as provided in
 2001 | s. 775.082, s. 775.083, or s. 775.084. An employee may be found
 2002 | guilty of violating this subsection without having committed the
 2003 | crime of sexual battery.

2004 | (4) This section does not apply to an employee who-
 2005 | ~~(a) Is legally married to the client; or~~
 2006 | ~~(b) Has no reason to believe that the person with whom the~~
 2007 | ~~employee engaged in sexual misconduct is a client receiving~~
 2008 | ~~services as described in subsection (2).~~

2009 | (5) An employee who witnesses sexual misconduct, or who
 2010 | otherwise knows or has reasonable cause to suspect that a person
 2011 | has engaged in sexual misconduct, shall immediately report the
 2012 | incident to the department's central abuse hotline and to the
 2013 | appropriate local law enforcement agency. Such employee shall
 2014 | also prepare, date, and sign an independent report that
 2015 | specifically describes the nature of the sexual misconduct, the
 2016 | location and time of the incident, and the persons involved. The
 2017 | employee shall deliver the report to the supervisor or program
 2018 | director, who is responsible for providing copies to the
 2019 | agency's local program office and the agency's department's
 2020 | inspector general. ~~The inspector general shall immediately~~
 2021 | ~~conduct an appropriate administrative investigation, and, if~~
 2022 | ~~there is probable cause to believe that sexual misconduct has~~

2023 ~~occurred, the inspector general shall notify the state attorney~~
 2024 ~~in the circuit in which the incident occurred.~~

2025 Section 27. Section 393.15, Florida Statutes, is amended
 2026 to read:

2027 393.15 Legislative intent; Community Resources Development
 2028 Loan Program Trust Fund.--

2029 (1) The Legislature finds and declares that the
 2030 development of community-based treatment facilities for persons
 2031 who are developmentally disabled is desirable and recommended
 2032 and should be encouraged and fostered by the state. The
 2033 Legislature further recognizes that the development of such
 2034 facilities is financially difficult for private individuals, due
 2035 to initial expenditures required to adapt existing structures to
 2036 the special needs of persons who are developmentally disabled
 2037 who may be served in community-based foster care, group home,
 2038 developmental training, and supported employment programs.

2039 Therefore, ~~it is the intent of the Legislature~~ intends that the
 2040 agency by this act to develop and implement a loan program trust
 2041 fund to provide support and encouragement in the establishment
 2042 of community-based foster care, group home, developmental
 2043 training, and supported employment programs for persons who are
 2044 developmentally disabled.

2045 ~~(2) As used in this section, a foster care, group home,~~
 2046 ~~developmental training, or supported employment program may not~~
 2047 ~~be a for-profit corporation, but may be a nonprofit corporation,~~
 2048 ~~partnership, or sole proprietorship.~~

2049 (2)(3) There is created a Community Resources Development
 2050 Loan Program in Trust Fund in the State Treasury to be used by

2051 the agency for the purpose of granting loans to eligible
 2052 programs for the initial costs of development of the programs.
 2053 To be eligible, a foster home, group home, developmental
 2054 training, or supported employment program must:

2055 (a) Serve persons who are developmentally disabled.

2056 (b) Be a nonprofit corporation, a partnership, or a sole
 2057 proprietorship.

2058 ~~(c) Be~~ Loans shall be made only to those facilities which
 2059 are in compliance with the zoning regulations of the local
 2060 community.

2061 (3) Loans may be made to pay for the costs of development,
 2062 ~~may include~~ structural modification, the purchase of equipment
 2063 and fire and safety devices, preoperational staff training, and
 2064 the purchase of insurance. Such costs shall not include the
 2065 actual construction of a facility nor be in lieu of payment for
 2066 maintenance, client services, or care provided.

2067 (4) The agency may grant to an eligible program a lump-sum
 2068 loan in one payment not to exceed the cost ~~to the program~~ of
 2069 providing 2 months' services, care, or maintenance to each
 2070 person who is developmentally disabled to be placed in the
 2071 program by the agency, or the actual cost of firesafety
 2072 renovations to a facility required by the state, whichever is
 2073 greater. ~~Loans granted to programs shall not be in lieu of~~
 2074 ~~payment for maintenance, services, or care provided, but shall~~
 2075 ~~stand separate and distinct.~~

2076 (5) The agency shall adopt rules, as provided in chapter
 2077 ~~120,~~ to determine the criteria standards under which a program
 2078 shall be eligible to receive a loan ~~as provided in this section~~

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2005

2079 and a methodology ~~criteria~~ for the equitable allocation of loan
 2080 ~~trust~~ funds when eligible applications exceed the funds
 2081 available.

2082 ~~(6)(5)~~ Any loan granted by the agency under this section
 2083 shall be repaid by the program within 5 years and the amount
 2084 paid deposited in the agency's Administrative Trust Fund. Money
 2085 repaid shall be used to fund new loans. A program that operates
 2086 as a nonprofit corporation meeting the requirements of s.
 2087 501(c)(3) of the Internal Revenue Code, and that seeks
 2088 forgiveness of its loan shall submit to the agency an annual a
 2089 statement setting forth the service it has provided during the
 2090 year together with such other information as the agency by rule
 2091 shall require, and, upon approval of each such annual statement,
 2092 the agency may ~~shall~~ forgive up to 20 percent of the principal
 2093 of any such loan ~~granted after June 30, 1975.~~

2094 ~~(7)(6)~~ If any program that has received a loan under this
 2095 section ceases to accept, or provide care, services, or
 2096 maintenance to persons placed in the program by the department,
 2097 or if such program files papers of bankruptcy, at that point in
 2098 time the loan shall become an interest-bearing loan at the rate
 2099 of 5 percent per annum on the entire amount of the initial loan
 2100 which shall be repaid within a 1-year period from the date on
 2101 which the program ceases to provide care, services, or
 2102 maintenance, or files papers in bankruptcy, and the amount of
 2103 the loan due plus interest shall constitute a lien in favor of
 2104 the state against all real and personal property of the program.
 2105 The lien shall be perfected by the appropriate officer of the
 2106 agency by executing and acknowledging a statement of the name of

2107 | the program and the amount due on the loan and a copy of the
 2108 | promissory note, which shall be recorded by the agency with the
 2109 | clerk of the circuit court in the county wherein the program is
 2110 | located. If the program has filed a petition for bankruptcy, the
 2111 | agency shall file and enforce the lien in the bankruptcy
 2112 | proceedings. Otherwise, the lien shall be enforced in the manner
 2113 | provided in s. 85.011. All funds received by the agency from the
 2114 | enforcement of the lien shall be deposited in the agency's
 2115 | Administrative Community Resources Development Trust Fund and
 2116 | used to fund new loans.

2117 | Section 28. Section 393.18, Florida Statutes, is created
 2118 | to read:

2119 | 393.18 Comprehensive transitional education program.--A
 2120 | comprehensive transitional education program is a group of
 2121 | jointly operating centers or units, the collective purpose of
 2122 | which is to provide a sequential series of educational care,
 2123 | training, treatment, habilitation, and rehabilitation services
 2124 | to persons with developmental disabilities who have severe or
 2125 | moderate maladaptive behaviors. However, nothing in this section
 2126 | shall require such programs to provide services only to persons
 2127 | with developmental disabilities. All such services shall be
 2128 | temporary in nature and delivered in a structured residential
 2129 | setting with the primary goal of incorporating the principle of
 2130 | self-determination in establishing permanent residence for
 2131 | persons with maladaptive behaviors in facilities not associated
 2132 | with the comprehensive transitional education program. The staff
 2133 | shall include psychologists and teachers and shall be available
 2134 | to provide services in each component center or unit of the

2135 program. The psychologists shall be individuals who are licensed
 2136 under chapter 490 and certified as behavior analysts in this
 2137 state or individuals who are certified as behavior analysts
 2138 pursuant to s. 393.17.

2139 (1) Comprehensive transitional education programs shall
 2140 include a minimum of two component centers or units, one of
 2141 which shall be either an intensive treatment and educational
 2142 center or a transitional training and educational center, which
 2143 provides services to persons with maladaptive behaviors in the
 2144 following sequential order:

2145 (a) Intensive treatment and educational center.--This
 2146 component is a self-contained residential unit that provides
 2147 intensive psychological and educational programming for persons
 2148 with severe maladaptive behaviors whose behaviors preclude
 2149 placement in a less restrictive environment due to the threat of
 2150 danger or injury to themselves or others.

2151 (b) Transitional training and educational center.--This
 2152 component is a residential unit for persons with moderate
 2153 maladaptive behaviors that provides concentrated psychological
 2154 and educational programming that emphasizes a transition toward
 2155 a less restrictive environment.

2156 (c) Community transition residence.--This component is a
 2157 residential center that provides educational programs and the
 2158 support services, training, and care needed to assist persons
 2159 with maladaptive behaviors to avoid regression to more
 2160 restrictive environments while preparing them for more
 2161 independent living. Continuous-shift staff shall be required for
 2162 this component.

2163 (d) Alternative living center.--This component is a
 2164 residential unit that provides an educational and family living
 2165 environment for persons with maladaptive behaviors in a
 2166 moderately unrestricted setting. Residential staff shall be
 2167 required for this component.

2168 (e) Independent living education center.--This component
 2169 is a facility providing a family living environment for persons
 2170 with maladaptive behaviors in a largely unrestricted setting
 2171 which includes education and monitoring appropriate to support
 2172 the development of independent living skills.

2173 (2) Components of a comprehensive transitional education
 2174 program are subject to the license issued under s. 393.067 to a
 2175 comprehensive transitional education program and may be located
 2176 on either single or multiple sites.

2177 (3) Comprehensive transitional education programs shall
 2178 develop individual education plans for each person with
 2179 maladaptive behaviors who receives services therein. Such
 2180 individual education plans shall be developed in accordance with
 2181 the criteria specified in 20 U.S.C. ss. 401 et seq., and 34
 2182 C.F.R. part 300.

2183 (4) In no instance shall the total number of persons with
 2184 maladaptive behaviors being provided services in a comprehensive
 2185 transitional education program exceed 120 residents.

2186 Section 29. Subsection (2) of section 393.501, Florida
 2187 Statutes, is amended to read:

2188 393.501 Rulemaking.--

2189 (2) Such rules shall address the number of facilities on a
 2190 single parcel or adjacent parcels of land, ~~and in addition, for~~

2191 ~~ICF/MR, the rate and location of facility development and level~~
 2192 ~~of care.~~

2193 Section 30. Subsections (1) and (3) of section 393.506,
 2194 Florida Statutes, are amended to read:

2195 393.506 Administration of medication.--

2196 (1) Notwithstanding the provisions of part I of chapter
 2197 464, the Nurse Practice Act, unlicensed direct care services
 2198 staff providing services to persons with developmental
 2199 disabilities may administer oral, transdermal, inhaled, or
 2200 topical prescription medications as provided in this section.

2201 (a) For day habilitation facilities ~~programs, as defined~~
 2202 ~~in s. 393.063~~, the director of the facility or program shall
 2203 designate in writing unlicensed direct care services staff who
 2204 are eligible to be trained to assist in the administration of or
 2205 to administer medication.

2206 (b) For intermediate care facilities for the
 2207 developmentally disabled ~~licensed pursuant to part XI of chapter~~
 2208 ~~400~~, unlicensed staff designated by the director may provide
 2209 medication assistance under the general supervision of a
 2210 registered nurse licensed pursuant to chapter 464.

2211 (3) The policies and procedures must include, at a
 2212 minimum, a requirement that ~~the following provisions:~~

2213 (a) The ~~An~~ expressed and informed consent of ~~for~~ each
 2214 client shall be obtained.

2215 (b) The director of the facility, program, or provider
 2216 must maintain a copy of the written prescription which includes
 2217 ~~and that prescription must include~~ the name of the medication,

2218 | the dosage and administration schedule, the reason for the
 2219 | prescription, and the termination date.

2220 | (c) Each prescribed medication shall be kept in its
 2221 | original container and in a secure location.

2222 | Section 31. Subsection (9) of section 397.405, Florida
 2223 | Statutes, is amended to read:

2224 | 397.405 Exemptions from licensure.--The following are
 2225 | exempt from the licensing provisions of this chapter:

2226 | (9) Facilities licensed under chapter 393 ~~s. 393.063~~ that,
 2227 | in addition to providing services to persons who are
 2228 | developmentally disabled as defined therein, also provide
 2229 | services to persons developmentally at risk as a consequence of
 2230 | exposure to alcohol or other legal or illegal drugs while in
 2231 | utero.

2232 | Section 32. Subsection (13) of section 400.419, Florida
 2233 | Statutes, is amended to read:

2234 | 400.419 Violations; imposition of administrative fines;
 2235 | grounds.--

2236 | (13) The agency shall develop and disseminate an annual
 2237 | list of all facilities sanctioned or fined \$5,000 or more for
 2238 | violations of state standards, the number and class of
 2239 | violations involved, the penalties imposed, and the current
 2240 | status of cases. The list shall be disseminated, at no charge,
 2241 | to the Department of Elderly Affairs, the Department of Health,
 2242 | the Department of Children and Family Services, the Agency for
 2243 | Persons with Disabilities, the area agencies on aging, the
 2244 | Florida Statewide Advocacy Council, and the state and local
 2245 | ombudsman councils. The Department of Children and Family

2246 Services shall disseminate the list to service providers under
 2247 contract to the department who are responsible for referring
 2248 persons to a facility for residency. The agency may charge a fee
 2249 commensurate with the cost of printing and postage to other
 2250 interested parties requesting a copy of this list.

2251 Section 33. Paragraph (b) of subsection (5) of section
 2252 400.464, Florida Statutes, is amended to read:

2253 400.464 Home health agencies to be licensed; expiration of
 2254 license; exemptions; unlawful acts; penalties.--

2255 (5) The following are exempt from the licensure
 2256 requirements of this part:

2257 (b) Home health services provided by a state agency,
 2258 either directly or through a contractor with:

2259 1. The Department of Elderly Affairs.

2260 2. The Department of Health, a community health center, or
 2261 a rural health network that furnishes home visits for the
 2262 purpose of providing environmental assessments, case management,
 2263 health education, personal care services, family planning, or
 2264 followup treatment, or for the purpose of monitoring and
 2265 tracking disease.

2266 3. Services provided to persons who have developmental
 2267 disabilities, as defined in s. 393.063.

2268 4. Companion and sitter organizations that were registered
 2269 under s. 400.509(1) on January 1, 1999, and were authorized to
 2270 provide personal services under s. 393.063(33), Florida Statutes
 2271 2000, under a developmental services provider certificate on
 2272 January 1, 1999, may continue to provide such services to past,

2273 present, and future clients of the organization who need such
 2274 services, notwithstanding the provisions of this act.

2275 5. The Department of Children and Family Services.

2276 Section 34. Section 400.960, Florida Statutes, is amended
 2277 to read:

2278 400.960 Definitions.--As used in this part, the term:

2279 ~~(1) "Active treatment" means the provision of services by~~
 2280 ~~an interdisciplinary team which are necessary to maximize a~~
 2281 ~~client's individual independence or prevent regression or loss~~
 2282 ~~of functional status.~~

2283 (1)~~(2)~~ "Agency" means the Agency for Health Care
 2284 Administration.

2285 (2)~~(3)~~ "Autism" means a pervasive, neurologically based
 2286 developmental disability of extended duration which causes
 2287 severe learning, communication, and behavior disorders with age
 2288 of onset during infancy or childhood. Individuals with autism
 2289 exhibit impairment in reciprocal social interaction, impairment
 2290 in verbal and nonverbal communication and imaginative ability,
 2291 and a markedly restricted repertoire of activities and
 2292 interests.

2293 (3)~~(4)~~ "Cerebral palsy" means a group of disabling
 2294 symptoms of extended duration which results from damage to the
 2295 developing brain occurring before, during, or after birth and
 2296 resulting in the loss or impairment of control over voluntary
 2297 muscles. The term does not include those symptoms or impairments
 2298 resulting solely from a stroke.

2299 (4)~~(5)~~ "Client" means any person determined by the Agency
 2300 for Persons with Disabilities ~~department~~ to be eligible for
 2301 developmental services.

2302 ~~(6) "Client advocate" means a friend or relative of the~~
 2303 ~~client, or of the client's immediate family, who advocates for~~
 2304 ~~the best interests of the client in any proceedings under this~~
 2305 ~~part in which the client or his or her family has the right or~~
 2306 ~~duty to participate.~~

2307 ~~(7) "Department" means the Department of Children and~~
 2308 ~~Family Services.~~

2309 (5)~~(8)~~ "Developmental disability" means a disorder or
 2310 syndrome that is attributable to retardation, cerebral palsy,
 2311 autism, spina bifida, or Prader-Willi syndrome and that
 2312 constitutes a substantial handicap that can reasonably be
 2313 expected to continue indefinitely.

2314 (6)~~(9)~~ "Direct service provider" means a person 18 years
 2315 of age or older who has direct contact with individuals with
 2316 developmental disabilities and who is unrelated to the
 2317 individuals with developmental disabilities.

2318 (7)~~(10)~~ "Epilepsy" means a chronic brain disorder of
 2319 various causes which is characterized by recurrent seizures due
 2320 to excessive discharge of cerebral neurons. When found
 2321 concurrently with retardation, autism, or cerebral palsy,
 2322 epilepsy is considered a secondary disability for which the
 2323 client is eligible to receive services to ameliorate this
 2324 condition according to the provisions of this part.

2325 ~~(11) "Guardian advocate" means a person appointed by the~~
 2326 ~~circuit court to represent a person with developmental~~

2327 ~~disabilities in any proceedings brought pursuant to s. 393.12,~~
 2328 ~~and is distinct from a guardian advocate for mentally ill~~
 2329 ~~persons under chapter 394.~~

2330 (8)~~(12)~~ "Intermediate care facility for the
 2331 developmentally disabled" means a residential facility licensed
 2332 and certified in accordance with state law, and certified by the
 2333 Federal Government, pursuant to the Social Security Act, as a
 2334 provider of Medicaid services to persons who are developmentally
 2335 disabled.

2336 (9)~~(13)~~ "Prader-Willi syndrome" means an inherited
 2337 condition typified by neonatal hypotonia with failure to thrive,
 2338 hyperphagia, or an excessive drive to eat which leads to
 2339 obesity, usually at 18 to 36 months of age, mild to moderate
 2340 retardation, hypogonadism, short stature, mild facial
 2341 dysmorphism, and a characteristic neurobehavior.

2342 (10)~~(14)~~ "Retardation" means significantly subaverage
 2343 general intellectual functioning existing concurrently with
 2344 deficits in adaptive behavior and manifested during the period
 2345 from conception to age 18. "Significantly subaverage general
 2346 intellectual functioning," for the purpose of this definition,
 2347 means performance that is two or more standard deviations from
 2348 the mean score on a standardized intelligence test specified in
 2349 rules of the Agency for Persons with Disabilities ~~department~~.
 2350 "Deficits in adaptive behavior," for the purpose of this
 2351 definition, means deficits in the effectiveness or degree with
 2352 which an individual meets the standards of personal independence
 2353 and social responsibility expected of his or her age, cultural
 2354 group, and community.

2355 ~~(11)(15)~~ "Spina bifida" means a medical diagnosis of spina
 2356 bifida cystica or myelomeningocele.

2357 Section 35. Subsection (2) of section 400.967, Florida
 2358 Statutes, is amended to read:

2359 400.967 Rules and classification of deficiencies.--

2360 (2) Pursuant to the intention of the Legislature, the
 2361 agency, in consultation with the Agency for Persons with
 2362 Disabilities ~~Department of Children and Family Services~~ and the
 2363 Department of Elderly Affairs, shall adopt and enforce rules to
 2364 administer this part, which shall include reasonable and fair
 2365 criteria governing:

2366 (a) The location and construction of the facility;
 2367 including fire and life safety, plumbing, heating, cooling,
 2368 lighting, ventilation, and other housing conditions that will
 2369 ensure the health, safety, and comfort of residents. The agency
 2370 shall establish standards for facilities and equipment to
 2371 increase the extent to which new facilities and a new wing or
 2372 floor added to an existing facility after July 1, 2000, are
 2373 structurally capable of serving as shelters only for residents,
 2374 staff, and families of residents and staff, and equipped to be
 2375 self-supporting during and immediately following disasters. ~~The~~
 2376 ~~Agency for Health Care Administration shall work with facilities~~
 2377 ~~licensed under this part and report to the Governor and the~~
 2378 ~~Legislature by April 1, 2000, its recommendations for cost-~~
 2379 ~~effective renovation standards to be applied to existing~~
 2380 ~~facilities. In making such rules, the agency shall be guided by~~
 2381 ~~criteria recommended by nationally recognized, reputable~~
 2382 ~~professional groups and associations having knowledge concerning~~

2383 ~~such subject matters.~~ The agency shall update or revise such
 2384 criteria as the need arises. All facilities must comply with
 2385 those lifesafety code requirements and building code standards
 2386 applicable at the time of approval of their construction plans.
 2387 The agency may require alterations to a building if it
 2388 determines that an existing condition constitutes a distinct
 2389 hazard to life, health, or safety. The agency shall adopt fair
 2390 and reasonable rules setting forth conditions under which
 2391 existing facilities undergoing additions, alterations,
 2392 conversions, renovations, or repairs are required to comply with
 2393 the most recent updated or revised standards.

2394 (b) The number and qualifications of all personnel,
 2395 including management, ~~medical~~ nursing, and other personnel,
 2396 having responsibility for any part of the care given to
 2397 residents.

2398 (c) All sanitary conditions within the facility and its
 2399 surroundings, including water supply, sewage disposal, food
 2400 handling, and general hygiene, which will ensure the health and
 2401 comfort of residents.

2402 (d) The equipment essential to the health and welfare of
 2403 the residents.

2404 (e) A uniform accounting system.

2405 (f) The care, treatment, and maintenance of residents and
 2406 measurement of the quality and adequacy thereof.

2407 (g) The preparation and annual update of a comprehensive
 2408 emergency management plan. The agency shall adopt rules
 2409 establishing minimum criteria for the plan after consultation
 2410 with the Department of Community Affairs. At a minimum, the

2411 rules must provide for plan components that address emergency
 2412 evacuation transportation; adequate sheltering arrangements;
 2413 postdisaster activities, including emergency power, food, and
 2414 water; postdisaster transportation; supplies; staffing;
 2415 emergency equipment; individual identification of residents and
 2416 transfer of records; and responding to family inquiries. The
 2417 comprehensive emergency management plan is subject to review and
 2418 approval by the local emergency management agency. During its
 2419 review, the local emergency management agency shall ensure that
 2420 the following agencies, at a minimum, are given the opportunity
 2421 to review the plan: the Department of Elderly Affairs, the
 2422 Agency for Persons with Disabilities ~~Department of Children and~~
 2423 ~~Family Services~~, the Agency for Health Care Administration, and
 2424 the Department of Community Affairs. Also, appropriate volunteer
 2425 organizations must be given the opportunity to review the plan.
 2426 The local emergency management agency shall complete its review
 2427 within 60 days and either approve the plan or advise the
 2428 facility of necessary revisions.

2429 (h) Each licensee shall post its license in a prominent
 2430 place that is in clear and unobstructed public view at or near
 2431 the place where residents are being admitted to the facility.

2432 Section 36. Section 402.20, Florida Statutes, is amended
 2433 to read:

2434 402.20 County contracts authorized for services and
 2435 facilities for persons with in mental illness or developmental
 2436 disabilities ~~health and retardation areas~~.--The boards of county
 2437 commissioners are authorized to provide monetary grants and
 2438 facilities, and to enter into renewable contracts, for services

2439 and facilities, for a period not to exceed 2 years, with public
 2440 and private hospitals, clinics, and laboratories; other state
 2441 agencies, departments, or divisions; the state colleges and
 2442 universities; the community colleges; private colleges and
 2443 universities; counties; municipalities; towns; townships; and
 2444 any other governmental unit or nonprofit organization which
 2445 provides needed facilities for persons with mental illness or
 2446 developmental disabilities ~~the mentally ill or retarded~~. These
 2447 services are hereby declared to be for a public and county
 2448 purpose. The county commissioners may make periodic inspections
 2449 to assure that the services or facilities provided under this
 2450 chapter meet the standards of the Department of Children and
 2451 Family Services and the Agency for Persons with Disabilities.

2452 Section 37. Subsections (1) through (6) of section 402.22,
 2453 Florida Statutes, are amended to read:

2454 402.22 Education program for students who reside in
 2455 residential care facilities ~~operated by the Department of~~
 2456 ~~Children and Family Services~~.--

2457 (1)(a) The Legislature recognizes that the Department of
 2458 Children and Family Services and the Agency for Persons with
 2459 Disabilities have under their ~~has under its~~ residential care
 2460 students with critical problems of physical impairment,
 2461 emotional disturbance, mental impairment, and learning
 2462 impairment.

2463 (b) The Legislature recognizes the vital role of education
 2464 in the rehabilitation of such students. It is the intent of the
 2465 Legislature that all such students benefit from educational
 2466 services and receive such services.

2467 (c) It is the intent of the Legislature that educational
 2468 services be coordinated with appropriate and existing diagnostic
 2469 and evaluative, social, followup, and other therapeutic services
 2470 of the department and the agency ~~of Children and Family Services~~
 2471 so that the effect of the total rehabilitation process is
 2472 maximized.

2473 (d) It is the intent of the Legislature that, as
 2474 educational programs for students in residential care facilities
 2475 are implemented by the district school board, educational
 2476 personnel in the ~~Department of Children and Family Services~~
 2477 residential care facilities who meet the qualifications for
 2478 employees of the district school board be employed by the
 2479 district school board.

2480 (2) District school boards shall establish educational
 2481 programs for all students ages 5 through 18 under the
 2482 residential care of the Department of Children and Family
 2483 Services and the Agency for Persons with Disabilities and may
 2484 provide for students below age 3 as provided for in s.
 2485 1003.21(1)(e). Funding of such programs shall be pursuant to s.
 2486 1011.62.

2487 (3) Notwithstanding any provisions of chapters 39, 393,
 2488 394, and 397 to the contrary, the services of the Department of
 2489 Children and Family Services and the Agency for Persons with
 2490 Disabilities, and those of the Department of Education and
 2491 district school boards shall be mutually supportive and
 2492 complementary of each other. The education programs provided by
 2493 the district school board shall meet the standards prescribed by
 2494 the State Board of Education and the district school board.

2495 Decisions regarding the design and delivery of department or
 2496 agency of Children and Family Services treatment or habilitative
 2497 services shall be made by interdisciplinary teams of
 2498 professional and paraprofessional staff of which appropriate
 2499 district school system administrative and instructional
 2500 personnel shall be invited to be participating members. The
 2501 requirements for maintenance of confidentiality as prescribed in
 2502 chapters 39, 393, 394, and 397 shall be applied to information
 2503 used by such interdisciplinary teams, and such information shall
 2504 be exempt from the provisions of ss. 119.07(1) and 286.011.

2505 (4) Students age 18 and under who are under the
 2506 residential care of the Department of Children and Family
 2507 Services or the Agency for Persons with Disabilities and who
 2508 receive an education program shall be calculated as full-time
 2509 equivalent student membership in the appropriate cost factor as
 2510 provided for in s. 1011.62(1)(c). Residential care facilities ~~of~~
 2511 ~~the Department of Children and Family Services~~ shall include,
 2512 but not be limited to, developmental disabilities ~~services~~
 2513 institutions and state mental health facilities. All students
 2514 shall receive their education program from the district school
 2515 system, and funding shall be allocated through the Florida
 2516 Education Finance Program for the district school system.

2517 (5) Instructional and special educational services which
 2518 are provided to ~~mental health and retardation~~ clients with
 2519 mental illness or developmental disabilities of ~~in~~ the
 2520 Department of Children and Family Services or the Agency for
 2521 Persons with Disabilities in residential care facilities by
 2522 local school districts shall not be less than 180 days or 900

2523 hours; however, the 900 hours may be distributed over a 12-month
 2524 period, unless otherwise stated in rules developed by the State
 2525 Board of Education with the concurrence of the department or the
 2526 agency and adopted ~~of Children and Family Services promulgated~~
 2527 pursuant to subsection (6).

2528 (6) The State Board of Education, ~~and~~ the Department of
 2529 Children and Family Services, and the Agency for Persons with
 2530 Disabilities shall have ~~the~~ authority to adopt ~~promulgate~~ rules
 2531 which shall assist in the orderly transfer of the instruction of
 2532 students from department or agency ~~of Children and Family~~
 2533 ~~Services~~ residential care facilities to the district school
 2534 system or to the public education agency and which shall assist
 2535 in implementing the specific intent as stated in this act.

2536 Section 38. Paragraph (s) of subsection (3) of section
 2537 408.036, Florida Statutes, is amended to read:

2538 408.036 Projects subject to review; exemptions.--

2539 (3) EXEMPTIONS.--Upon request, the following projects are
 2540 subject to exemption from the provisions of subsection (1):

2541 (s) For beds in state developmental disabilities ~~services~~
 2542 institutions as defined in s. 393.063.

2543 Section 39. Paragraph (a) of subsection (2) and subsection
 2544 (8) of section 409.908, Florida Statutes, are amended to read:

2545 409.908 Reimbursement of Medicaid providers.--Subject to
 2546 specific appropriations, the agency shall reimburse Medicaid
 2547 providers, in accordance with state and federal law, according
 2548 to methodologies set forth in the rules of the agency and in
 2549 policy manuals and handbooks incorporated by reference therein.
 2550 These methodologies may include fee schedules, reimbursement

2551 methods based on cost reporting, negotiated fees, competitive
 2552 bidding pursuant to s. 287.057, and other mechanisms the agency
 2553 considers efficient and effective for purchasing services or
 2554 goods on behalf of recipients. If a provider is reimbursed based
 2555 on cost reporting and submits a cost report late and that cost
 2556 report would have been used to set a lower reimbursement rate
 2557 for a rate semester, then the provider's rate for that semester
 2558 shall be retroactively calculated using the new cost report, and
 2559 full payment at the recalculated rate shall be effected
 2560 retroactively. Medicare-granted extensions for filing cost
 2561 reports, if applicable, shall also apply to Medicaid cost
 2562 reports. Payment for Medicaid compensable services made on
 2563 behalf of Medicaid eligible persons is subject to the
 2564 availability of moneys and any limitations or directions
 2565 provided for in the General Appropriations Act or chapter 216.
 2566 Further, nothing in this section shall be construed to prevent
 2567 or limit the agency from adjusting fees, reimbursement rates,
 2568 lengths of stay, number of visits, or number of services, or
 2569 making any other adjustments necessary to comply with the
 2570 availability of moneys and any limitations or directions
 2571 provided for in the General Appropriations Act, provided the
 2572 adjustment is consistent with legislative intent.

2573 (2)(a)1. Reimbursement to nursing homes licensed under
 2574 part II of chapter 400 and state-owned-and-operated intermediate
 2575 care facilities for the developmentally disabled licensed under
 2576 part XI of chapter 400 ~~chapter 393~~ must be made prospectively.

2577 2. Unless otherwise limited or directed in the General
 2578 Appropriations Act, reimbursement to hospitals licensed under

2579 part I of chapter 395 for the provision of swing-bed nursing
 2580 home services must be made on the basis of the average statewide
 2581 nursing home payment, and reimbursement to a hospital licensed
 2582 under part I of chapter 395 for the provision of skilled nursing
 2583 services must be made on the basis of the average nursing home
 2584 payment for those services in the county in which the hospital
 2585 is located. When a hospital is located in a county that does not
 2586 have any community nursing homes, reimbursement shall ~~must~~ be
 2587 determined by averaging the nursing home payments, in counties
 2588 that surround the county in which the hospital is located.
 2589 Reimbursement to hospitals, including Medicaid payment of
 2590 Medicare copayments, for skilled nursing services shall be
 2591 limited to 30 days, unless a prior authorization has been
 2592 obtained from the agency. Medicaid reimbursement may be extended
 2593 by the agency beyond 30 days, and approval must be based upon
 2594 verification by the patient's physician that the patient
 2595 requires short-term rehabilitative and recuperative services
 2596 only, in which case an extension of no more than 15 days may be
 2597 approved. Reimbursement to a hospital licensed under part I of
 2598 chapter 395 for the temporary provision of skilled nursing
 2599 services to nursing home residents who have been displaced as
 2600 the result of a natural disaster or other emergency may not
 2601 exceed the average county nursing home payment for those
 2602 services in the county in which the hospital is located and is
 2603 limited to the period of time which the agency considers
 2604 necessary for continued placement of the nursing home residents
 2605 in the hospital.

2606 (8) A provider of home-based or community-based services
 2607 rendered pursuant to a federally approved waiver shall be
 2608 reimbursed based on an established or negotiated rate for each
 2609 service. These rates shall be established according to an
 2610 analysis of the expenditure history and prospective budget
 2611 developed by each contract provider participating in the waiver
 2612 program, or under any other methodology adopted by the agency
 2613 and approved by the Federal Government in accordance with the
 2614 waiver. ~~Effective July 1, 1996,~~ Privately owned and operated
 2615 community-based residential facilities which meet agency
 2616 requirements and which formerly received Medicaid reimbursement
 2617 for the optional intermediate care facility for the mentally
 2618 retarded service may participate in the developmental services
 2619 waiver as part of a home-and-community-based continuum of care
 2620 for Medicaid recipients who receive waiver services.

2621 Section 40. Subsection (3) of section 409.9127, Florida
 2622 Statutes, is amended to read:

2623 409.9127 Preauthorization and concurrent utilization
 2624 review; conflict-of-interest standards.--

2625 (3) The agency shall help the Agency for Persons with
 2626 Disabilities ~~Department of Children and Family Services~~ meet the
 2627 requirements of s. 393.065(4). Only admissions approved pursuant
 2628 to such assessments are eligible for reimbursement under this
 2629 chapter.

2630 Section 41. Paragraph (c) of subsection (2) and subsection
 2631 (5) of section 411.224, Florida Statutes, are amended to read:

2632 411.224 Family support planning process.--The Legislature
 2633 establishes a family support planning process to be used by the

2634 Department of Children and Family Services as the service
 2635 planning process for targeted individuals, children, and
 2636 families under its purview.

2637 (2) To the extent possible within existing resources, the
 2638 following populations must be included in the family support
 2639 planning process:

2640 (c) Children from birth through age 5 who are served by
 2641 the Agency for Persons with Disabilities ~~Developmental~~
 2642 ~~Disabilities Program Office of the Department of Children and~~
 2643 ~~Family Services.~~

2644 (5) There must be only a single-family support plan to
 2645 address the problems of the various family members unless the
 2646 family requests that an individual family support plan be
 2647 developed for different members of that family. The family
 2648 support plan must replace individual habilitation plans for
 2649 children from birth through 5 years old who are served by the
 2650 Agency for Persons with Disabilities ~~Developmental Disabilities~~
 2651 ~~Program Office of the Department of Children and Family~~
 2652 ~~Services.~~ To the extent possible, the family support plan must
 2653 replace other case-planning forms used by the Department of
 2654 Children and Family Services.

2655 Section 42. Subsections (1) and (10) of section 415.1055,
 2656 Florida Statutes, are amended to read:

2657 415.1055 Notification to administrative entities.--

2658 (1) Upon receipt of a report that alleges that an employee
 2659 or agent of the department, the Agency for Persons with
 2660 Disabilities, or the Department of Elderly Affairs, acting in an
 2661 official capacity, has committed an act of abuse, neglect, or

2662 exploitation, the department shall notify the state attorney in
 2663 whose circuit the abuse, neglect, or exploitation occurred. This
 2664 notification may be oral or written.

2665 (10) When a report has been received and the department
 2666 has reason to believe that a vulnerable adult resident of a
 2667 facility licensed by the Agency for Health Care Administration
 2668 or the Agency for Persons with Disabilities has been the victim
 2669 of abuse, neglect, or exploitation, the department shall provide
 2670 a copy of its investigation to the appropriate agency. If the
 2671 investigation determines that a health professional licensed or
 2672 certified under the Department of Health may have abused,
 2673 neglected, or exploited a vulnerable adult, the department shall
 2674 also provide a copy to the Department of Health.

2675 Section 43. Paragraphs (a) and (h) of subsection (3) of
 2676 section 415.107, Florida Statutes, are amended to read:

2677 415.107 Confidentiality of reports and records.--

2678 (3) Access to all records, excluding the name of the
 2679 reporter which shall be released only as provided in subsection
 2680 (6), shall be granted only to the following persons, officials,
 2681 and agencies:

2682 (a) Employees or agents of the department, the Agency for
 2683 Persons with Disabilities, ~~of~~ the Agency for Health Care
 2684 Administration, or ~~of~~ the Department of Elderly Affairs who are
 2685 responsible for carrying out protective investigations, ongoing
 2686 protective services, or licensure or approval of nursing homes,
 2687 assisted living facilities, adult day care centers, adult
 2688 family-care homes, home care for the elderly, hospices, or other
 2689 facilities used for the placement of vulnerable adults.

2690 (h) Any appropriate official of the department, the Agency
 2691 for Persons with Disabilities, ~~of~~ the Agency for Health Care
 2692 Administration, or ~~of~~ the Department of Elderly Affairs who is
 2693 responsible for:

2694 1. Administration or supervision of the programs for the
 2695 prevention, investigation, or treatment of abuse, neglect, or
 2696 exploitation of vulnerable adults when carrying out an official
 2697 function; or

2698 2. Taking appropriate administrative action concerning an
 2699 employee alleged to have perpetrated abuse, neglect, or
 2700 exploitation of a vulnerable adult in an institution.

2701 Section 44. Subsections (1), (2), (3), and (6) of section
 2702 419.001, Florida Statutes, are amended to read:

2703 419.001 Site selection of community residential homes.--

2704 (1) For the purposes of this section, the term ~~following~~
 2705 ~~definitions shall apply:~~

2706 (a) "Agency" means the Agency for Persons with
 2707 Disabilities.

2708 (b)~~(a)~~ "Community residential home" means a dwelling unit
 2709 licensed to serve clients of the Department of Children and
 2710 Family Services or the agency, which provides a living
 2711 environment for 7 to 14 unrelated residents who operate as the
 2712 functional equivalent of a family, including such supervision
 2713 and care by supportive staff as may be necessary to meet the
 2714 physical, emotional, and social needs of the residents.

2715 (c)~~(b)~~ "Department" means the Department of Children and
 2716 Family Services.

2717 (d)~~(e)~~ "Local government" means a county as set forth in
 2718 chapter 7 or a municipality incorporated under the provisions of
 2719 chapter 165.

2720 (e)~~(d)~~ "Resident" means any of the following: a frail
 2721 elder as defined in s. 400.618; a physically disabled or
 2722 handicapped person as defined in s. 760.22(7)(a); a
 2723 ~~developmentally disabled person~~ with a developmental disability
 2724 as defined in s. 393.063; a nondangerous person with mental
 2725 illness ~~mentally ill person~~ as defined in s. 394.455~~(18)~~; or a
 2726 child as defined in s. 39.01(14), s. 984.03(9) or (12), or s.
 2727 985.03(8).

2728 (f)~~(e)~~ "Sponsoring agency" means an agency or unit of
 2729 government, a profit or nonprofit agency, or any other person or
 2730 organization which intends to establish or operate a community
 2731 residential home.

2732 (2) Homes of six or fewer residents which otherwise meet
 2733 the definition of a community residential home shall be deemed a
 2734 single-family unit and a noncommercial, residential use for the
 2735 purpose of local laws and ordinances. Homes of six or fewer
 2736 residents which otherwise meet the definition of a community
 2737 residential home shall be allowed in single-family or
 2738 multifamily zoning without approval by the local government,
 2739 provided that such homes shall not be located within a radius of
 2740 1,000 feet of another existing such home with six or fewer
 2741 residents. Such homes with six or fewer residents shall not be
 2742 required to comply with the notification provisions of this
 2743 section; provided, however, that the sponsoring agency ~~or the~~
 2744 ~~department~~ notifies the local government at the time of home

2745 occupancy that the home is licensed by the department or the
 2746 agency.

2747 (3)(a) When a site for a community residential home has
 2748 been selected by a sponsoring agency in an area zoned for
 2749 multifamily, the sponsoring agency shall notify the chief
 2750 executive officer of the local government in writing and include
 2751 in such notice the specific address of the site, the residential
 2752 licensing category, the number of residents, and the community
 2753 support requirements of the program. Such notice shall also
 2754 contain a statement from the district administrator of the
 2755 department indicating the need for and the licensing status of
 2756 the proposed community residential home and specifying how the
 2757 home meets applicable licensing criteria for the safe care and
 2758 supervision of the clients in the home. The department and the
 2759 agency ~~district administrator~~ shall also provide to the local
 2760 government the most recently published data compiled that
 2761 identifies all community residential homes in the department
 2762 district in which the proposed site is to be located. The local
 2763 government shall review the notification of the sponsoring
 2764 agency in accordance with the zoning ordinance of the
 2765 jurisdiction.

2766 (b) Pursuant to such review, the local government may:

- 2767 1. Determine that the siting of the community residential
 2768 home is in accordance with local zoning and approve the siting.
 2769 If the siting is approved, the sponsoring agency may establish
 2770 the home at the site selected.

2771 2. Fail to respond within 60 days. If the local government
 2772 fails to respond within such time, the sponsoring agency may
 2773 establish the home at the site selected.

2774 3. Deny the siting of the home.

2775 (c) The local government shall not deny the siting of a
 2776 community residential home unless the local government
 2777 establishes that the siting of the home at the site selected:

2778 1. Does not otherwise conform to existing zoning
 2779 regulations applicable to other multifamily uses in the area.

2780 2. Does not meet applicable licensing criteria established
 2781 and determined by the department or the agency, including
 2782 requirements that the home be located to assure the safe care
 2783 and supervision of all clients in the home.

2784 3. Would result in such a concentration of community
 2785 residential homes in the area in proximity to the site selected,
 2786 or would result in a combination of such homes with other
 2787 residences in the community, such that the nature and character
 2788 of the area would be substantially altered. A home that is
 2789 located within a radius of 1,200 feet of another existing
 2790 community residential home in a multifamily zone shall be an
 2791 overconcentration of such homes that substantially alters the
 2792 nature and character of the area. A home that is located within
 2793 a radius of 500 feet of an area of single-family zoning
 2794 substantially alters the nature and character of the area.

2795 (6) The department or the agency shall not issue a license
 2796 to a sponsoring agency for operation of a community residential
 2797 home if the sponsoring agency does not notify the local
 2798 government of its intention to establish a program, as required

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2799 by subsection (3). A license issued without compliance with the
 2800 provisions of this section shall be considered null and void,
 2801 and continued operation of the home may be enjoined.

2802 Section 45. Paragraph (a) of subsection (3) of section
 2803 435.03, Florida Statutes, is amended to read:

2804 435.03 Level 1 screening standards.--

2805 (3) Standards must also ensure that the person:

2806 (a) For employees and employers licensed or registered
 2807 pursuant to chapter 400, and for employees and employers of
 2808 developmental disabilities ~~services~~ institutions as defined in
 2809 s. 393.063, intermediate care facilities for persons with
 2810 developmental disabilities ~~the developmentally disabled~~ as
 2811 defined in s. 400.960 ~~393.063~~, and mental health treatment
 2812 facilities as defined in s. 394.455, meets the requirements of
 2813 this chapter.

2814 Section 46. Paragraph (a) of subsection (2) of section
 2815 490.014, Florida Statutes, is amended to read:

2816 490.014 Exemptions.--

2817 (2) No person shall be required to be licensed or
 2818 provisionally licensed under this chapter who:

2819 (a) Is a salaried employee of a government agency;
 2820 ~~developmental services program~~, mental health, alcohol, or drug
 2821 abuse facility operating pursuant to chapter 393, chapter 394,
 2822 or chapter 397; subsidized child care program, subsidized child
 2823 care case management program, or child care resource and
 2824 referral program operating pursuant to chapter 402; child-
 2825 placing or child-caring agency licensed pursuant to chapter 409;
 2826 domestic violence center certified pursuant to chapter 39;

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2827 accredited academic institution; or research institution, if
 2828 such employee is performing duties for which he or she was
 2829 trained and hired solely within the confines of such agency,
 2830 facility, or institution, so long as the employee is not held
 2831 out to the public as a psychologist pursuant to s.

2832 490.012(1)(a).

2833 Section 47. Paragraph (a) of subsection (4) of section
 2834 491.014, Florida Statutes, is amended to read:

2835 491.014 Exemptions.--

2836 (4) No person shall be required to be licensed,
 2837 provisionally licensed, registered, or certified under this
 2838 chapter who:

2839 (a) Is a salaried employee of a government agency;
 2840 ~~developmental services program~~, mental health, alcohol, or drug
 2841 abuse facility operating pursuant to chapter 393, chapter 394,
 2842 or chapter 397; subsidized child care program, subsidized child
 2843 care case management program, or child care resource and
 2844 referral program operating pursuant to chapter 402; child-
 2845 placing or child-caring agency licensed pursuant to chapter 409;
 2846 domestic violence center certified pursuant to chapter 39;
 2847 accredited academic institution; or research institution, if
 2848 such employee is performing duties for which he or she was
 2849 trained and hired solely within the confines of such agency,
 2850 facility, or institution, so long as the employee is not held
 2851 out to the public as a clinical social worker, mental health
 2852 counselor, or marriage and family therapist.

2853 Section 48. Paragraph (a) of subsection (1) of section
 2854 916.107, Florida Statutes, is amended to read:

2855 916.107 Rights of forensic clients.--
 2856 (1) RIGHT TO INDIVIDUAL DIGNITY.--
 2857 (a) The policy of the state is that the individual dignity
 2858 of the client shall be respected at all times and upon all
 2859 occasions, including any occasion when the forensic client is
 2860 detained, transported, or treated. Defendants who are mentally
 2861 ill, retarded, or autistic and who are charged with committing
 2862 felonies shall receive appropriate treatment or training. In a
 2863 criminal case involving a defendant who has been adjudicated
 2864 incompetent to proceed or not guilty by reason of insanity, a
 2865 jail may be used as an emergency facility for up to 15 days from
 2866 the date the department receives a completed copy of the
 2867 commitment order containing the documentation required by Rules
 2868 3.212 and 3.217, Florida Rules of Criminal Procedure. For a
 2869 defendant who is mentally ill, retarded, or autistic, who is
 2870 held in a jail, and who has been adjudicated incompetent to
 2871 proceed or not guilty by reason of insanity, evaluation and
 2872 treatment or training shall be provided in the jail by the local
 2873 public receiving facility for mental health services or by the
 2874 Agency for Persons with Disabilities ~~developmental services~~
 2875 ~~program~~ for persons with retardation or autism, the client's
 2876 physician or psychologist, or any other appropriate program
 2877 until the client is transferred to the custody of the
 2878 department.

2879 Section 49. Subsections (2) and (4) of section 916.301,
 2880 Florida Statutes, are amended to read:

2881 916.301 Appointment of experts.--

2882 (2) If a defendant's suspected mental condition is
 2883 retardation or autism, the court shall appoint two experts, one
 2884 of whom must be the Agency for Persons with Disabilities
 2885 ~~developmental services program of the department~~, each of whom
 2886 will evaluate whether the defendant meets the definition of
 2887 retardation or autism and, if so, whether the defendant is
 2888 competent to proceed.

2889 (4) The Agency for Persons with Disabilities ~~developmental~~
 2890 ~~services program~~ shall select a psychologist who is licensed or
 2891 authorized by law to practice in this state, with experience in
 2892 evaluating persons suspected of having retardation or autism,
 2893 and a social service professional with experience in working
 2894 with persons with retardation or autism to evaluate the
 2895 defendant.

2896 (a) The psychologist shall evaluate whether the defendant
 2897 meets the definition of retardation or autism and, if so,
 2898 whether the defendant is incompetent to proceed due to
 2899 retardation or autism.

2900 (b) The social service professional shall provide a social
 2901 and developmental history of the defendant.

2902 Section 50. Subsection (3) of section 916.3025, Florida
 2903 Statutes, is amended to read:

2904 916.3025 Jurisdiction of committing court.--

2905 (3) The committing court shall consider the petition to
 2906 involuntarily admit to residential services provided by the
 2907 Agency for Persons with Disabilities ~~department's developmental~~
 2908 ~~services program~~ a person whose charges have been dismissed,
 2909 and, when applicable, to continue secure placement of such

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2910 person as provided in s. 916.303. The committing court shall
 2911 retain jurisdiction over such person so long as he or she
 2912 remains in secure placement or is on conditional release.

2913 Section 51. Section 944.602, Florida Statutes, is amended
 2914 to read:

2915 944.602 Agency notification of ~~Department of Children and~~
 2916 ~~Family Services~~ before release of mentally retarded
 2917 inmates.--Before the release by parole, release by reason of
 2918 gain-time allowances provided for in s. 944.291, or expiration
 2919 of sentence of any inmate who has been diagnosed as mentally
 2920 retarded as defined in s. 393.063, the Department of Corrections
 2921 shall notify the Agency for Persons with Disabilities ~~Department~~
 2922 ~~of Children and Family Services~~ in order that sufficient time be
 2923 allowed to notify the inmate or the inmate's representative, in
 2924 writing, at least 7 days prior to the inmate's release, of
 2925 available community services.

2926 Section 52. Subsections (2) and (3) of section 945.025,
 2927 Florida Statutes, are amended to read:

2928 945.025 Jurisdiction of department.--

2929 (2) In establishing, operating, and utilizing these
 2930 facilities, the department shall attempt, whenever possible, to
 2931 avoid the placement of nondangerous offenders who have potential
 2932 for rehabilitation with repeat offenders or dangerous offenders.
 2933 Medical, mental, and psychological problems shall be diagnosed
 2934 and treated whenever possible. The Department of Children and
 2935 Family Services and the Agency for Persons with Disabilities
 2936 shall cooperate to ensure the delivery of services to persons
 2937 under the custody or supervision of the department. When it is

2938 the intent of the department to transfer a mentally ill or
 2939 retarded prisoner to the Department of Children and Family
 2940 Services or the Agency for Persons with Disabilities, an
 2941 involuntary commitment hearing shall be held according to the
 2942 provisions of chapter 393 or chapter 394.

2943 (3) There shall be other correctional facilities,
 2944 including detention facilities of varying levels of security,
 2945 work-release facilities, and community correctional facilities,
 2946 halfway houses, and other approved community residential and
 2947 nonresidential facilities and programs; however, no adult
 2948 correctional facility may be established by changing the use and
 2949 purpose of any mental health facility or mental health
 2950 institution under the jurisdiction of any state agency or
 2951 department without authorization in the General Appropriation
 2952 Act or other approval by the Legislature. ~~Any facility the~~
 2953 ~~purpose and use of which was changed subsequent to January 1,~~
 2954 ~~1975, shall be returned to its original use and purpose by July~~
 2955 ~~1, 1977. However, the G. Pierce Wood Memorial Hospital located~~
 2956 ~~at Arcadia, DeSoto County, may not be converted into a~~
 2957 ~~correctional facility as long as such hospital is in use as a~~
 2958 ~~state mental health hospital.~~ Any community residential facility
 2959 may be deemed a part of the state correctional system for
 2960 purposes of maintaining custody of offenders, and for this
 2961 purpose the department may contract for and purchase the
 2962 services of such facilities.

2963 Section 53. Section 947.185, Florida Statutes, is amended
 2964 to read:

2965 947.185 Application for mental retardation services as
 2966 condition of parole.--The Parole Commission may require as a
 2967 condition of parole that any inmate who has been diagnosed as
 2968 mentally retarded as defined in s. 393.063 shall, upon release,
 2969 apply for retardation services from the Agency for Persons with
 2970 Disabilities ~~Department of Children and Family Services.~~

2971 Section 54. Subsection (3) of section 984.19, Florida
 2972 Statutes, is amended to read:

2973 984.19 Medical screening and treatment of child;
 2974 examination of parent, guardian, or person requesting custody.--

2975 (3) A judge may order that a child alleged to be or
 2976 adjudicated a child in need of services be examined by a
 2977 licensed health care professional. The judge may also order such
 2978 child to be evaluated by a psychiatrist or a psychologist, by a
 2979 district school board educational needs assessment team, or, if
 2980 a developmental disability is suspected or alleged, by a the
 2981 developmental disability diagnostic and evaluation team with of
 2982 the Agency for Persons with Disabilities ~~Department of Children~~
 2983 ~~and Family Services.~~ The judge may order a family assessment if
 2984 that assessment was not completed at an earlier time. If it is
 2985 necessary to place a child in a residential facility for such
 2986 evaluation, then the criteria and procedure established in s.
 2987 394.463(2) or chapter 393 shall be used, whichever is
 2988 applicable. The educational needs assessment provided by the
 2989 district school board educational needs assessment team shall
 2990 include, but not be limited to, reports of intelligence and
 2991 achievement tests, screening for learning disabilities and other

2992 handicaps, and screening for the need for alternative education
 2993 pursuant to s. 1003.53.

2994 Section 55. Subsection (8) of section 984.225, Florida
 2995 Statutes, is amended to read:

2996 984.225 Powers of disposition; placement in a staff-secure
 2997 shelter.--

2998 (8) If the child requires residential mental health
 2999 treatment or residential care for a developmental disability,
 3000 the court shall refer the child to the Department of Children
 3001 and Family Services or the Agency for Persons with Disabilities,
 3002 as appropriate, for the provision of necessary services.

3003 Section 56. Paragraph (e) of subsection (5) of section
 3004 984.226, Florida Statutes, is amended to read:

3005 984.226 Physically secure setting.--

3006 (5)

3007 (e) If the child requires residential mental health
 3008 treatment or residential care for a developmental disability,
 3009 the court shall refer the child to the Department of Children
 3010 and Family Services or the Agency for Persons with Disabilities,
 3011 as appropriate, for the provision of necessary services.

3012 Section 57. Subsection (1) of section 985.224, Florida
 3013 Statutes, is amended to read:

3014 985.224 Medical, psychiatric, psychological, substance
 3015 abuse, and educational examination and treatment.--

3016 (1) After a detention petition or a petition for
 3017 delinquency has been filed, the court may order the child named
 3018 in the petition to be examined by a physician. The court may
 3019 also order the child to be evaluated by a psychiatrist or a

3020 psychologist, by a district school board educational needs
 3021 assessment team, or, if a developmental disability is suspected
 3022 or alleged, by a ~~the~~ developmental disabilities diagnostic and
 3023 evaluation team with ~~of~~ the Agency for Persons with Disabilities
 3024 ~~Department of Children and Family Services~~. If it is necessary
 3025 to place a child in a residential facility for such evaluation,
 3026 the criteria and procedures established in chapter 393, chapter
 3027 394, or chapter 397, whichever is applicable, shall be used.

3028 Section 58. Section 1003.58, Florida Statutes, is amended
 3029 to read:

3030 1003.58 Students in residential care facilities.--Each
 3031 district school board shall provide educational programs
 3032 according to rules of the State Board of Education to students
 3033 who reside in residential care facilities operated by the
 3034 Department of Children and Family Services or the Agency for
 3035 Persons with Disabilities.

3036 (1) The district school board shall not be charged any
 3037 rent, maintenance, utilities, or overhead on such facilities.
 3038 Maintenance, repairs, and remodeling of existing facilities
 3039 shall be provided by the Department of Children and Family
 3040 Services or the Agency for Persons with Disabilities, as
 3041 appropriate.

3042 (2) If additional facilities are required, the district
 3043 school board and the Department of Children and Family Services
 3044 or the Agency for Persons with Disabilities, as appropriate,
 3045 shall agree on the appropriate site based on the instructional
 3046 needs of the students. When the most appropriate site for
 3047 instruction is on district school board property, a special

3048 capital outlay request shall be made by the commissioner in
 3049 accordance with s. 1013.60. When the most appropriate site is on
 3050 state property, state capital outlay funds shall be requested by
 3051 the department or agency in accordance with chapter 216 of
 3052 ~~Children and Family Services as provided by s. 216.043 and shall~~
 3053 ~~be submitted as specified by s. 216.023.~~ Any instructional
 3054 facility to be built on state property shall have educational
 3055 specifications jointly developed by the school district and the
 3056 department or agency of Children and Family Services and
 3057 approved by the Department of Education. The size of space and
 3058 occupant design capacity criteria as provided by state board
 3059 rules shall be used for remodeling or new construction whether
 3060 facilities are provided on state property or district school
 3061 board property. The planning of such additional facilities shall
 3062 incorporate current state Department of Children and Family
 3063 ~~Services~~ deinstitutionalization plans.

3064 (3) The district school board shall have full and complete
 3065 authority in the matter of the assignment and placement of such
 3066 students in educational programs. The parent of an exceptional
 3067 student shall have the same due process rights as are provided
 3068 under s. 1003.57(5).

3069 (4) The district school board shall have a written
 3070 agreement with the Department of Children and Family Services
 3071 and the Agency for Persons with Disabilities outlining the
 3072 respective duties and responsibilities of each party.

3073
 3074 Notwithstanding the provisions herein, the educational program
 3075 at the Marianna Sunland Center in Jackson County shall be

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3076 | operated by the Department of Education, either directly or
3077 | through grants or contractual agreements with other public or
3078 | duly accredited educational agencies approved by the Department
3079 | of Education.

3080 | Section 59. This act shall take effect July 1, 2005.