

By Senator Fasano

11-730B-06

1 A bill to be entitled
2 An act relating to the Department of Elderly
3 Affairs; amending s. 20.41, F.S.; deleting
4 provisions relating to contracts by the
5 Department of Elderly Affairs with area
6 agencies on aging for certain services;
7 creating s. 430.011, F.S.; defining the terms
8 "department" and "secretary"; amending s.
9 430.04, F.S.; deleting provisions relating to
10 the designation of an area agency on aging;
11 amending s. 430.05, F.S.; revising the
12 composition of the membership of the Department
13 of Elderly Affairs Advisory Council; amending
14 s. 430.071, F.S.; revising certain definitions
15 and defining the terms "homebound elderly
16 individual" and "RELIEF program"; providing
17 that RELIEF services may be delivered to a
18 homebound elderly individual in certain places;
19 providing criteria for eligibility to receive
20 respite services; authorizing the department to
21 give priority for services to persons who are
22 most in need of services in order to prevent
23 their institutionalization; authorizing the
24 department to adopt rules for the RELIEF
25 program; amending s. 430.101, F.S.; revising
26 provisions to conform to changes made by the
27 act; creating s. 430.103, F.S.; providing for
28 the administration of federal programs for the
29 aged; defining terms; providing for
30 responsibilities of the department and each
31 area agency on aging; authorizing the

1 department to sanction an area agency under
2 certain specified circumstances; amending s.
3 430.201, F.S.; conforming a cross-reference;
4 amending s. 430.202, F.S.; requiring that the
5 community care for the elderly program be
6 operated through public or private agencies
7 that are not agencies of the state; amending s.
8 430.203, F.S.; redefining terms and adding a
9 definition for the term "case management";
10 amending s. 430.204, F.S.; revising the
11 responsibilities and duties of the department
12 in administering the
13 community-care-for-the-elderly program;
14 directing the department to adopt rules;
15 requiring the department to contract with an
16 administering entity in each community care
17 service area; requiring the administrating
18 entity to designate a lead agency in the
19 community care service area; providing duties
20 for administering entities; providing duties
21 for each lead agency; requiring a lead agency
22 to ensure that case management and core
23 services are available to clients in the
24 community care service area; providing
25 eligibility criteria for case management and
26 core services; providing that certain abused
27 adults are entitled to primary consideration
28 for services; requiring training programs;
29 directing eligible persons to the Medicaid
30 program in order to conserve funds of the
31 community-care-for-the-elderly program;

1 authorizing the department to conduct certain
2 demonstration projects; creating s. 430.2043,
3 F.S.; providing procedures for the competitive
4 selection of a lead agency; providing for the
5 submission of proposals and the scoring of the
6 proposals; providing that the secretary may
7 waive the competitive-procurement process under
8 specified circumstances; creating s. 430.2045,
9 F.S.; requiring the department to adopt rules
10 to administer the
11 community-care-for-the-elderly program;
12 creating s. 430.2051, F.S.; requiring the
13 department and the Agency for Health Care
14 Administration to create an integrated
15 long-term-care delivery system; providing for a
16 demonstration project; directing the department
17 to monitor the Alzheimer's Disease waiver
18 program; requiring the agency, in consultation
19 with the department, to begin discussions with
20 the federal Centers for Medicare and Medicaid
21 Services regarding the inclusion of Medicare
22 into the integrated long-term-care system;
23 requiring the agency to provide the Governor,
24 the President of the Senate, and the Speaker of
25 the House of Representatives a plan for
26 including Medicare in the integrated
27 long-term-care system; creating s. 430.5001,
28 F.S.; authorizing the department to adopt rules
29 for the Alzheimer's Disease Initiative;
30 amending s. 430.502, F.S.; requiring
31 Alzheimer's respite provider organizations to

1 assess and collect service fees; requiring the
2 department to prepare a fee schedule; amending
3 ss. 430.602, 430.603, 430.604, and 430.606,
4 F.S.; conforming provisions to changes made by
5 the act; amending ss. 400.126, 420.36, 430.207,
6 430.504, and 430.705, F.S., conforming
7 cross-references; repealing ss. 430.205,
8 430.2053, and 430.503, F.S., relating to the
9 community care service system, aging resource
10 centers, and the Alzheimer's Disease
11 Initiative; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Section 20.41, Florida Statutes, is amended
16 to read:

17 20.41 Department of Elderly Affairs.--There is created
18 a Department of Elderly Affairs.

19 (1) The head of the department is the Secretary of
20 Elderly Affairs. The secretary must be appointed by the
21 Governor, subject to confirmation by the Senate. The secretary
22 serves at the pleasure of the Governor. The secretary shall
23 administer the affairs of the department and may employ
24 assistants, professional staff, and other employees as
25 necessary to discharge the powers and duties of the
26 department.

27 ~~(2) The department shall plan and administer its~~
28 ~~programs and services through planning and service areas as~~
29 ~~designated by the department.~~

30 (2)(3) The department shall maintain its headquarters
31 in Tallahassee.

1 (3)~~(4)~~ The department shall administer the State
2 Long-Term Care Ombudsman Council, created by s. 400.0067, and
3 the local long-term care ombudsman councils, created by s.
4 400.0069 and shall, as required by s. 712 of the federal Older
5 Americans Act of 1965, ensure that both the state and local
6 long-term care ombudsman councils operate in compliance with
7 the Older Americans Act.

8 (4)~~(5)~~ The department shall be the state unit on aging
9 as defined in the federal Older Americans Act of 1965, as
10 amended, and shall exercise all responsibilities pursuant to
11 that act.

12 ~~(6) In accordance with the federal Older Americans Act~~
13 ~~of 1965, as amended, the department shall designate and~~
14 ~~contract with area agencies on aging in each of the~~
15 ~~department's planning and service areas. Area agencies on~~
16 ~~aging shall ensure a coordinated and integrated provision of~~
17 ~~long term care services to the elderly and shall ensure the~~
18 ~~provision of prevention and early intervention services. The~~
19 ~~department shall have overall responsibility for information~~
20 ~~system planning. The department shall ensure, through the~~
21 ~~development of equipment, software, data, and connectivity~~
22 ~~standards, the ability to share and integrate information~~
23 ~~collected and reported by the area agencies in support of~~
24 ~~their contracted obligations to the state.~~

25 ~~(7) The department shall contract with the governing~~
26 ~~body, hereafter referred to as the "board," of an area agency~~
27 ~~on aging to fulfill programmatic and funding requirements.~~
28 ~~The board shall be responsible for the overall direction of~~
29 ~~the agency's programs and services and shall ensure that the~~
30 ~~agency is administered in accordance with the terms of its~~
31 ~~contract with the department, legal requirements, established~~

1 ~~agency policy, and effective management principles. The board~~
2 ~~shall also ensure the accountability of the agency to the~~
3 ~~local communities included in the planning and service area of~~
4 ~~the agency.~~

5 ~~(8) The area agency on aging board shall, in~~
6 ~~consultation with the secretary, appoint a chief executive~~
7 ~~officer, hereafter referred to as the "executive director," to~~
8 ~~whom shall be delegated responsibility for agency management~~
9 ~~and for implementation of board policy, and who shall be~~
10 ~~accountable for the agency's performance.~~

11 ~~(5)(9)~~ Area agencies on aging and other administering
12 entities under contract with the department are subject to
13 chapter 119, relating to public records, and, when considering
14 any contracts requiring the expenditure of funds, are subject
15 to ss. 286.011-286.012, relating to public meetings.

16 Section 2. Section 430.011, Florida Statutes, is
17 created to read:

18 430.011 Definitions.--As used in this chapter, the
19 term:

20 (1) "Department" means the Department of Elderly
21 Affairs.

22 (2) "Secretary" means the Secretary of Elderly
23 Affairs.

24 Section 3. Subsection (2) of section 430.04, Florida
25 Statutes, is amended to read:

26 430.04 Duties and responsibilities of the Department
27 of Elderly Affairs.--The Department of Elderly Affairs shall:

28 (2) Be responsible for ensuring that each entity with
29 whom it contracts ~~area agency on aging~~ operates in a manner to
30 ensure that the elderly of this state receive the best
31 services possible. ~~The department shall rescind designation of~~

1 ~~an area agency on aging or take intermediate measures against~~
2 ~~the agency, including corrective action, unannounced special~~
3 ~~monitoring, temporary assumption of operation of one or more~~
4 ~~programs by the department, placement on probationary status,~~
5 ~~imposing a moratorium on agency action, imposing financial~~
6 ~~penalties for nonperformance, or other administrative action~~
7 ~~pursuant to chapter 120, if the department finds that:~~

8 ~~(a) An intentional or negligent act of the agency has~~
9 ~~materially affected the health, welfare, or safety of clients,~~
10 ~~or substantially and negatively affected the operation of an~~
11 ~~aging services program.~~

12 ~~(b) The agency lacks financial stability sufficient to~~
13 ~~meet contractual obligations or that contractual funds have~~
14 ~~been misappropriated.~~

15 ~~(c) The agency has committed multiple or repeated~~
16 ~~violations of legal and regulatory requirements or department~~
17 ~~standards.~~

18 ~~(d) The agency has failed to continue the provision or~~
19 ~~expansion of services after the declaration of a state of~~
20 ~~emergency.~~

21 ~~(e) The agency has exceeded its authority or otherwise~~
22 ~~failed to adhere to the terms of its contract with the~~
23 ~~department or has exceeded its authority or otherwise failed~~
24 ~~to adhere to the provisions specifically provided by statute~~
25 ~~or rule adopted by the department.~~

26 ~~(f) The agency has failed to properly determine client~~
27 ~~eligibility as defined by the department or efficiently manage~~
28 ~~program budgets.~~

29 ~~(g) The agency has failed to implement and maintain a~~
30 ~~department approved client grievance resolution procedure.~~

31

1 Section 4. Section 430.05, Florida Statutes, is
2 amended to read:

3 430.05 Department of Elderly Affairs Advisory
4 Council.--

5 (1) There is created the Department of Elderly Affairs
6 Advisory Council which shall be located for administrative
7 purposes in the Department of Elderly Affairs. It is the
8 intent of the Legislature that the advisory council ~~shall~~ be
9 an independent nonpartisan body ~~and shall not be~~ subject to
10 the control, supervision, or direction by the department.

11 (2) The council shall serve in an advisory capacity to
12 the secretary ~~of Elderly Affairs~~ to assist the secretary in
13 carrying out the purposes, duties, and responsibilities of the
14 department, as specified in this chapter. The council may
15 make recommendations to the secretary, the Governor, the
16 Speaker of the House of Representatives, and the President of
17 the Senate regarding organizational issues and additions or
18 reductions in the department's duties and responsibilities.

19 (3)(a) The advisory council shall be composed of
20 ~~members one member appointed by the Governor from each of the~~
21 ~~state's planning and service areas, which are designated in~~
22 ~~accordance with the Older Americans Act, two additional~~
23 ~~members appointed by the Governor, two members appointed by~~
24 ~~the President of the Senate, and two members appointed by the~~
25 ~~Speaker of the House of Representatives. The members shall be~~
26 appointed in the following manner:

27 1. The Governor shall appoint one member from each
28 planning and service area and two additional at-large members.
29 Members appointed from a planning and service area must
30 maintain their primary residence within the boundaries of the
31 planning and service area that they represent. At-large

1 members must maintain their primary residence in the state.
2 The Governor shall ensure that a majority of his appointments
3 to the advisory council are 60 years of age or older and that
4 the membership has a balanced minority and gender
5 representation. ~~shall select each appointment from a list of~~
6 ~~three nominations submitted by the designated area agency on~~
7 ~~aging in each planning and service area. Nominations~~
8 ~~submitted by an area agency on aging shall be solicited from a~~
9 ~~broad cross section of the public, private, and volunteer~~
10 ~~sectors of each county in the respective planning and service~~
11 ~~area. At least one of the three nominations submitted by an~~
12 ~~area agency on aging shall be a person 60 years of age or~~
13 ~~older.~~

14 ~~2. The Governor shall appoint two additional members,~~
15 ~~one of whom shall be 60 years of age or older.~~

16 ~~2.3.~~ The President of the Senate shall appoint two
17 members. Both appointees must maintain their primary residence
18 in the state, and at least one appointee must, ~~one of whom~~
19 ~~shall be 60 years of age or older.~~

20 ~~3.4.~~ The Speaker of the House of Representatives shall
21 appoint two members. Both appointees must maintain their
22 primary residence in the state, and at least one appointee
23 must, ~~one of whom shall be 60 years of age or older.~~

24 ~~5. The Governor shall ensure that a majority of the~~
25 ~~members of the advisory council shall be 60 years of age or~~
26 ~~older and that there shall be balanced minority and gender~~
27 ~~representation.~~

28 ~~6. The Governor shall designate annually a member of~~
29 ~~the advisory council to serve as chair.~~

30 ~~4.7.~~ The secretary of Elderly Affairs shall serve as
31 an ex officio member of the advisory council.

1 (b) Members shall be appointed to 3-year terms. A
2 member may not serve more than two consecutive terms. in the
3 following manner:

4 (c) Vacancies shall be filled in the same manner as
5 the original appointment, except that when a vacancy occurs in
6 a position occupied by a member representing a planning and
7 service area, the department, after consulting with the board
8 of the local area agency on aging from that planning and
9 service area, shall submit to the Governor a list of
10 recommended persons to fill the appointment. Nominations must
11 be solicited from a cross-section of the public, private, and
12 volunteer sectors of each county in the respective planning
13 and service area after discussions with various local
14 governments and service provider organizations.

15 (d) The Governor shall appoint a chair to serve a
16 1-year term. The council may elect a vice chair from among its
17 members to preside over the council in the absence of the
18 chair.

19 1. ~~In order to stagger the terms of office, one of the~~
20 ~~initial appointees of the President of the Senate shall be~~
21 ~~appointed to a 2 year term and one of the initial appointees~~
22 ~~of the Speaker of the House of Representatives shall be~~
23 ~~appointed to a 2 year term. Additionally, one third of the~~
24 ~~total initial appointees of the Governor shall be appointed to~~
25 ~~1 year terms, one third shall be appointed to 2 year terms,~~
26 ~~and one third to 3 year terms. If the initial appointments of~~
27 ~~the Governor are not of a number divisible into thirds, and~~
28 ~~there results one additional appointee, that appointee shall~~
29 ~~be appointed to a 2 year term. If the initial appointments of~~
30 ~~the Governor are not of a number divisible into thirds, and~~
31 ~~there results two additional appointees, one of the additional~~

1 ~~appointees shall be appointed to a 1 year term and the other~~
2 ~~appointee shall be appointed to a 2 year term.~~

3 ~~2. Vacancies occurring during an appointee's initial~~
4 ~~term shall be filled in the same manner as the initial~~
5 ~~appointments, pursuant to subparagraph 1. After the terms~~
6 ~~referred to in subparagraph 1. have expired, members shall be~~
7 ~~appointed to 3 year terms.~~

8 ~~(4) In order to enhance its understanding of the~~
9 ~~various needs of the state's elderly population and to avoid~~
10 ~~unnecessary duplication of effort, the advisory council shall~~
11 ~~identify any council, committee, task force, or similar group~~
12 ~~that is statutorily mandated to represent the interest of~~
13 ~~older persons, and shall invite a member aged 60 years or~~
14 ~~older, or a younger member if there are no members aged 60~~
15 ~~years or older, from each identified group to serve as a~~
16 ~~nonvoting ex officio member of the advisory council.~~

17 ~~(4)(5) The advisory council shall meet at the call of~~
18 ~~the chair or of a majority of its members least quarterly, or~~
19 ~~more frequently as needed.~~

20 ~~(5)(6) The department of Elderly Affairs shall provide~~
21 ~~staff support to assist the advisory council in the~~
22 ~~performance of its duties.~~

23 ~~(6)(7) Members of the advisory council shall receive~~
24 ~~no salary, but are entitled to reimbursement for travel and~~
25 ~~per diem expenses, as provided in s. 112.061, while performing~~
26 ~~their duties under this section.~~

27 Section 5. Section 430.071, Florida Statutes, is
28 amended to read:

29 430.071 Respite for elders living in everyday
30 families.--

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

1 (a) "Family unit" means one or more individuals who
2 share space within an enclosed single-family dwelling or other
3 space on the same property of a single-family homestead whose
4 ~~primary residence is~~ with a homebound elderly individual
5 specifically for the purpose of providing care for that
6 homebound elderly individual. The individuals do ~~family does~~
7 not ~~necessarily~~ need to be related by blood or marriage to the
8 homebound elderly individual.

9 (b) "Homebound elderly individual" means an individual
10 60 years of age or older who requires assistance to remain in
11 the home, and absent such assistance, would need to move to a
12 skilled nursing or assisted living facility.

13 (c) "RELIEF program" means the Respite for Elders
14 Living in Everyday Families program created under this
15 section.

16 (d)~~(b)~~ "Respite" means temporary ~~in-home~~ assistance
17 for a homebound elderly individual from someone who is not a
18 member of the family unit, which allows the family unit the
19 ability to leave the homebound elderly individual for a period
20 of time.

21 (e)~~(c)~~ "Stipend" means an allotment of funds to enable
22 a diverse population of volunteers to provide services. The
23 stipend must be paid at an allotment of funds is for a maximum
24 hourly rate that does ~~shall~~ not exceed ~~an amount equal to~~ the
25 federal minimum wage.

26 ~~(d) "Volunteer service system" means an organized~~
27 ~~network of volunteers and agencies engaged in supporting~~
28 ~~volunteers to assist a family unit that requires respite.~~

29 (2) There is created within the department the
30 "Respite for Elders Living in Everyday Families" (RELIEF)
31 program. The RELIEF program shall will provide one-on-one or

1 ~~congregate in-home~~ respite services as ~~that is~~ an expansion of
2 respite services that are ~~is~~ currently available through other
3 programs, specifically including evening and weekend respite.
4 The purpose of this service is to increase the ability of a
5 family unit to continue to care for a homebound elderly
6 individual by providing ~~in-home~~ respite services beyond the
7 basic provisions of current public programs.

8 (3) Respite services under the RELIEF program may be
9 provided in:

10 (a) The family unit's dwelling or another location on
11 the property of the family unit approved by the department; or

12 (b) Another facility approved by the department if the
13 homebound elderly individual returns to the family unit's
14 dwelling or property at the conclusion of the respite service.

15 ~~(4)(3)~~ Respite services shall be provided through a
16 multigenerational corps of volunteers, volunteers who receive
17 a stipend, and any other appropriate personnel as determined
18 by the department.

19 (a) Volunteers shall be screened, selected, trained,
20 and registered according to standards developed by the ~~Office~~
21 ~~of Volunteer and Community Services in the department of~~
22 ~~Elderly Affairs~~. These standards must be developed to ensure,
23 at a minimum, the safety of a homebound elderly individual who
24 will receive the respite service.

25 (b) Volunteers may be recruited from a variety of
26 sources, including, but not limited to, volunteer centers,
27 religious organizations, college campuses, corporations,
28 families, Retired Senior Volunteer Programs, Senior Companion
29 Programs, and AmeriCorps Programs.

30 ~~(5)(a)(4)~~ To receive assistance from the RELIEF
31 program, the family unit must be assessed according to ~~the~~

1 ~~following~~ guidelines developed by the department to determine
2 the need for respite services. This assessment must determine,
3 at a minimum, that:

4 1. The family unit is caring for a homebound elderly
5 individual who meets the standards for program eligibility;
6 and

7 2.(a) The family unit is unable to pay for respite
8 services without jeopardizing other basic needs, including,
9 but not limited to, food, shelter, and medications.

10 (b) The department may prioritize the order by which a
11 family unit receives RELIEF program services with priority
12 given first to those determined to be most in need of respite
13 services in order to continue to care for the homebound
14 elderly individual ~~The homebound elderly individual for whom~~
15 ~~the family unit is caring is 60 years of age or older,~~
16 ~~requires assistance to remain in the home, and, without this~~
17 ~~assistance, would need to move to an assisted living facility~~
18 ~~or a nursing facility.~~

19 (c)(5) A family unit that receives respite services
20 from the RELIEF program is not excluded from receiving
21 assistance from other governmental programs, but the
22 department may take other assistance that the family unit is
23 receiving into account when determining an order of priority
24 for services under the RELIEF program.

25 (6) ~~The department Office of Volunteer and Community~~
26 ~~Services~~ shall:

27 (a) ~~Systematically develop a volunteer service system~~
28 ~~in order to provide respite services under the RELIEF program.~~
29 ~~The office shall also~~ Implement, monitor, and evaluate the
30 delivery of respite services provided through the RELIEF under
31 ~~this~~ program.

1 (b) Develop an organized network of volunteers and
2 agencies engaged in supporting volunteers in order to provide
3 services under the RELIEF program.

4 ~~(c)(b)~~ Work collaboratively with local, state, and
5 national organizations, including, but not limited to, the
6 Florida Commission on Community Service, to promote the use of
7 volunteers providing ~~offering~~ respite services under this
8 program.

9 ~~(d)(e)~~ Encourage contributions and grants through
10 public and private sources to promote the delivery of respite
11 to assist family units providing care for homebound elderly
12 individuals.

13 (7) The department may adopt rules to administer the
14 RELIEF program.

15 Section 6. Section 430.101, Florida Statutes, is
16 amended to read:

17 430.101 State unit on aging; designation; authority
18 ~~Administration of federal aging programs.--The department of~~
19 ~~Elderly Affairs~~ is designated the state unit on aging under
20 the federal Older Americans Act of 1965, as amended, and shall
21 exercise all responsibilities under that act. The department
22 is the state agency designated to handle all programs of the
23 Federal Government relating to the aging, by virtue of funds
24 appropriated through the Older Americans Act of 1965 and
25 subsequent amendments, requiring actions within the state
26 which are not the specific responsibility of another state
27 agency under ~~the provisions of~~ federal or state law. ~~Authority~~
28 ~~is hereby conferred on~~ The department may ~~to~~ accept and use
29 any funds in accordance with established state budgetary
30 procedures which might become available pursuant to the
31 purposes set out herein.

1 Section 7. Section 430.103, Florida Statutes, is
2 created to read:

3 430.103 Administration of federal programs for the
4 aged.--

5 (1) DEFINITIONS.--As used in this section, the term:

6 (a) "Agency" means an area agency on aging designated
7 by the department.

8 (b) "Area agency on aging" means a public or
9 not-for-profit private agency or office designated by the
10 department to coordinate and administer the federal programs
11 on aging and to provide, through contracting agencies,
12 services within a planning and service area. Entities under
13 contract with the department to serve as an area agency on
14 aging are not agencies, agents, or offices of state
15 government.

16 (c) "Board" means the governing body of an agency.

17 (d) "Executive director" means the chief executive
18 officer of an agency appointed by, and serving at the pleasure
19 of, the agency's board.

20 (e) "Planning and service area" means a geographic
21 service area designated by the department in which the federal
22 programs on aging are administered and services are delivered.

23 (2) DEPARTMENT RESPONSIBILITIES.--

24 (a) In accordance with the federal Older Americans Act
25 of 1965, as amended, the department shall:

26 1. Apportion the state into one or more planning and
27 service areas.

28 2. Administer programs and services of the Older
29 American Act through the planning and service areas.

30
31

1 3. Execute a contract with the board of each agency to
2 administer services of the Older American Act within the
3 planning and service area that the agency serves.

4 (b) The department shall regularly monitor the
5 activities of each agency to ensure that each agency meets all
6 of the requirements of federal and state law and rule, as well
7 as departmental contracts and policies.

8 (c) The department shall adopt rules to administer and
9 oversee the programs authorized under this section.

10 (3) BOARD RESPONSIBILITIES.--

11 (a) The board of each agency shall:

12 1. Be accountable for the performance of the agency.

13 2. Be responsible for the overall direction of the
14 programs and services of the agency.

15 3. Ensure that the agency is administered according to
16 the terms of its contract with the department, established
17 state and federal laws, rules, and policies, and effective
18 management and budgetary principles.

19 4. Ensure the accountability of the agency to local
20 governments and local communities located within the planning
21 and service area that the agency serves.

22 (b) The board may appoint an executive director. It
23 may delegate to the director the responsibility for day-to-day
24 agency management and operation and for implementing board
25 policy.

26 (4) DEPARTMENTAL SANCTIONS AND PENALTIES.--

27 (a) The secretary shall rescind the designation of an
28 agency if the department determines that:

29 1. An intentional or negligent act or omission by the
30 agency has materially affected the health, welfare, or safety
31

1 of clients or substantially and negatively affected the
2 operation of a program.

3 2. The agency has exceeded its authority, has failed
4 to adhere to the terms of its contract with the department, or
5 has otherwise failed to adhere to the relevant laws or rules.

6 3. The agency lacks financial stability sufficient to
7 meet contractual obligations or that contractual funds have
8 been misappropriated or mismanaged.

9 4. The agency has committed violations of department
10 standards or policies.

11 5. The agency has repeatedly failed to properly
12 determine client eligibility under the laws, rules, or
13 department standards.

14 6. The agency has failed to implement or maintain a
15 department-approved procedure to resolve client grievances.

16 7. The agency has failed to continue to provide or
17 expand services after the declaration of a state of emergency.

18 (b)1. If the department determines that an agency has
19 committed a violation of law, rule, contract, or policy,
20 including those listed in paragraph (a), but the secretary
21 determines that intermediate corrective actions may resolve
22 the issue without rescinding the agency's designation, the
23 secretary may place the agency on probation and take
24 intermediate corrective actions. The secretary may not place
25 an agency on probation or take intermediate corrective actions
26 for a period of less than 30 days or more than 1 year.

27 2. The secretary shall provide to the board a written
28 notice of probation. The notice must include the reasons for
29 placing the agency on probation, including the specific
30 violations committed by the agency, the length of the
31 probation being imposed, any specific conditions the agency

1 will be subject to while on probation, any actions required of
2 the agency to rectify the violation, any actions the
3 department intends to take related to the probation, and any
4 other information relevant to the violation or probation. A
5 copy of the notice shall be provided to the Governor, the
6 President of the Senate, and the Speaker of the House of
7 Representatives.

8 3. The secretary may impose, either singularly or in
9 conjunction with, any of the following intermediate corrective
10 actions:

11 a. Levying financial penalties against the agency
12 which the secretary determines are commensurate with the
13 seriousness of the violation.

14 b. Temporarily assuming the administration of one or
15 more programs on behalf of the agency or assigning these
16 administrative duties to another qualified entity, including
17 another designated area agency on aging.

18 c. Prohibiting the agency from taking specific actions
19 without first receiving departmental approval.

20 d. Conducting unannounced special monitoring of the
21 agency.

22 e. Taking any other punitive action allowable under
23 chapter 120.

24 4. The secretary may terminate an agency's probation
25 before the date specified in the notice of probation.

26 5. Upon terminating the probation, the secretary shall
27 determine whether the agency has taken sufficient actions
28 necessary to rectify the violations listed in the notice of
29 probation and whether the agency is capable of continuing to
30 serve as a designated area agency on aging. The secretary
31 shall submit to the board a written notice of his or her

1 determination. A copy of the notice shall be provided to the
2 Governor, the President of the Senate, and the Speaker of the
3 House of Representatives.

4 6. If the secretary determines that the agency has not
5 made sufficient progress to correct the violations listed in
6 the notice of probation, the secretary shall rescind the
7 agency's designation.

8 7. The secretary shall rescind the designation of any
9 agency that has twice been placed on probation and that
10 commits a third violation within 5 years after the date the
11 first probation was imposed.

12 Section 8. Section 430.201, Florida Statutes, is
13 amended to read:

14 430.201 Short title.--Sections 430.201-430.2045
15 ~~430.201-430.207~~ may be cited as the "Community Care for the
16 Elderly Act."

17 Section 9. Section 430.202, Florida Statutes, is
18 amended to read:

19 430.202 Community care for the elderly; legislative
20 intent.--The purpose of ss. 430.201-430.2045 ~~ss.~~
21 ~~430.201-430.207~~ is to assist functionally impaired elderly
22 persons to live in living dignified and ~~reasonably~~ independent
23 lives in their own homes or in the homes of relatives or
24 caregivers through the development, expansion, reorganization,
25 and coordination of various community-based services provided
26 and administered through public or private entities that are
27 not agencies or offices of state government. The Legislature
28 intends that a continuum of care be established so that
29 functionally impaired elderly persons age 60 and older may be
30 assured the least restrictive environment suitable to their
31 needs. The development of innovative approaches to program

1 management, staff training, and service delivery which have an
2 impact on cost-avoidance, cost-effectiveness, and program
3 efficiency is encouraged.

4 Section 10. Section 430.203, Florida Statutes, is
5 amended to read:

6 430.203 Community care for the elderly;
7 definitions.--As used in ss. 430.201-430.2045 ~~ss.~~
8 ~~430.201-430.207~~, the term:

9 (1) "Administrative entity" ~~"Area agency on aging"~~
10 means a public or ~~nonprofit~~ private entity ~~agency~~ or office
11 designated by the department to coordinate and administer the
12 department's programs and to provide, through contracting
13 agencies, services within a community care planning and
14 service area. Local governments or other entities under
15 contract with the department to serve as administering
16 entities are not agencies, agents, or offices of state
17 government ~~An area agency on aging serves as both the advocate~~
18 ~~and the visible focal point in its planning and service area~~
19 ~~to foster the development of comprehensive and coordinated~~
20 ~~service systems to serve older individuals.~~

21 (2) "Community care service area" means a geographic
22 area designated by the department for the purposes of
23 organizing the local provision of
24 community-care-for-the-elderly case management and core
25 services ~~service area within a planning and service area.~~

26 (3) "Community care service network ~~system~~" means a
27 service network that is organized to provide various and
28 necessary case management and core services through a
29 multitude of entities to comprising a variety of
30 ~~home delivered services, day care services, and other basic~~
31 ~~services, hereinafter referred to as "core services," for~~

1 functionally impaired elderly persons residing within the
2 boundaries of the community care service area. The network is
3 under the direction of ~~which are provided by or through a~~
4 single lead agency. ~~The~~ its purpose of the network is to
5 provide a continuum of care encompassing a full range of
6 preventive, maintenance, and restorative services for
7 functionally impaired elderly persons to prevent unnecessary
8 institutionalization.

9 (4) "Case management" means a client-centered series
10 of activities that include planning, arranging for, and
11 coordinating community-based services for an eligible client
12 of the community-care-for-the-elderly program. Case management
13 includes intake and referral services, travel time related to
14 the client's case, a comprehensive client assessment,
15 development of an individualized care plan with planned client
16 outcomes, and followup contacts for the purpose of monitoring
17 the client's situation and assuring timely, effective delivery
18 of services. ~~"Contracting agency" means an area agency on~~
19 ~~aging, a lead agency, or any other agency contracting to~~
20 ~~provide program administration or to provide services.~~

21 (5) "Core services" means a variety of home-delivered
22 services, day care services, personal care services, and other
23 basic services that are provided to functionally impaired
24 elderly persons ~~may be provided by several entities.~~ Core
25 services are those services that are required ~~most needed~~ to
26 assist a functionally impaired elderly person to live in his
27 or her own home or in the home of a relative or caregiver.
28 Without receiving core services, the individual would likely
29 be required to move to a more institutionalized care setting.
30 For the purposes of ss. 430.201-430.2045, case management is
31 considered as a separate service and is not a core service

1 ~~prevent unnecessary institutionalization. The area agency on~~
2 ~~aging shall not directly provide core services.~~

3 ~~(6) "Department" means the Department of Elderly~~
4 ~~Affairs.~~

5 ~~(6)(7) "Functionally impaired elderly person" means~~
6 ~~any person, 60 years of age or older, having physical or~~
7 ~~mental limitations that restrict individual ability to perform~~
8 ~~the normal activities of daily living and that impede~~
9 ~~individual capacity to live independently in his or her own~~
10 ~~home or in the home of a relative or caregiver without~~
11 ~~receiving the provision of core services. Functional~~
12 ~~impairment shall be determined through a functional assessment~~
13 ~~administered to each applicant for~~
14 ~~community care for the elderly core services. The functional~~
15 ~~assessment shall be developed by the department.~~

16 ~~(8) "Health maintenance services" means those routine~~
17 ~~health services that are necessary to help maintain the health~~
18 ~~of a functionally impaired elderly person, but that are~~
19 ~~limited to medical therapeutic services, nonmedical prevention~~
20 ~~services, personal care services, home health aide services,~~
21 ~~home nursing services, and emergency response systems.~~

22 ~~(7)(9) "Lead agency" means an agency designated at~~
23 ~~least once every 3 years by an administering entity under s.~~
24 ~~430.204 area agency on aging as the result of a request for~~
25 ~~proposal process to be in place no later than the state fiscal~~
26 ~~year 1996-1997. A lead agency directs the activities of the~~
27 ~~community care service network within the boundaries of the~~
28 ~~community care service area that the agency is designated to~~
29 ~~serve. A lead agency is not an agency, agent, or office of~~
30 ~~state government.~~

31

1 ~~(a) The guidelines for the request for proposal must~~
2 ~~be developed by the department in consultation with the area~~
3 ~~agencies on aging. Such guidelines must include requirements~~
4 ~~for the assurance of quality and cost efficiency of services,~~
5 ~~minimum personnel standards, and employee benefits.~~

6 ~~(b) The area agency on aging, in consultation with the~~
7 ~~department, shall exempt from the competitive bid process any~~
8 ~~contract with a provider who meets or exceeds established~~
9 ~~minimum standards, as determined by the department.~~

10 ~~(c) In each community care service system the lead~~
11 ~~agency must be given the authority and responsibility to~~
12 ~~coordinate some or all of the services, either directly or~~
13 ~~through subcontracts, for functionally impaired elderly~~
14 ~~persons. These services must include case management,~~
15 ~~homemaker and chore services, respite care, adult day care,~~
16 ~~personal care services, home delivered meals, counseling,~~
17 ~~information and referral, and emergency home repair services.~~
18 ~~The lead agency must compile community care statistics and~~
19 ~~monitor, when applicable, subcontracts with agencies providing~~
20 ~~core services.~~

21 (8)~~(10)~~ "Personal care services" means services to
22 assist with bathing, dressing, ambulation, housekeeping,
23 supervision, emotional security, eating, supervision of
24 self-administered medications, and assistance in securing
25 health care from appropriate sources. Personal care services
26 does not include medical services.

27 ~~(11) "Planning and service area" means a geographic~~
28 ~~service area established by the department, in which the~~
29 ~~programs of the department are administered and services are~~
30 ~~delivered.~~

31

1 ~~(12) "State Plan on Aging" means the service plan~~
2 ~~developed by the department which evaluates service needs of~~
3 ~~the elderly, identifies priority services and target client~~
4 ~~groups, provides for periodic evaluation of activities and~~
5 ~~services funded under the plan, and provides for~~
6 ~~administration of funds available through the federal Older~~
7 ~~Americans Act. The state plan on aging must be based upon area~~
8 ~~plans on aging developed by the area agencies on aging in~~
9 ~~order that the priorities and conditions of local communities~~
10 ~~are taken into consideration.~~

11 Section 11. Section 430.204, Florida Statutes, is
12 amended to read:

13 430.204 Community-care-for-the-elderly program core
14 ~~services; departmental powers and duties.--~~

15 (1) In order to administer the
16 community-care-for-the-elderly program, the department shall:

17 (a) Designate community care service areas to organize
18 and provide community-care-for-the-elderly case management and
19 core services to functionally impaired elderly persons in
20 local communities throughout the state.

21 (b) Ensure that there exists in each county, as
22 defined in s. 125.011, more than one but not more than three
23 community care service networks.

24 (c) Designate one or more geographic service areas in
25 the state which may include one or more community care service
26 areas, the purpose of which is to set the boundaries within
27 which a designated administering entity shall have
28 administration and oversight authority through contract with
29 the department.

30 (d) Contract with an administering entity or entities
31 to fund, administer, and oversee the delivery of community

1 care for the elderly case management and core services to
2 functionally impaired elderly persons residing in each
3 designated community care service area in the state. The
4 department may serve as the administering entity for one or
5 more community care service areas.

6 (e) Regularly monitor each administering entity to
7 ensure that it is meeting all federal and state laws and rules
8 and departmental contracts and policies.

9 (f) Adopt rules to:

10 1. Define each core service to be provided through the
11 program.

12 2. Establish quality assurance standards for the
13 delivery of case management and core services.

14 3. Establish standards that entities must meet in
15 order to be eligible to serve as an administering entity and
16 establish procedures by which to designate the entity.

17 4. Establish standards for an entity to be eligible to
18 serve as a lead agency.

19 5. Establish standards for an entity to be eligible to
20 provide core services.

21 6. Draft procedures for terminating a contract with an
22 administering entity that violates the law, a rule, or its
23 contract with the department and procedures for transferring
24 administrative duties to another administering entity. Each
25 procedure must ensure the minimum adversity for the clients of
26 the program.

27 7. Draft procedures that an administering entity or
28 lead agency must follow in order to sanction a provider for
29 noncompliance with state or federal laws, rules, department
30 policies, or contract requirements.

31

1 8. Draft procedures that an administering entity or
2 lead agency must follow in order to:

3 a. Terminate a contract with a lead agency or service
4 provider that violates the law, a rule, or its contract, or
5 that otherwise fails to meet the standards necessary to
6 continue providing services; and

7 b. Transfer the responsibility for services to another
8 qualified lead agency or service provider while causing
9 minimal disruption to the program's clients.

10 (2)(a) Each administering entity in the state shall
11 designate one lead agency for each community care service area
12 within the boundaries of the geographic area it serves. Lead
13 agencies shall be designated at least once every 3 years by
14 means of the competitive selection process under s. 430.2043.

15 (b) An administering entity must regularly monitor
16 each lead agency with which it has a contract to ensure that
17 the lead agency is meeting all federal and state laws and
18 rules, departmental policies, and contract requirements.

19 (c) An administering entity may not provide case
20 management or core services to clients of the
21 community-care-for-the-elderly program unless the department
22 determines that special circumstances exist which warrant the
23 temporary provision of those services by an administering
24 entity.

25 ~~(a) The department shall fund, through each area~~
26 ~~agency on aging, at least one community care service system~~
27 ~~the primary purpose of which is the prevention of unnecessary~~
28 ~~institutionalization of functionally impaired elderly persons~~
29 ~~through the provision of community based core services.~~
30 ~~Whenever feasible, an area agency on aging shall be the~~
31 ~~contracting agency of preference to engage only in the~~

1 ~~planning and funding of community care for the elderly core~~
2 ~~services for functionally impaired elderly persons.~~

3 ~~(b) The department shall fund, through each area~~
4 ~~agency on aging in each county as defined in s. 125.011(1),~~
5 ~~more than one community care service system the primary~~
6 ~~purpose of which is the prevention of unnecessary~~
7 ~~institutionalization of functionally impaired elderly persons~~
8 ~~through the provision of community based core services.~~

9 ~~(3)(2)~~ Each lead agency shall organize a community
10 care service network for its community care service area. The
11 lead agency shall coordinate the activities of the individual
12 contracting agencies within the network. All existing
13 community resources available to functionally impaired elderly
14 persons shall be coordinated into the ~~a~~ community care service
15 network system to provide a continuum of care for these ~~to~~
16 ~~such~~ persons as their needs change. Additional services may be
17 provided, but may not be funded from the
18 community-care-for-the-elderly ~~core service~~ funds appropriated
19 by the Legislature. Agencies providing services with these
20 funds ~~contracting with the department~~ shall ensure that all
21 other local funding sources available have been used before
22 using ~~prior to utilizing~~ community-care-for-the-elderly funds.
23 The department, administering entities, and other entities
24 ~~agencies~~ ~~contracting with the department may accept gifts and~~
25 ~~grants in order~~ to provide services within a community care
26 service area may accept grants and gifts in order to expand
27 those services to additional clients or to new service areas.

28 (4)(a) The lead agency shall ensure that case
29 management and core services are available for all clients
30 enrolled in the program within its community care service area
31 and that, when feasible, policies, procedures, and contracts

1 are in place to offer prospective and current clients an
2 unbiased choice of care providers within the service network.

3 (b) In each community care service network, the lead
4 agency shall provide case-management services. Core services
5 may be provided by any public or private entity, including the
6 lead agency, if the entity meets the requirements of paragraph
7 (c) and the standards adopted by rule of the department for
8 service providers.

9 (c) The administering entity shall ensure that:

10 1. Whenever feasible, functionally impaired elderly
11 persons are provided with a choice of care providers within a
12 community care service network; and

13 2. The entities under contract to provide core
14 services within the network are the most cost-effective
15 providers available to serve the community care service area.
16 The administering entity shall ensure that providers meet
17 standards for client safety, satisfaction, and quality
18 assurance by requiring each lead agency to competitively
19 select core service providers to create its service network.
20 The administering entity may not allow a lead agency to
21 provide a core service if the agency does not meet the
22 requirements of this subparagraph for that service.

23 (d) The lead agency must compile statistics on
24 community care and monitor, when applicable, subcontracts with
25 agencies providing core services within its network.

26 (5)(a) A person who has been classified as a
27 functionally impaired elderly person is eligible to receive
28 case management and those core services that the person
29 requires to prevent or delay the person's movement to a more
30 institutionalized care setting. Eligibility for
31 community-care-for-the-elderly services does not entitle a

1 person to each core service available under the program. The
2 department shall adopt a rule specifying the criteria that
3 will ensure that a person's plan of care is commensurate with
4 his or her care needs specifically in order to prevent or
5 delay movement to a more institutionalized care setting.

6 (b) Functional impairment shall be determined through
7 a functional assessment administered to each applicant seeking
8 community-care-for-the-elderly services. The functional
9 assessment instrument shall be developed by the department.

10 (c)1. The department shall determine an order of
11 prioritization for all functionally impaired elderly persons
12 seeking community-care-for-the-elderly services which is based
13 on the frailty level of the applicant and the applicant's
14 likelihood of institutional placement if he or she does not
15 receive program services. After determining the applicant's
16 frailty level and likelihood of institutional placement, if
17 the list of potential recipients requires further
18 prioritization, the department shall consider the applicant's
19 ability to pay for similar services. Those who are less able
20 to pay for services must receive higher priority than those
21 who are better able to pay for the services. An applicant's
22 ability to pay may be determined by using the applicant's
23 self-declared statement of income and expenses.

24 2. Administering entities, lead agencies, and service
25 providers may not provide services to a client using
26 community-care-for-the-elderly funds if the individual is not
27 within a priority category established by the criteria of this
28 paragraph.

29 3. The department may temporarily waive the
30 requirements of this paragraph if the secretary determines
31 that an emergency situation exists.

1 (d) Notwithstanding paragraph (c), a person who is 60
2 years of age or older and who is determined by a protective
3 investigation to be a vulnerable adult in need of services
4 under s. 415.104(3), or to be a victim of abuse, neglect, or
5 exploitation who is in need of immediate services in order to
6 prevent further harm, and who is referred by the adult
7 protective services program, shall be given primary
8 consideration for receiving community-care-for-the-elderly
9 core services. As used in this paragraph, the term "primary
10 consideration" means that an assessment and services must
11 start within 72 hours after the person is referred to the
12 department or as established in accordance with department
13 contracts by local protocols developed between department
14 service providers and the adult protective services program.

15 (6) A preservice and in-service training program for
16 community-care-for-the-elderly service providers and staff
17 shall be designed and implemented to help ensure the delivery
18 of quality services. The department shall adopt a rule
19 specifying the training standards and requirements for service
20 providers and staff. Training must be sufficient to ensure
21 that quality services are provided to clients and that
22 appropriate skills are developed to conduct the program.

23 ~~(7)(3)~~ The use of volunteers shall be maximized to
24 provide a range of services for ~~the~~ functionally impaired
25 elderly persons ~~person~~. The department shall provide or
26 arrange for the ~~provision of~~ training and supervision of
27 volunteers to ensure the delivery of quality services. The
28 department ~~or contracting agency~~ may provide, or it may
29 require administering entities, lead agencies, or service
30 providers under contract to provide, appropriate insurance
31 coverage to protect volunteers from personal liability while

1 acting within the scope of their volunteer assignments under a
2 community care service area. The coverage may also include
3 excess automobile liability protection.

4 ~~(4) The department or contracting agency shall~~
5 ~~contract for the provision of the core services required by a~~
6 ~~community care service area.~~

7 (8)(5) Lead agencies and entities under contract with
8 a lead agency providing ~~Entities contracting to provide core~~
9 services under ss. 430.201-430.0245 ~~ss. 430.201-430.207~~ must
10 provide a minimum of 10 percent of the funding necessary for
11 the support of the program's operation ~~project operations~~.

12 In-kind contributions, including ~~whether~~ materials,
13 commodities, transportation, office space, other types of
14 facilities, or personal services, and contributions of money
15 or services from functionally impaired elderly persons may be
16 evaluated and counted as part or all of the required local
17 funding.

18 (9)(6) Whenever ~~When~~ possible, services shall be
19 provided to elderly persons under the Florida Plan for Medical
20 Assistance under Title XIX of the Social Security Act in place
21 of using community-care-for-the-elderly funds. This subsection
22 does not prevent the temporary delivery of services to elderly
23 persons who are awaiting determination of eligibility under
24 the Medicaid program. However, if a functionally impaired
25 elderly person receiving community-care-for-the-elderly core
26 services is determined to be eligible for substantially
27 similar services under the Medicaid program, the person must
28 be transferred immediately to the Medicaid program. ~~obtained~~
29 ~~under:~~

30 ~~(a) The Florida Plan for Medical Assistance under~~
31 ~~Title XIX of the Social Security Act; or~~

1 ~~(b) The State Plan on Aging under the Older Americans~~
2 ~~Act.~~

3 ~~(10)(7)~~ Funds appropriated for the community care for
4 the elderly program must be used only for ~~the provision of~~
5 community-care-for-the-elderly core services, case management,
6 and directly related expenditures. The department may provide
7 advance funding for the community-care-for-the-elderly
8 program.

9 ~~(11)(8)~~ Provider agencies are responsible for the
10 collection of fees for services in accordance with rules
11 adopted by the department. Provider agencies shall assess fees
12 for services rendered in accordance with those rules. To help
13 pay for services received through the
14 community-care-for-the-elderly program ~~from community care for~~
15 ~~the elderly~~, a functionally impaired elderly person shall be
16 assessed a fee based on the person's ~~an overall~~ ability to pay
17 for core services without jeopardizing the person's ability to
18 pay for other basic living necessities such as expenses for
19 food, living space, medications, and other similar
20 life-sustaining expenditures. The fee to be assessed shall be
21 fixed according to a schedule established by the department ~~in~~
22 ~~cooperation with area agencies, lead agencies, and service~~
23 ~~providers~~.

24 ~~(12)(9)~~ The department shall evaluate the delivery of
25 services within community care service areas and recommend
26 legislative and administrative action as necessary. The
27 department shall analyze ~~Accurate analysis~~ of the costs and
28 benefits associated with the establishment and operation of
29 the program ~~programs as determined~~ through a uniform cost
30 accounting and reporting system designed ~~shall be maintained~~
31 to provide an assessment of the ability of these programs to:

1 (a) Reduce the rate of inappropriate entry and
2 placement of functionally impaired elderly persons into more
3 restrictive care settings in institutions; and

4 (b) Reduce the use of institutional services and
5 facilities. ~~;~~ and

6 ~~(c) Recommend legislative and administrative action.~~

7 (13) Notwithstanding other provisions of this section,
8 the department may conduct or contract for demonstration
9 projects to determine the desirability of new concepts of
10 organization, administration, or service delivery which are
11 designed to prevent the institutionalization of functionally
12 impaired elderly persons. The department shall evaluate the
13 cost-avoidance features of the demonstration projects, the
14 ability of the projects to reduce the rate of placing
15 functionally impaired elderly persons into institutions, and
16 the impact of the projects on the use of institutional
17 services and facilities.

18 Section 12. Section 430.2043, Florida Statutes, is
19 created to read:

20 430.2043 Competitive selection of lead agencies and
21 core service providers.--

22 (1) An entity may be designated as a lead agency for a
23 community care service area under the
24 community-care-for-the-elderly program only after examining
25 and impartially scoring competitive sealed proposals. An
26 administering entity must follow the procedures set forth in
27 this section when conducting the competitive-procurement
28 process.

29 (a) A request for proposals shall be made available
30 simultaneously to all prospective vendors using multiple
31 written or recorded advertisements through such mediums as

1 newspapers, television, Internet websites, e-mail, and other
2 community advertisements. The request for proposals must
3 include:

4 1. A statement of the commodities or contractual
5 services sought;

6 2. The latest possible time and date for the receipt
7 of a proposal and the location to which the proposal must be
8 sent in order to be considered;

9 3. The time, date, and location of the public opening
10 of all proposals;

11 4. A listing of the names and professional titles of
12 each member and alternate member of the review committee;

13 5. The grievance procedure for any vendor wishing to
14 file a bid protest relating to the impartiality or legality of
15 the competitive selection or scoring process; and

16 6. All contractual terms and conditions applicable to
17 the procurement, including the criteria, which must include,
18 but need not be limited to, cost-effectiveness, quality,
19 variety of services offered, and geographic service area to be
20 served, which criteria shall be scored and used to determine
21 the most advantageous proposal.

22 (b) Cost-effectiveness and maximizing the number of
23 clients served using available funds each year shall count for
24 not less than 80 percent of the total possible score for each
25 proposal, and the relative importance of the other evaluation
26 criteria shall be indicated in the initial request for
27 proposals. Failure to include any measuring criteria in the
28 initial request for proposals prohibits that criteria from
29 being used in determining the most advantageous proposal,
30 unless the administering entity discontinues the
31 competitive-selection process before any scoring takes place

1 and reissues the request for proposals. Once scoring the
2 proposals has begun, the selection process must continue to
3 completion and a contract must be awarded, pending the outcome
4 of a bid protest.

5 (c) The administering agency shall publicly notice and
6 conduct, not less than 15 days before the final date for
7 receipt of all proposals, a conference for purposes of
8 ensuring that each prospective interested vendor fully
9 understands the solicitation requirements. The vendors shall
10 be accorded fair and equal treatment in posing and receiving
11 responses to their questions during the conference. The
12 administering entity shall publicly notice in writing, not
13 less than 10 days before the date for receipt of all
14 proposals, the questions and answers for each inquiry posed by
15 a prospective vendor during the conference.

16 (d) The governing board of the administering entity
17 or, if no governing board exists, the chief executive officer,
18 shall appoint an impartial review committee consisting of an
19 odd number of no fewer than five members to evaluate all
20 proposals. Two alternate members shall also be appointed. The
21 review committee members must collectively have experience and
22 knowledge in the program areas and service requirements for
23 the commodities or contractual services being sought. More
24 than 50 percent of the review committee's composition must be
25 persons who have no working or personal relationship or
26 affiliation with the administering entity or any likely
27 prospective bidder, but such persons may be employees of other
28 administrating entities in the state.

29 (e) The administering entity shall conduct, at the
30 time and place noted in the initial request for proposals, a
31 public opening of all bids where members of the review

1 committee will be presented with all proposals. During the
2 public bid-opening meeting, once all bids have been opened but
3 before any member of the review committee inspects a proposal,
4 each member must sign an attestation that he or she has no
5 conflict of interest or working or personal relationship with
6 any of the vendors that submitted proposals. If a member of
7 the review committee, upon learning the names of the vendors
8 that submitted bids, determines that he or she has a conflict
9 of interest with a vendor that submitted a proposal, the
10 member shall be dismissed from his or her scoring duties and
11 the first alternate shall take his or her place on the
12 committee. The administering entity may reschedule the date of
13 the public opening of all bids from the date noted in the
14 initial request for proposals by publicly noticing the new
15 date not less than 10 days before the date of the rescheduled
16 meeting.

17 (f) Scoring of proposals shall be conducted only by
18 those members of the review committee who are appointed and
19 noted in the initial request for proposals. Alternates may not
20 score proposals unless a committee member was determined to
21 have a conflict of interest. Each committee member shall
22 review and score all submitted proposals. Scoring shall be
23 conducted in an independent, unbiased manner for the sole
24 purpose of choosing the most advantageous proposal for the
25 program's enrollees through the scoring methodology described
26 in the initial request for proposals. Scoring of proposals
27 need not occur in a public meeting; however, scoring pages,
28 member notes pertaining to the scoring, final scores, and
29 other similar documentation shall all be available for public
30 inspection following an award. Members of the review committee
31 may not discuss with each other the proposals until an award

1 has been made. The chief executive officer of the
2 administering agency, in the presence of at least two
3 unrelated witnesses who are not employees of the agency, shall
4 collect all final scoring pages from the review committee and
5 shall determine the proposal that received the highest
6 cumulative score by summing each vendor's total score awarded
7 by each committee member.

8 (g) The designation of lead agency and the
9 corresponding contract shall be awarded to the responsible and
10 responsive vendor whose proposal receives the highest
11 cumulative score from the review committee. The administering
12 entity shall submit in writing to its board of directors, with
13 a copy to the secretary, a statement supporting the basis on
14 which the award was made.

15 (h) The administering entity must establish, before
16 advertising its request for proposals, an agreement with an
17 experienced mediator who has no conflict of interest with the
18 procurement process, the administering entity, or any likely
19 respondents to the proposal. The mediator must agree to
20 impartially consider the arguments of any bidder who is not
21 awarded the contract as the lead agency but who timely filed a
22 proposal in a bid protest directed to the impartiality or
23 legality of the selection procedures or scoring process. The
24 mediator must adhere to the guidelines for a bid protest set
25 out in the initial request for proposals. The mediator must
26 also consider any information provided by the administering
27 entity and the review committee to refute or substantiate the
28 claims of the protestor. After reviewing the facts of the
29 protest and the selection process, the mediator shall report
30 whether the procurement process was conducted substantially
31 fairly, openly, and impartially. If the mediator determines

1 that the process was flawed by some act or omission by the
2 administering entity or review committee which substantially
3 affected the outcome of the selection process in a negative
4 manner, the administering entity shall dismiss the award and
5 conduct a new selection process.

6 (2) An entity shall be designated as a core service
7 provider within a community care service network only after a
8 process of examining and impartially scoring competitive
9 sealed proposals. An administering entity or lead agency must
10 conduct a competitive-procurement process substantially
11 similar to the process described in subsection (1).

12 (3) The secretary may waive in writing the
13 competitive-procurement process described in this section for
14 a period of 180 days and may approve an award of a contract by
15 the administrative entity using a noncompetitive process if
16 the secretary determines that there is an immediate danger to
17 the public health, safety, or welfare or a substantial loss to
18 the state and that emergency action is required.

19 Section 13. Section 430.2045, Florida Statutes, is
20 created to read:

21 430.2045 Rules.--The department may adopt rules to
22 administer the community-care-for-the-elderly program.

23 Section 14. Section 430.2051, Florida Statutes, is
24 created to read:

25 430.2051 Integrated long-term-care delivery
26 system.--Notwithstanding other requirements of this chapter,
27 the department and the Agency for Health Care Administration
28 shall develop an integrated long-term-care delivery system.

29 (1) The duties of the integrated system shall include
30 organizing and administering service delivery for the elderly,
31 obtaining contracts for services with providers in each

1 service area, monitoring the quality of services provided,
2 determining levels of need and disability for payment
3 purposes, and other activities determined necessary by the
4 department and the agency in order to operate an integrated
5 system.

6 (2) The agency and the department shall reimburse
7 providers for case management services on a capitated basis
8 and develop uniform standards for case management within the
9 Aged and Disabled Adult Medicaid waiver program. The
10 coordination of acute and chronic medical services for
11 individuals may be included in the capitated rate for
12 case-management services. The agency, in consultation with the
13 department, shall adopt any rules necessary to comply with or
14 administer these requirements.

15 (3) The Legislature finds that preservation of the
16 historic aging network of lead agencies is essential to the
17 well-being of the elderly population in this state. The
18 Legislature finds that this state's aging network constitutes
19 a system of essential community providers which should be
20 nurtured and assisted to develop systems of operations which
21 allow the gradual assumption of responsibility and financial
22 risk for managing a client through the entire continuum of
23 long-term-care services within the area that the lead agency
24 is currently serving and which allow lead agency providers to
25 develop managed systems of service delivery.

26 (a) The department, in consultation with the agency,
27 shall develop a demonstration project in which existing
28 community-care-for-the-elderly lead agencies are assisted in
29 transferring their business model and the service-delivery
30 system within their current community care service area to
31 enable assumption, over a period of time, of the full risk as

1 a contractor in operating a community diversion pilot project
2 that provides long-term-care services in the areas of
3 operation.

4 (b) In the demonstration area, a
5 community-care-for-the-elderly lead agency shall be reimbursed
6 initially on a prepaid or fixed-sum basis for all home and
7 community-based services provided under the long-term-care
8 community diversion pilot project. By the end of the third
9 year of operation, the lead agency shall be reimbursed on a
10 prepaid or fixed-sum basis for all services under the
11 long-term-care community diversion pilot project.

12 (c) During the first year of operation, the
13 department, in consultation with the agency, may place
14 providers at risk to provide nursing home services for the
15 enrolled individuals who are participating in the
16 demonstration project. During the 3-year development period,
17 the agency and the department may limit the level of custodial
18 nursing home risk that the administering entities assume.
19 Under risk-sharing arrangements, during the first 3 years of
20 operation, the department, in consultation with the agency,
21 may reimburse the administering entity for the cost of
22 providing nursing home care for Medicaid-eligible participants
23 who have been permanently placed and remain in a nursing home
24 for more than 1 year, or may disenroll such participants from
25 the demonstration project.

26 (d) The agency, in consultation with the department,
27 shall develop reimbursement rates based on the federally
28 approved, actuarially certified rate methodology for the
29 long-term-care community diversion pilot project.

30 (e) The department, in consultation with the agency,
31 shall ensure that the entity or entities receiving prepaid or

1 fixed-sum reimbursement are assisted in developing internal
2 management and financial control systems necessary to manage
3 the risk associated with providing services under a prepaid or
4 fixed-sum rate system.

5 (f) If the department and the agency share the risk of
6 custodial nursing home placement, payment rates during the
7 first 3 years of operation shall be set at not more than 100
8 percent of the costs to the agency and the department of
9 providing equivalent services to the population within the
10 area of the pilot project for the year prior to the year in
11 which the pilot project is implemented, adjusted forward to
12 account for inflation and policy changes in the Medicaid
13 program.

14 (g) The department shall select through a
15 competitive-procurement process no more than three designated
16 community-care-for-the-elderly lead agencies to participate in
17 a pilot project. Community-care-for-the-elderly lead agencies
18 that have operated for a period of at least 20 years, that
19 provide Medicare-certified services to elders, and that have
20 developed a system of service provision by health care
21 volunteers shall be given priority consideration in the
22 selection of the pilot project providers if the lead agencies
23 meet the minimum requirements specified in the competitive
24 procurement.

25 (h) The agency and the department may adopt rules and
26 shall execute interagency agreements necessary to comply with
27 or administer this section.

28 (i) The department and the agency shall seek federal
29 waivers necessary to implement the requirements of this
30 section.

31

1 (j) The department shall conduct or contract for an
2 evaluation of the demonstration project. The department shall
3 submit the evaluation to the Governor and the Legislature by
4 January 1, 2007. The evaluation must address the effectiveness
5 of the pilot project in providing a comprehensive system of
6 appropriate and high-quality, long-term-care services to
7 elders in the least restrictive setting and make
8 recommendations on expanding the project to other parts of the
9 state. This paragraph is subject to an appropriation by the
10 Legislature.

11 (4) The agency, in consultation with the department,
12 shall work with the fiscal agent for the Medicaid program to
13 develop a service utilization reporting system that operates
14 through the fiscal agent for the capitated plans.

15 (5) The department, in consultation with the agency,
16 shall integrate the database systems for the Comprehensive
17 Assessment and Review for Long-Term Care Services (CARES)
18 program and the Client Information and Referral Tracking
19 System (CIRTS) into a single operating assessment information
20 system by October 30, 2006.

21 (6) During the 2006-2007 fiscal year:

22 (a) The agency, in consultation with the department,
23 shall evaluate the Alzheimer's Disease waiver program and the
24 Adult Day Health Care waiver program to assess whether
25 providing limited intensive services through these waiver
26 programs produces better outcomes for individuals than
27 providing those services through the fee-for-service or
28 capitated programs that provide a larger array of services.

29 (b) The agency, in consultation with the department,
30 shall begin discussions with the federal Centers for Medicare
31 and Medicaid Services regarding the inclusion of Medicare into

1 the integrated long-term-care system. By December 31, 2006,
2 the agency shall provide to the Governor, the President of the
3 Senate, and the Speaker of the House of Representatives a plan
4 for including Medicare in the integrated long-term-care
5 system.

6 Section 15. Section 430.207, Florida Statutes, is
7 amended to read:

8 430.207 Confidentiality of information.--Information
9 about functionally impaired elderly persons who receive
10 services under ss. 430.201-430.2045 ~~ss. 430.201-430.206~~ which
11 is received through files, reports, inspections, or otherwise,
12 by the department or by authorized departmental employees, by
13 persons who volunteer services, or by persons who provide
14 services to functionally impaired elderly persons under ss.
15 430.201-430.2045 ~~ss. 430.201-430.206~~ through contracts with
16 the department is confidential and exempt from the provisions
17 of s. 119.07(1). Such information may not be disclosed
18 publicly in such a manner as to identify a functionally
19 impaired elderly person, unless that person or his or her
20 legal guardian provides written consent.

21 Section 16. Section 430.5001, Florida Statutes, is
22 created to read:

23 430.5001 Alzheimer's disease initiative; short title;
24 rule authority.--

25 (1) Sections 430.5001-430.504 may be cited as the
26 "Alzheimer's Disease Initiative."

27 (2) The department may adopt rules necessary to
28 administer the programs created under ss. 430.5001-430.504.

29 Section 17. Subsection (5) of section 430.502, Florida
30 Statutes, is amended to read:

31

1 430.502 Alzheimer's disease; memory disorder clinics
2 and day care and respite care programs.--

3 (5) Pursuant to s. 287.057, the department ~~of Elderly~~
4 ~~Affairs~~ shall contract for the provision of respite care. All
5 funds appropriated for ~~the provision of~~ respite care shall be
6 distributed annually by the department to each funded county
7 according to an allocation formula. In developing the formula,
8 the department shall consider the number and proportion of the
9 county population of individuals who are 75 years of age and
10 older. Each respite care program shall be used as a resource
11 for research and statistical data by the memory disorder
12 clinics established in this section part. In consultation with
13 the memory disorder clinics, the department shall specify the
14 information to be provided by the respite care programs for
15 research purposes. Respite provider organizations shall assess
16 and collect fees for services according to rules adopted by
17 the department. To help pay for services received through the
18 Alzheimer's Disease Initiative, a functionally impaired
19 elderly person shall be assessed a fee based on the person's
20 ability to pay for those services without jeopardizing the
21 person's ability to pay the expenses for other basic living
22 necessities. The fee to be assessed shall be fixed in a
23 schedule to be prepared by the department. Services of
24 specified value may be accepted in lieu of a fee. The fee
25 schedule shall be developed in cooperation with the
26 Alzheimer's Disease Advisory Committee and updated as
27 necessary.

28 Section 18. Section 430.504, Florida Statutes, is
29 amended to read:

30 430.504 Confidentiality of information.--Information
31 about clients of programs created or funded under s. 430.501

1 or s. 430.503 which is received through files, reports,
2 inspections, or otherwise, by the department or by authorized
3 departmental employees, by persons who volunteer services, or
4 by persons who provide services to clients of programs created
5 or funded under s. 430.501 or s. 430.502(5) ~~s. 430.503~~ through
6 contracts with the department is confidential and exempt from
7 the provisions of s. 119.07(1). Such information may not be
8 disclosed publicly in such a manner as to identify a person
9 who receives services under s. 430.501 or s. 430.502(5) ~~s.~~
10 ~~430.503~~, unless that person or that person's legal guardian
11 provides written consent.

12 Section 19. Section 430.602, Florida Statutes, is
13 amended to read:

14 430.602 Home care for the elderly; definitions.--As
15 used in ss. 430.601-430.606:

16 ~~(1) "Department" means the Department of Elderly~~
17 ~~Affairs.~~

18 ~~(1)(2)~~ "Elderly person" means any person 60 years of
19 age or older ~~over~~ who is currently a resident of this state
20 ~~and has an intent to remain in this state.~~

21 ~~(2)(3)~~ "Home care ~~for the elderly~~" means a full-time
22 family-type living arrangement, in a private home, under which
23 a person or group of persons provides, on a nonprofit basis,
24 basic services of maintenance and supervision, and any
25 necessary specialized services as may be needed, for three or
26 fewer elderly persons.

27 Section 20. Section 430.603, Florida Statutes, is
28 amended to read:

29 430.603 Home care for the elderly; rules.--There is
30 created within the department the home care for the elderly
31 program. The department shall adopt rules to ~~by rule~~ establish

1 minimum standards and procedures for the provision of home
2 care ~~for the elderly~~ and for the approval of persons seeking
3 to provide this ~~such~~ care. Any person who is approved to
4 provide care, goods, or services for an elderly person shall
5 be eligible for the subsidy payments described in s. 430.605.
6 However, the cost of administration and subsidy payments made
7 under the home care for the elderly program must not exceed
8 the amount specifically ~~be operated within the funds~~
9 appropriated by the Legislature for the program each year.

10 Section 21. Section 430.604, Florida Statutes, is
11 amended to read:

12 430.604 Department determination of inability to
13 provide home care.--If a person who is providing or plans to
14 provide home care ~~under ss. 430.601-430.606~~ is found by the
15 department, or its designee, to be unable to provide this
16 care, the department must notify the person ~~seeking to provide~~
17 ~~home care~~ of this determination, and the person is immediately
18 ineligible to receive ~~not eligible for~~ subsidy payments under
19 the program ~~ss. 430.601-430.606.~~

20 Section 22. Section 430.606, Florida Statutes, is
21 amended to read:

22 430.606 Eligibility for services.--The criteria for
23 determining eligibility for the home care for the elderly ~~this~~
24 program shall be substantially similar to the criteria used to
25 determine eligibility for ~~nursing home care under~~ the Medicaid
26 institutional care program of the state.

27 Section 23. Paragraph (c) of subsection (2) of section
28 430.705, Florida Statutes, is amended to read:

29 430.705 Implementation of the long-term care community
30 diversion pilot projects.--

31 (2)

1 (c) The requirements of paragraph (b) do not apply to
2 entities selected to provide services to the pilot projects
3 authorized under s. 430.2051(3) ~~s. 430.205(6)(b)2~~. The
4 department, in consultation with the agency, shall develop by
5 rule minimum financial solvency and reporting standards for
6 these providers that are reflective of the amount of risk the
7 provider will assume under the pilot project. The standards
8 adopted by rule shall ensure safety for the pilot project
9 enrollees and financial protection for the state in the event
10 of a provider's inability to continue providing services to
11 the project.

12 Section 24. Sections 430.205, 430.2053, and 430.503,
13 Florida Statutes, are repealed.

14 Section 25. Subsection (12) of section 400.126,
15 Florida Statutes, is amended to read:

16 400.126 Receivership proceedings.--

17 (12) Concurrently with the appointment of a receiver,
18 the agency and the Department of Elderly Affairs shall
19 coordinate an assessment of each resident in the facility by
20 the Comprehensive Assessment and Review for Long-Term-Care
21 (CARES) Program for the purpose of evaluating each resident's
22 need for the level of care provided in a nursing facility and
23 the potential for providing such care in alternative settings.
24 If the CARES assessment determines that a resident could be
25 cared for in a less restrictive setting or does not meet the
26 criteria for skilled or intermediate care in a nursing home,
27 the department and agency shall refer the resident for such
28 care, as is appropriate for the resident. Residents referred
29 under ~~pursuant to~~ this subsection shall be given primary
30 consideration for receiving services under the community care
31 for the elderly program in the same manner as persons

1 classified to receive ~~such~~ services under s. 430.204(5)
2 ~~pursuant to s. 430.205.~~

3 Section 26. Paragraph (c) of subsection (3) of section
4 420.36, Florida Statutes, is amended to read:

5 420.36 Low-income Emergency Home Repair
6 Program.--There is established within the Department of
7 Community Affairs the Low-income Emergency Home Repair Program
8 to assist low-income persons, especially the elderly and
9 physically disabled, in making emergency repairs which
10 directly affect their health and safety.

11 (3)

12 (c) Each grantee shall be required to provide an
13 in-kind or cash match of at least 20 percent of the funds
14 granted. Grantees and subgrantees are ~~shall be~~ encouraged to
15 use community resources to provide the ~~such~~ match, including
16 family, church, and neighborhood volunteers and materials
17 provided by local groups and businesses. Grantees shall
18 coordinate with local governments through their community
19 development block grant entitlement programs and other housing
20 programs, local housing partnerships, and agencies under
21 contract to a lead agency for the provisions of services under
22 the Community Care for the Elderly Act, ss. 430.201-430.2045
23 ~~ss. 430.201-430.207.~~

24 Section 27. This act shall take effect July 1, 2006.
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SENATE SUMMARY

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3 Revises the composition of the membership of the
4 Department of Elderly Affairs Advisory Council. Provides
5 that RELIEF services may be delivered to a homebound
6 elderly individual in certain places. Sets forth criteria
7 to be eligible to receive respite services. Authorizes
8 the department to give priority for services to persons
9 who are most in need of services to prevent
10 institutionalization of the person. Describes the
11 responsibilities of the department and each area agency
12 on aging. Authorizes the department to sanction an area
13 agency under certain specified circumstances. Requiring
14 that the community-care-for-the-elderly-program be
15 operated through public or private agencies that are not
16 agencies of the state. Requires the department to
17 contract with an administering entity in each community
18 care service area. Requires the administrating entity to
19 designate a lead agency in the community care service
20 area. Provides duties for administering entities and lead
21 agencies. Requires a lead agency to ensure that case
22 management and core services are available to clients in
23 the community care service area. Provides eligibility
24 criteria for case management and core services. Provides
25 that certain abused adults are entitled to primary
26 consideration for services. Directs eligible persons to
27 the Medicaid program in order to conserve
28 community-care-for-the-elderly program funds. Provides
29 for the submission of proposals and the scoring of
30 competitive proposals. Provides that the secretary may
31 waive the competitive-procurement process under specified
circumstances. Requires the department and the Agency for
Health Care Administration to create an integrated
long-term-care delivery system. Provides for a
demonstration project. Directs the department to monitor
the Alzheimer's disease waiver program. Requires the
agency, in consultation with the department, to begin
discussions with the federal Centers for Medicare and
Medicaid Services regarding the inclusion of Medicare
into the integrated long-term-care system. Requires each
Alzheimer's respite provider organization to assess and
collect service fees. Requires the department to prepare
a fee schedule.