

## CHAMBER ACTION

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1 The Elder & Long-Term Care Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to persons with disabilities; amending s.  
7 20.197, F.S.; requiring the director of the Agency for  
8 Persons with Disabilities to be subject to confirmation by  
9 the Senate; requiring the agency to create a Division of  
10 Budget and Planning and a Division of Operations;  
11 authorizing the director to recommend creating additional  
12 subdivisions of the agency in order to promote efficient  
13 and effective operation of the agency; amending s. 39.001,  
14 F.S., relating to the development of a comprehensive state  
15 plan for children; conforming provisions to the transfer  
16 of duties from the Developmental Disabilities Program  
17 Office within the Department of Children and Family  
18 Services to the Agency for Persons with Disabilities;  
19 amending s. 39.202, F.S.; providing for certain employees,  
20 agents, and contract providers of the agency to have  
21 access to records concerning cases of child abuse or  
22 neglect for specified purposes; amending s. 39.407, F.S.;  
23 deleting provisions authorizing the treatment of a child

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24 | under ch. 393, F.S., if the child is alleged to be  
25 | dependent; amending s. 287.155, F.S.; authorizing the  
26 | agency to purchase vehicles under certain circumstances;  
27 | amending ss. 381.0072 and 383.14, F.S., relating to food  
28 | service licenses and the Genetics and Newborn Screening  
29 | Advisory Council, respectively; conforming provisions to  
30 | the transfer of duties from the Developmental Disabilities  
31 | Program Office within the Department of Children and  
32 | Family Services to the Agency for Persons with  
33 | Disabilities; repealing s. 393.061, F.S., relating to a  
34 | short title; amending s. 393.062, F.S.; revising  
35 | legislative findings and intent to conform to changes in  
36 | terminology; amending s. 393.063, F.S.; revising the  
37 | definitions applicable to ch. 393, F.S., relating to  
38 | developmental disabilities; amending s. 393.064, F.S.;  
39 | revising the duties of the Agency for Persons with  
40 | Disabilities with respect to prevention services,  
41 | evaluations and assessments, intervention services, and  
42 | support services; amending s. 393.0641, F.S.; defining the  
43 | term "severe self-injurious behavior" for purposes of a  
44 | program of prevention and treatment for individuals  
45 | exhibiting such behavior; amending s. 393.065, F.S.,  
46 | relating to application for services and the determination  
47 | of eligibility for services; providing for children in the  
48 | child welfare system to be placed at the top of the  
49 | agency's wait list for waiver services; authorizing the  
50 | agency to adopt rules; amending s. 393.0651, F.S.,  
51 | relating to support plans for families and individuals;

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52 | revising the age at which support plans are developed for  
53 | children; deleting a prohibition against assessing certain  
54 | fees; creating s. 393.0654, F.S.; specifying circumstances  
55 | under which an employee of the agency may own, operate, or  
56 | work in a private facility under contract with the agency;  
57 | amending s. 393.0655, F.S.; revising the screening  
58 | requirements for direct service providers; providing a  
59 | temporary exemption from screening requirements for  
60 | certain providers; amending s. 393.0657, F.S.; revising an  
61 | exemption from certain requirements for refingerprinting  
62 | and rescreening; amending s. 393.066, F.S.; revising  
63 | certain requirements for the services provided by the  
64 | agency; requiring agency approval for purchased services;  
65 | revising the agency's rulemaking authority; amending s.  
66 | 393.067, F.S.; revising requirements governing the  
67 | agency's licensure procedures; revising the requirements  
68 | for background screening of applicants for licensure and  
69 | managers, supervisors, and staff members of service  
70 | providers; requiring that the agency adopt rules governing  
71 | the reporting of incidents; deleting certain  
72 | responsibilities of the Agency for Health Care  
73 | Administration with respect to the development and review  
74 | of emergency management plans; amending s. 393.0673, F.S.;  
75 | providing circumstances under which the agency may deny,  
76 | revoke, or suspend a license or impose a fine; requiring  
77 | the Agency for Persons with Disabilities to adopt rules  
78 | for evaluating violations and determining the amount of  
79 | fines; amending s. 393.0674, F.S.; providing a penalty for

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80 failure by a provider to comply with background screening  
81 requirements; amending s. 393.0675, F.S.; deleting certain  
82 obsolete provisions requiring that a provider be of good  
83 moral character; amending s. 393.0678, F.S.; deleting  
84 provisions governing receivership proceedings for an  
85 intermediate care facility for the developmentally  
86 disabled; amending s. 393.068, F.S.; requiring that the  
87 family care program emphasize self-determination; removing  
88 supported employment from the list of services available  
89 under the family care program; revising certain  
90 requirements for reimbursing a family care program  
91 provider; amending s. 393.0695, F.S., relating to in-home  
92 subsidies; requiring that the Agency for Persons with  
93 Disabilities adopt rules for such subsidies; amending s.  
94 393.075, F.S., relating to liability coverage for  
95 facilities licensed by the agency; conforming terminology;  
96 amending s. 393.11, F.S.; revising provisions governing  
97 the involuntary admission of a person to residential  
98 services; clarifying provisions governing involuntary  
99 commitment; requiring that a person who is charged with a  
100 felony will have his or her competency determined under  
101 ch. 916, F.S.; conforming terminology; amending s.  
102 393.122, F.S.; clarifying requirements governing  
103 applications for continued residential services; amending  
104 s. 393.13, F.S., relating to the Bill of Rights of Persons  
105 Who are Developmentally Disabled; deleting a provision  
106 protecting minimum wage compensation for certain programs;  
107 limiting the use of restraint and seclusion; requiring the

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108 | agency to adopt rules governing the use of restraint or  
109 | seclusion; revising requirements for client records;  
110 | deleting certain requirements governing local advocacy  
111 | councils; allowing the resident government to include  
112 | disability advocates from the community; amending s.  
113 | 393.135, F.S.; revising definitions; clarifying provisions  
114 | making such misconduct a second-degree felony; amending s.  
115 | 393.15, F.S.; establishing the Community Resources  
116 | Development Loan Program to provide loans to foster homes,  
117 | group homes, and supported employment programs; providing  
118 | legislative intent; providing eligibility requirements;  
119 | providing authorized uses of loan funds; requiring that  
120 | the agency adopt rules governing the loan program;  
121 | providing requirements for repaying loans; amending s.  
122 | 393.17, F.S.; authorizing the agency to establish  
123 | certification programs for persons providing services to  
124 | clients; requiring that the agency establish a  
125 | certification program for behavior analysts; requiring  
126 | that the program be reviewed and validated; creating s.  
127 | 393.18, F.S.; providing for a comprehensive transition  
128 | education program for persons who have severe or moderate  
129 | maladaptive behaviors; specifying the types of treatment  
130 | and education centers providing services under the  
131 | program; providing requirements for licensure; requiring  
132 | individual education plans for persons receiving services;  
133 | limiting the number of persons who may receive services in  
134 | such a program; authorizing licensure of certain existing  
135 | programs; creating s. 393.23, F.S.; requiring that

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136 receipts from operating canteens, vending machines, and  
137 other like activities in a developmental disabilities  
138 institution be deposited in a trust account in a bank,  
139 credit union, or savings and loan association; describing  
140 how the moneys earned may be expended; allowing for the  
141 investment of the funds; requiring that the accounting  
142 system at the institution account for the revenues and  
143 expenses of the activities; requiring that sales tax  
144 moneys be remitted to the Department of Revenue; amending  
145 s. 393.501, F.S.; revising the agency's rulemaking  
146 authority; providing requirements for rules governing  
147 alternative living centers and independent living  
148 education centers; amending s. 394.453, F.S.; declaring  
149 that the policy of the state is to achieve an ongoing  
150 reduction of the use of restraint and seclusion on persons  
151 with mental illness who are served by programs and  
152 facilities operated, licensed, or monitored by the agency;  
153 amending s. 394.455, F.S.; defining the terms "restraint"  
154 and "seclusion" for purposes of the Baker Act; amending s.  
155 394.457, F.S.; requiring the Department of Children and  
156 Family Services to adopt rules for the use of restraint  
157 and seclusion for cases handled under the Baker Act;  
158 amending s. 394.879, F.S.; requiring that rules be adopted  
159 for the use of restraint and seclusion; amending s.  
160 397.405, F.S.; clarifying an exemption from licensure  
161 provided to certain facilities licensed under ch. 393,  
162 F.S.; amending s. 400.419, F.S.; requiring that a list of  
163 facilities subject to sanctions or fines be disseminated

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164 to the Agency for Persons with Disabilities; amending s.  
165 400.960, F.S.; revising definitions for purposes of part  
166 XI of ch. 400, F.S., relating to nursing homes and related  
167 facilities; amending s. 400.967, F.S., relating to rules  
168 and classification of deficiencies; conforming provisions  
169 to the transfer of duties from the Department of Children  
170 and Family Services to the Agency for Persons with  
171 Disabilities; requiring that rules be adopted for the use  
172 of restraint and seclusion; amending ss. 402.115, 402.17,  
173 402.181, 402.20, 402.22, and 402.33, F.S.; including the  
174 Agency for Persons with Disabilities within provisions  
175 governing the sharing of information, claims for the care  
176 and maintenance of facility residents, county contracts  
177 for services for persons with developmental disabilities,  
178 education programs for students who reside in state  
179 facilities, and fees for services; conforming provisions  
180 to changes made by the act; correcting a cross-reference;  
181 amending s. 408.036, F.S., relating to projects that are  
182 exempt from obtaining a certificate of need; conforming  
183 terminology; amending s. 409.221, F.S., relating to the  
184 consumer directed care program; conforming provisions to  
185 changes made by the act; amending ss. 409.908 and  
186 409.9127, F.S., relating to the Medicaid program;  
187 conforming a cross-reference; deleting obsolete  
188 provisions; amending ss. 411.224 and 411.232, F.S.;  
189 conforming provisions to the transfer of duties from the  
190 Developmental Disabilities Program Office within the  
191 Department of Children and Family Services to the Agency

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192 for Persons with Disabilities; amending ss. 415.102,  
193 415.1035, 415.1055, and 415.107, F.S.; conforming  
194 terminology; including the Agency for Persons with  
195 Disabilities within provisions providing requirements that  
196 a facility inform residents of certain rights,  
197 notification requirements for administrative entities, and  
198 requirements for maintaining the confidentiality of  
199 reports and records; amending s. 435.03, F.S., relating to  
200 screening standards; conforming terminology and a cross-  
201 reference; amending ss. 490.014 and 491.014, F.S.,  
202 relating to exemptions from licensure for psychologists  
203 and certain specified counselors, respectively; conforming  
204 provisions to changes made by the act; amending ss.  
205 944.602, 945.025, 947.185, 984.19, 984.225, 984.226, and  
206 985.224, F.S., relating to the Department of Corrections,  
207 the Parole Commission, children in need of services, and  
208 petitions alleging delinquency; conforming provisions to  
209 the transfer of duties from the Developmental Disabilities  
210 Program Office within the Department of Children and  
211 Family Services to the Agency for Persons with  
212 Disabilities; amending s. 1003.58, F.S.; including  
213 facilities operated by the Agency for Persons with  
214 Disabilities within provisions governing the residential  
215 care of students; amending ss. 17.61 and 400.464, F.S.,  
216 relating to the Community Resources Development Trust Fund  
217 and home health services for persons with disabilities,  
218 respectively; conforming provisions to changes made by the  
219 act; amending s. 744.704, F.S.; correcting a cross-



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220 reference; amending s. 984.22, F.S.; removing a provision  
221 that specifies fines be deposited into the Community  
222 Resources Development Trust Fund; providing an effective  
223 date.

224

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

226

227 Section 1. Section 20.197, Florida Statutes, is amended to  
228 read:

229 20.197 Agency for Persons with Disabilities.--There is  
230 created the Agency for Persons with Disabilities, housed within  
231 the Department of Children and Family Services for  
232 administrative purposes only. The agency shall be a separate  
233 budget entity not subject to control, supervision, or direction  
234 by the Department of Children and Family Services in any manner,  
235 including, but not limited to, personnel, purchasing,  
236 transactions involving real or personal property, and budgetary  
237 matters.

238 (1) The director of the agency shall be the agency head  
239 for all purposes and shall be appointed by the Governor, subject  
240 to confirmation by the Senate, and shall serve at the pleasure  
241 of the Governor. The director shall administer the affairs of  
242 the agency ~~and establish administrative units as needed~~ and may,  
243 within available resources, employ assistants, professional  
244 staff, and other employees as necessary to discharge the powers  
245 and duties of the agency.

246 (2) The agency shall include a Division of Budget and  
247 Planning and a Division of Operations. In addition, and in

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248 | accordance with s. 20.04, the director of the agency may  
249 | recommend establishing additional divisions, bureaus, sections,  
250 | and subsections of the agency in order to promote efficient and  
251 | effective operation of the agency.

252 |       ~~(3)-(2)~~ The agency is ~~shall be~~ responsible for providing  
253 | ~~the provision of~~ all services provided to persons with  
254 | developmental disabilities under ~~pursuant to~~ chapter 393,  
255 | including the operation of all state institutional programs and  
256 | the programmatic management of Medicaid waivers established to  
257 | provide services to persons with developmental disabilities.

258 |       ~~(4)-(3)~~ The agency shall engage in such other  
259 | administrative activities as are deemed necessary to effectively  
260 | and efficiently address the needs of the agency's clients.

261 |       ~~(5)-(4)~~ The agency shall enter into an interagency  
262 | agreement that delineates the responsibilities of the Agency for  
263 | Health Care Administration for the following:

264 |       (a) The terms and execution of contracts with Medicaid  
265 | providers for the provision of services provided through  
266 | Medicaid, including federally approved waiver programs.

267 |       (b) The billing, payment, and reconciliation of claims for  
268 | Medicaid services reimbursed by the agency.

269 |       (c) The implementation of utilization management measures,  
270 | including the prior authorization of services plans and the  
271 | streamlining and consolidation of waivers services, to ensure  
272 | the cost-effective provision of needed Medicaid services and to  
273 | maximize the number of persons with access to such services.

274 |       (d) A system of approving each client's plan of care to  
275 | ensure that the services on the plan of care are those that

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276 without which the client would require the services of an  
277 intermediate care facility for the developmentally disabled.

278 Section 2. Paragraph (b) of subsection (7) of section  
279 39.001, Florida Statutes, is amended to read:

280 39.001 Purposes and intent; personnel standards and  
281 screening.--

282 (7) PLAN FOR COMPREHENSIVE APPROACH.--

283 (b) The development of the comprehensive state plan shall  
284 be accomplished in the following manner:

285 1. The department shall establish an interprogram task  
286 force comprised of the Program Director for Family Safety, or a  
287 designee, a representative from the Child Care Services Program  
288 Office, a representative from the Family Safety Program Office,  
289 a representative from the Mental Health Program Office, a  
290 representative from the Substance Abuse Program Office, a  
291 representative from the Agency for Persons with Disabilities  
292 ~~Developmental Disabilities Program Office~~, and a representative  
293 from the Division of Children's Medical Services Network  
294 ~~Prevention and Intervention~~ of the Department of Health.  
295 Representatives of the Department of Law Enforcement and of the  
296 Department of Education shall serve as ex officio members of the  
297 interprogram task force. The interprogram task force shall be  
298 responsible for:

299 a. Developing a plan of action for better coordination and  
300 integration of the goals, activities, and funding pertaining to  
301 the prevention of child abuse, abandonment, and neglect  
302 conducted by the department in order to maximize staff and

303 resources at the state level. The plan of action shall be  
304 included in the state plan.

305 b. Providing a basic format to be utilized by the  
306 districts in the preparation of local plans of action in order  
307 to provide for uniformity in the district plans and to provide  
308 for greater ease in compiling information for the state plan.

309 c. Providing the districts with technical assistance in  
310 the development of local plans of action, if requested.

311 d. Examining the local plans to determine if all the  
312 requirements of the local plans have been met and, if they have  
313 not, informing the districts of the deficiencies and requesting  
314 the additional information needed.

315 e. Preparing the state plan for submission to the  
316 Legislature and the Governor. Such preparation shall include the  
317 collapsing of information obtained from the local plans, the  
318 cooperative plans with the Department of Education, and the plan  
319 of action for coordination and integration of departmental  
320 activities into one comprehensive plan. The comprehensive plan  
321 shall include a section reflecting general conditions and needs,  
322 an analysis of variations based on population or geographic  
323 areas, identified problems, and recommendations for change. In  
324 essence, the plan shall provide an analysis and summary of each  
325 element of the local plans to provide a statewide perspective.  
326 The plan shall also include each separate local plan of action.

327 f. Working with the specified state agency in fulfilling  
328 the requirements of subparagraphs 2., 3., 4., and 5.

329 2. The department, the Department of Education, and the  
330 Department of Health shall work together in developing ways to

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331 | inform and instruct parents of school children and appropriate  
332 | district school personnel in all school districts in the  
333 | detection of child abuse, abandonment, and neglect and in the  
334 | proper action that should be taken in a suspected case of child  
335 | abuse, abandonment, or neglect, and in caring for a child's  
336 | needs after a report is made. The plan for accomplishing this  
337 | end shall be included in the state plan.

338 |         3. The department, the Department of Law Enforcement, and  
339 | the Department of Health shall work together in developing ways  
340 | to inform and instruct appropriate local law enforcement  
341 | personnel in the detection of child abuse, abandonment, and  
342 | neglect and in the proper action that should be taken in a  
343 | suspected case of child abuse, abandonment, or neglect.

344 |         4. Within existing appropriations, the department shall  
345 | work with other appropriate public and private agencies to  
346 | emphasize efforts to educate the general public about the  
347 | problem of and ways to detect child abuse, abandonment, and  
348 | neglect and in the proper action that should be taken in a  
349 | suspected case of child abuse, abandonment, or neglect. The plan  
350 | for accomplishing this end shall be included in the state plan.

351 |         5. The department, the Department of Education, and the  
352 | Department of Health shall work together on the enhancement or  
353 | adaptation of curriculum materials to assist instructional  
354 | personnel in providing instruction through a multidisciplinary  
355 | approach on the identification, intervention, and prevention of  
356 | child abuse, abandonment, and neglect. The curriculum materials  
357 | shall be geared toward a sequential program of instruction at  
358 | the four progressional levels, K-3, 4-6, 7-9, and 10-12.

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359 Strategies for encouraging all school districts to utilize the  
360 curriculum are to be included in the comprehensive state plan  
361 for the prevention of child abuse, abandonment, and neglect.

362 6. Each district of the department shall develop a plan  
363 for its specific geographical area. The plan developed at the  
364 district level shall be submitted to the interprogram task force  
365 for utilization in preparing the state plan. The district local  
366 plan of action shall be prepared with the involvement and  
367 assistance of the local agencies and organizations listed in  
368 paragraph (a), as well as representatives from those  
369 departmental district offices participating in the treatment and  
370 prevention of child abuse, abandonment, and neglect. In order to  
371 accomplish this, the district administrator in each district  
372 shall establish a task force on the prevention of child abuse,  
373 abandonment, and neglect. The district administrator shall  
374 appoint the members of the task force in accordance with the  
375 membership requirements of this section. In addition, the  
376 district administrator shall ensure that each subdistrict is  
377 represented on the task force; and, if the district does not  
378 have subdistricts, the district administrator shall ensure that  
379 both urban and rural areas are represented on the task force.  
380 The task force shall develop a written statement clearly  
381 identifying its operating procedures, purpose, overall  
382 responsibilities, and method of meeting responsibilities. The  
383 district plan of action to be prepared by the task force shall  
384 include, but shall not be limited to:

385 a. Documentation of the magnitude of the problems of child  
386 abuse, including sexual abuse, physical abuse, and emotional

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387 | abuse, and child abandonment and neglect in its geographical  
388 | area.

389 |       b. A description of programs currently serving abused,  
390 | abandoned, and neglected children and their families and a  
391 | description of programs for the prevention of child abuse,  
392 | abandonment, and neglect, including information on the impact,  
393 | cost-effectiveness, and sources of funding of such programs.

394 |       c. A continuum of programs and services necessary for a  
395 | comprehensive approach to the prevention of all types of child  
396 | abuse, abandonment, and neglect as well as a brief description  
397 | of such programs and services.

398 |       d. A description, documentation, and priority ranking of  
399 | local needs related to child abuse, abandonment, and neglect  
400 | prevention based upon the continuum of programs and services.

401 |       e. A plan for steps to be taken in meeting identified  
402 | needs, including the coordination and integration of services to  
403 | avoid unnecessary duplication and cost, and for alternative  
404 | funding strategies for meeting needs through the reallocation of  
405 | existing resources, utilization of volunteers, contracting with  
406 | local universities for services, and local government or private  
407 | agency funding.

408 |       f. A description of barriers to the accomplishment of a  
409 | comprehensive approach to the prevention of child abuse,  
410 | abandonment, and neglect.

411 |       g. Recommendations for changes that can be accomplished  
412 | only at the state program level or by legislative action.

413 |       Section 3. Paragraphs (a) and (h) of subsection (2) of  
414 | section 39.202, Florida Statutes, are amended to read:

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415 39.202 Confidentiality of reports and records in cases of  
416 child abuse or neglect.--

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

421 (a) Employees, authorized agents, or contract providers of  
422 the department, the Department of Health, the Agency for Persons  
423 with Disabilities, or county agencies responsible for carrying  
424 out:

- 425 1. Child or adult protective investigations;
- 426 2. Ongoing child or adult protective services;
- 427 3. Healthy Start services; or
- 428 4. Licensure or approval of adoptive homes, foster homes,  
429 ~~or~~ child care facilities, facilities licensed under chapter 393,  
430 or family day care homes or informal child care providers who  
431 receive subsidized child care funding, or other homes used to  
432 provide for the care and welfare of children.

433 5. Services for victims of domestic violence when provided  
434 by certified domestic violence centers working at the  
435 department's request as case consultants or with shared clients.

436  
437 Also, employees or agents of the Department of Juvenile Justice  
438 responsible for the provision of services to children, pursuant  
439 to chapters 984 and 985.

440 (h) Any appropriate official of the department or the  
441 Agency for Persons with Disabilities who is responsible for:



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442           1. Administration or supervision of the department's  
443 program for the prevention, investigation, or treatment of child  
444 abuse, abandonment, or neglect, or abuse, neglect, or  
445 exploitation of a vulnerable adult, when carrying out his or her  
446 official function;

447           2. Taking appropriate administrative action concerning an  
448 employee of the department or the agency who is alleged to have  
449 perpetrated child abuse, abandonment, or neglect, or abuse,  
450 neglect, or exploitation of a vulnerable adult; or

451           3. Employing and continuing employment of personnel of the  
452 department or the agency.

453           Section 4. Subsection (5) of section 39.407, Florida  
454 Statutes, is amended to read:

455           39.407 Medical, psychiatric, and psychological examination  
456 and treatment of child; physical or mental examination of parent  
457 or person requesting custody of child.--

458           (5) A judge may order a child in an out-of-home placement  
459 to be treated by a licensed health care professional based on  
460 evidence that the child should receive treatment. The judge may  
461 also order such child to receive mental health ~~or developmental~~  
462 ~~disabilities~~ services from a psychiatrist, psychologist, or  
463 other appropriate service provider. Except as provided in  
464 subsection (6), if it is necessary to place the child in a  
465 residential facility for such services, the procedures and  
466 criteria established in s. 394.467 ~~or chapter 393~~ shall be used,  
467 ~~whichever is applicable~~. A child may be provided ~~developmental~~  
468 ~~disabilities~~ or mental health services in emergency situations,

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469 | pursuant to the procedures and criteria contained in s.  
470 | 394.463(1) ~~or chapter 393, whichever is applicable.~~

471 | Section 5. Section 287.155, Florida Statutes, is amended  
472 | to read:

473 | 287.155 Motor vehicles; purchase by Division of  
474 | Universities, Department of Children and Family Services, Agency  
475 | for Persons with Disabilities, Department of Health, Department  
476 | of Juvenile Justice, and Department of Corrections.--

477 | (1) The Division of Universities of the Department of  
478 | Education, the Department of Children and Family Services, the  
479 | Agency for Persons with Disabilities, the Department of Health,  
480 | the Department of Juvenile Justice, and the Department of  
481 | Corrections may ~~are hereby authorized~~, subject to the approval  
482 | of the Department of Management Services, ~~to~~ purchase  
483 | automobiles, trucks, tractors, and other automotive equipment  
484 | for the use of institutions under the management of the Division  
485 | of Universities, the Department of Children and Family Services,  
486 | the Agency for Persons with Disabilities, the Department of  
487 | Health, and the Department of Corrections, and for the use of  
488 | residential facilities managed or contracted by the Department  
489 | of Juvenile Justice.

490 | (2) The Department of Corrections shall, prior to  
491 | purchasing motor vehicles, seek to procure the motor vehicles  
492 | from those vehicles renovated pursuant to correctional work  
493 | programs of the Department of Corrections, and for the use of  
494 | residential facilities managed or contracted by the Department  
495 | of Juvenile Justice.

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496 (3) The Department of Health is authorized, subject to the  
497 approval of the Department of Management Services, to purchase  
498 automobiles, trucks, and other automotive equipment for use by  
499 county health departments.

500 Section 6. Paragraph (a) of subsection (3) of section  
501 381.0072, Florida Statutes, is amended to read:

502 381.0072 Food service protection.--It shall be the duty of  
503 the Department of Health to adopt and enforce sanitation rules  
504 consistent with law to ensure the protection of the public from  
505 food-borne illness. These rules shall provide the standards and  
506 requirements for the storage, preparation, serving, or display  
507 of food in food service establishments as defined in this  
508 section and which are not permitted or licensed under chapter  
509 500 or chapter 509.

510 (3) LICENSES REQUIRED.--

511 (a) Licenses; annual renewals.--Each food service  
512 establishment regulated under this section shall obtain a  
513 license from the department annually. Food service establishment  
514 licenses shall expire annually and are ~~shall~~ not be transferable  
515 from one place or individual to another. However, those  
516 facilities licensed by the department's Office of Licensure and  
517 Certification, the Child Care Services Program Office, or the  
518 Agency for Persons with Developmental Disabilities Program  
519 ~~Office~~ are exempt from this subsection. It shall be a  
520 misdemeanor of the second degree, punishable as provided in s.  
521 381.0061, s. 775.082, or s. 775.083, for such an establishment  
522 to operate without this license. The department may refuse a  
523 license, or a renewal thereof, to any establishment that is not

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524 constructed or maintained in accordance with law and with the  
525 rules of the department. Annual application for renewal is ~~shall~~  
526 not ~~be~~ required.

527 Section 7. Subsection (5) of section 383.14, Florida  
528 Statutes, is amended to read:

529 383.14 Screening for metabolic disorders, other hereditary  
530 and congenital disorders, and environmental risk factors.--

531 (5) ADVISORY COUNCIL.--There is established a Genetics and  
532 Newborn Screening Advisory Council made up of 15 members  
533 appointed by the Secretary of Health. The council shall be  
534 composed of two consumer members, three practicing  
535 pediatricians, at least one of whom must be a pediatric  
536 hematologist, one representative from each of the four medical  
537 schools in the state, the Secretary of Health or his or her  
538 designee, one representative from the Department of Health  
539 representing Children's Medical Services, one representative  
540 from the Florida Hospital Association, one individual with  
541 experience in newborn screening programs, one individual  
542 representing audiologists, and one representative from the  
543 Agency for Persons with Disabilities ~~Developmental Disabilities~~  
544 ~~Program Office of the Department of Children and Family~~  
545 ~~Services~~. All appointments shall be for a term of 4 years. The  
546 chairperson of the council shall be elected from the membership  
547 of the council and shall serve for a period of 2 years. The  
548 council shall meet at least semiannually or upon the call of the  
549 chairperson. The council may establish ad hoc or temporary  
550 technical advisory groups to assist the council with specific  
551 topics which come before the council. Council members shall

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552 | serve without pay. Pursuant to the provisions of s. 112.061, the  
553 | council members are entitled to be reimbursed for per diem and  
554 | travel expenses. It is the purpose of the council to advise the  
555 | department about:

556 |       (a) Conditions for which testing should be included under  
557 | the screening program and the genetics program.

558 |       (b) Procedures for collection and transmission of  
559 | specimens and recording of results.

560 |       (c) Methods whereby screening programs and genetics  
561 | services for children now provided or proposed to be offered in  
562 | the state may be more effectively evaluated, coordinated, and  
563 | consolidated.

564 |       Section 8. Section 393.061, Florida Statutes, is repealed.

565 |       Section 9. Section 393.062, Florida Statutes, is amended  
566 | to read:

567 |       393.062 Legislative findings and declaration of  
568 | intent.--The Legislature finds and declares that existing state  
569 | programs for the treatment of individuals with developmental  
570 | disabilities ~~who are developmentally disabled~~, which often  
571 | unnecessarily place clients in institutions, are unreasonably  
572 | costly, are ineffective in bringing the individual client to his  
573 | or her maximum potential, and are in fact debilitating to many a  
574 | ~~great majority of~~ clients. A redirection in state treatment  
575 | programs for individuals with developmental disabilities ~~who are~~  
576 | ~~developmentally disabled~~ is necessary if any significant  
577 | amelioration of the problems faced by such individuals is ever  
578 | to take place. Such redirection should place primary emphasis on  
579 | programs that ~~have the potential to~~ prevent or reduce the

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580 severity of developmental disabilities. Further, the ~~Legislature~~  
581 ~~declares that~~ greatest priority shall be given to the  
582 development and implementation of community-based ~~residential~~  
583 ~~placements, services that, and treatment programs for~~  
584 ~~individuals who are developmentally disabled which will enable~~  
585 ~~such~~ individuals with developmental disabilities to achieve  
586 their greatest potential for independent and productive living,  
587 ~~which will~~ enable them to live in their own homes or in  
588 residences located in their own communities, and ~~which will~~  
589 permit them to be diverted or removed from unnecessary  
590 institutional placements. This goal ~~The Legislature finds that~~  
591 ~~the eligibility criteria for intermediate care facilities for~~  
592 ~~the developmentally disabled which are specified in the Medicaid~~  
593 ~~state plan in effect on the effective date of this act are~~  
594 ~~essential to the system of residential services. The Legislature~~  
595 ~~declares that the goal of this act, to improve the quality of~~  
596 ~~life of all developmentally disabled persons by the development~~  
597 ~~and implementation of community based residential placements,~~  
598 ~~services, and treatment,~~ cannot be met without ensuring the  
599 availability of community residential opportunities ~~for~~  
600 ~~developmentally disabled persons~~ in the residential areas of  
601 this state. The Legislature, therefore, declares that all  
602 persons with developmental disabilities who live in licensed  
603 community homes shall have a family living environment  
604 comparable to other Floridians and. ~~The Legislature intends that~~  
605 such residences shall be considered and treated as a functional  
606 equivalent of a family unit and not as an institution, business,  
607 or boarding home. The Legislature further declares that, in

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608 developing community-based programs and services for individuals  
609 with developmental disabilities ~~who are developmentally~~  
610 ~~disabled~~, private businesses, not-for-profit corporations, units  
611 of local government, and other organizations capable of  
612 providing needed services to clients in a cost-efficient manner  
613 shall be given preference in lieu of operation of programs  
614 directly by state agencies. Finally, it is the intent of the  
615 Legislature that all caretakers unrelated to individuals with  
616 developmental disabilities receiving care shall be of good moral  
617 character.

618 Section 10. Section 393.063, Florida Statutes, is amended  
619 to read:

620 393.063 Definitions.--For the purposes of this chapter,  
621 the term:

622 (1) "Agency" means the Agency for Persons with  
623 Disabilities.

624 (2) "Adult day training" means training services which  
625 take place in a nonresidential setting, separate from the home  
626 or facility in which the client resides, are intended to support  
627 the participation of clients in daily, meaningful, and valued  
628 routines of the community, and may include work-like settings  
629 that do not meet the definition of supported employment.

630 (3)~~(2)~~ "Autism" means a pervasive, neurologically based  
631 developmental disability of extended duration which causes  
632 severe learning, communication, and behavior disorders with age  
633 of onset during infancy or childhood. Individuals with autism  
634 exhibit impairment in reciprocal social interaction, impairment  
635 in verbal and nonverbal communication and imaginative ability,

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636 and a markedly restricted repertoire of activities and  
637 interests.

638 (4)~~(3)~~ "Cerebral palsy" means a group of disabling  
639 symptoms of extended duration which results from damage to the  
640 developing brain that may occur before, during, or after birth  
641 and that results in the loss or impairment of control over  
642 voluntary muscles. For the purposes of this definition, cerebral  
643 palsy does not include those symptoms or impairments resulting  
644 solely from a stroke.

645 (5)~~(4)~~ "Client" means any person determined eligible by  
646 the agency for services under this chapter.

647 (6)~~(5)~~ "Client advocate" means a friend or relative of the  
648 client, or of the client's immediate family, who advocates for  
649 the best interests of the client in any proceedings under this  
650 chapter in which the client or his or her family has the right  
651 or duty to participate.

652 (7)~~(6)~~ "Comprehensive assessment" means the process used  
653 to determine eligibility for services under this chapter.

654 (8)~~(7)~~ "Comprehensive transitional education program"  
655 means the program established in s. 393.18. ~~a group of jointly~~  
656 ~~operating centers or units, the collective purpose of which is~~  
657 ~~to provide a sequential series of educational care, training,~~  
658 ~~treatment, habilitation, and rehabilitation services to persons~~  
659 ~~who have developmental disabilities and who have severe or~~  
660 ~~moderate maladaptive behaviors. However, nothing in this~~  
661 ~~subsection shall require such programs to provide services only~~  
662 ~~to persons with developmental disabilities. All such services~~  
663 ~~shall be temporary in nature and delivered in a structured~~



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664 ~~residential setting with the primary goal of incorporating the~~  
665 ~~normalization principle to establish permanent residence for~~  
666 ~~persons with maladaptive behaviors in facilities not associated~~  
667 ~~with the comprehensive transitional education program. The staff~~  
668 ~~shall include psychologists and teachers who shall be available~~  
669 ~~to provide services in each component center or unit of the~~  
670 ~~program. The psychologists shall be individuals who are licensed~~  
671 ~~in this state and certified as behavior analysts in this state,~~  
672 ~~or individuals who are certified as behavior analysts pursuant~~  
673 ~~to s. 393.17.~~

674 ~~(a) Comprehensive transitional education programs shall~~  
675 ~~include a minimum of two component centers or units, one of~~  
676 ~~which shall be either an intensive treatment and educational~~  
677 ~~center or a transitional training and educational center, which~~  
678 ~~provide services to persons with maladaptive behaviors in the~~  
679 ~~following sequential order:~~

680 ~~1. Intensive treatment and educational center. This~~  
681 ~~component is a self contained residential unit providing~~  
682 ~~intensive psychological and educational programming for persons~~  
683 ~~with severe maladaptive behaviors, whose behaviors preclude~~  
684 ~~placement in a less restrictive environment due to the threat of~~  
685 ~~danger or injury to themselves or others.~~

686 ~~2. Transitional training and educational center. This~~  
687 ~~component is a residential unit for persons with moderate~~  
688 ~~maladaptive behaviors, providing concentrated psychological and~~  
689 ~~educational programming emphasizing a transition toward a less~~  
690 ~~restrictive environment.~~

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691 ~~3.— Community transition residence. This component is a~~  
692 ~~residential center providing educational programs and such~~  
693 ~~support services, training, and care as are needed to assist~~  
694 ~~persons with maladaptive behaviors to avoid regression to more~~  
695 ~~restrictive environments while preparing them for more~~  
696 ~~independent living. Continuous shift staff shall be required for~~  
697 ~~this component.~~

698 ~~4.— Alternative living center. This component is a~~  
699 ~~residential unit providing an educational and family living~~  
700 ~~environment for persons with maladaptive behaviors, in a~~  
701 ~~moderately unrestricted setting. Residential staff shall be~~  
702 ~~required for this component.~~

703 ~~5.— Independent living education center. This component is~~  
704 ~~a facility providing a family living environment for persons~~  
705 ~~with maladaptive behaviors, in a largely unrestricted setting~~  
706 ~~which includes education and monitoring appropriate to support~~  
707 ~~the development of independent living skills.~~

708 ~~(b)— Centers or units that are components of a~~  
709 ~~comprehensive transitional education program are subject to the~~  
710 ~~license issued to the comprehensive transitional education~~  
711 ~~program and may be located on either single or multiple sites.~~

712 ~~(c)— Comprehensive transitional education programs shall~~  
713 ~~develop individual education plans for each person with~~  
714 ~~maladaptive behaviors who receives services therein. Such~~  
715 ~~individual education plans shall be developed in accordance with~~  
716 ~~the criteria specified in 20 U.S.C. ss. 401 et seq., and 34~~  
717 ~~C.F.R. part 300.~~

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

721 ~~(e) This subsection shall authorize licensure for~~  
722 ~~comprehensive transitional education programs which by July 1,~~  
723 ~~1989.~~

724 ~~1. Are in actual operation; or~~

725 ~~2. Own a fee simple interest in real property for which a~~  
726 ~~county or city government has approved zoning allowing for the~~  
727 ~~placement of the facilities described in this subsection, and~~  
728 ~~have registered an intent with the department to operate a~~  
729 ~~comprehensive transitional education program. However, nothing~~  
730 ~~shall prohibit the assignment by such a registrant to another~~  
731 ~~entity at a different site within the state, so long as there is~~  
732 ~~compliance with all criteria of the comprehensive transitional~~  
733 ~~education program and local zoning requirements and provided~~  
734 ~~that each residential facility within the component centers or~~  
735 ~~units of the program authorized under this subparagraph shall~~  
736 ~~not exceed a capacity of 15 persons.~~

737 ~~(8) "Day habilitation facility" means any nonresidential~~  
738 ~~facility which provides day habilitation services.~~

739 ~~(9) "Day habilitation service" means assistance with the~~  
740 ~~acquisition, retention, or improvement in self help,~~  
741 ~~socialization, and adaptive skills which takes place in a~~  
742 ~~nonresidential setting, separate from the home or facility in~~  
743 ~~which the individual resides. Day habilitation services shall~~  
744 ~~focus on enabling the individual to attain or maintain his or~~  
745 ~~her maximum functional level and shall be coordinated with any~~

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746 ~~physical, occupational, or speech therapies listed in the plan~~  
747 ~~of care.~~

748 (9)~~(10)~~ "Developmental disability" means a disorder or  
749 syndrome that is attributable to retardation, cerebral palsy,  
750 autism, spina bifida, or Prader-Willi syndrome; that manifests  
751 before the age of 18; and that constitutes a substantial  
752 handicap that can reasonably be expected to continue  
753 indefinitely.

754 (10)~~(11)~~ "Developmental disabilities institution" means a  
755 state-owned and state-operated facility, formerly known as a  
756 "Sunland Center," providing for the care, habilitation, and  
757 rehabilitation of clients with developmental disabilities.

758 (11)~~(12)~~ "Direct service provider," ~~also known as~~  
759 ~~"caregiver" in chapters 39 and 415 or "caretaker" in provisions~~  
760 ~~relating to employment security checks,~~ means a person 18 years  
761 of age or older who has direct face-to-face contact with a  
762 client while providing services to the client ~~individuals with~~  
763 ~~developmental disabilities,~~ or has access to a client's living  
764 areas or to a client's funds or personal property, ~~and is not a~~  
765 ~~relative of such individuals.~~

766 (12)~~(13)~~ "Domicile" means the place where a client legally  
767 resides, which place is his or her permanent home. Domicile may  
768 be established as provided in s. 222.17. Domicile may not be  
769 established in Florida by a minor who has no parent domiciled in  
770 Florida, or by a minor who has no legal guardian domiciled in  
771 Florida, or by any alien not classified as a resident alien.

772 ~~(14)~~ ~~"Enclave" means a work station in public or private~~  
773 ~~business or industry where a small group of persons with~~

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774 ~~developmental disabilities is employed and receives training and~~  
 775 ~~support services or follow along services among nonhandicapped~~  
 776 ~~workers.~~

777 ~~(15) "Epilepsy" means a chronic brain disorder of various~~  
 778 ~~causes which is characterized by recurrent seizures due to~~  
 779 ~~excessive discharge of cerebral neurons. When found concurrently~~  
 780 ~~with retardation, autism, or cerebral palsy, epilepsy is~~  
 781 ~~considered a secondary disability for which the client is~~  
 782 ~~eligible to receive services to ameliorate this condition~~  
 783 ~~pursuant to this chapter.~~

784 ~~(13)~~(16) "Express and informed consent" means consent  
 785 voluntarily given in writing with sufficient knowledge and  
 786 comprehension of the subject matter ~~involved~~ to enable the  
 787 person giving consent to make a knowing ~~an understanding and~~  
 788 ~~enlightened~~ decision without any element of force, fraud,  
 789 deceit, duress, or other form of constraint or coercion.

790 ~~(14)~~(17) "Family care program" means the program  
 791 established in s. 393.068.

792 ~~(18) "Follow along services" means those support services~~  
 793 ~~provided to persons with developmental disabilities in all~~  
 794 ~~supported employment programs and may include, but are not~~  
 795 ~~limited to, family support, assistance in meeting transportation~~  
 796 ~~and medical needs, employer intervention, performance~~  
 797 ~~evaluation, advocacy, replacement, retraining or promotional~~  
 798 ~~assistance, or other similar support services.~~

799 ~~(15)~~(19) "Foster care facility" means a residential  
 800 facility licensed under this chapter which provides a family  
 801 living environment including supervision and care necessary to

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802 meet the physical, emotional, and social needs of its residents.  
803 The capacity of such a facility may ~~shall~~ not be more than three  
804 residents.

805 ~~(16)-(20)~~ "Group home facility" means a residential  
806 facility licensed under this chapter which provides a family  
807 living environment including supervision and care necessary to  
808 meet the physical, emotional, and social needs of its residents.  
809 The capacity of such a facility shall be at least 4 but not more  
810 than 15 residents. ~~For the purposes of this chapter, group home~~  
811 ~~facilities shall not be considered commercial enterprises.~~

812 ~~(17)-(21)~~ "Guardian advocate" means a person appointed by a  
813 written order of the court to represent a person with  
814 developmental disabilities under s. 393.12.

815 ~~(18)-(22)~~ "Habilitation" means the process by which a  
816 client is assisted to acquire and maintain those life skills  
817 which enable the client to cope more effectively with the  
818 demands of his or her condition and environment and to raise the  
819 level of his or her physical, mental, and social efficiency. It  
820 includes, but is not limited to, programs of formal structured  
821 education and treatment.

822 ~~(19)-(23)~~ "High-risk child" means, for the purposes of this  
823 chapter, a child from 3 ~~birth~~ to 5 years of age with one or more  
824 of the following characteristics:

825 (a) A developmental delay in cognition, language, or  
826 physical development.

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

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830 (c) A child with a parent or guardian with developmental  
831 disabilities who requires assistance in meeting the child's  
832 developmental needs.

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

835 ~~(20)-(24)~~ "Intermediate care facility for the  
836 developmentally disabled" or "ICF/DD" means a residential  
837 facility licensed and certified pursuant to part XI of chapter  
838 400.

839 ~~(25) "Job coach" means a person who provides employment-~~  
840 ~~related training at a worksite to individuals with developmental~~  
841 ~~disabilities.~~

842 ~~(21)-(26)~~ "Medical/dental services" means medically  
843 necessary ~~these~~ services which are provided or ordered for a  
844 client by a person licensed under ~~pursuant to the provisions of~~  
845 chapter 458, chapter 459, or chapter 466. Such services may  
846 include, but are not limited to, prescription drugs, specialized  
847 therapies, nursing supervision, hospitalization, dietary  
848 services, prosthetic devices, surgery, specialized equipment and  
849 supplies, adaptive equipment, and other services as required to  
850 prevent or alleviate a medical or dental condition.

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

854 ~~(28) "Normalization principle" means the principle of~~  
855 ~~letting the client obtain an existence as close to the normal as~~  
856 ~~possible, making available to the client patterns and conditions~~

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857 ~~of everyday life which are as close as possible to the norm and~~  
858 ~~patterns of the mainstream of society.~~

859 ~~(22)-(29)~~ "Personal care services" means include, but are  
860 ~~not limited to, such services as:~~ individual assistance with or  
861 supervision of essential activities of daily living for self-  
862 care, including ambulation, bathing, dressing, eating, grooming,  
863 and toileting, and other similar services that are incidental to  
864 the care furnished and essential to the health, safety, and  
865 welfare of the client when there is no one else available to  
866 perform those services ~~the agency may define by rule.~~ "Personal  
867 services" ~~shall not be construed to mean the provision of~~  
868 ~~medical, nursing, dental, or mental health services by the staff~~  
869 ~~of a facility, except as provided in this chapter. In addition,~~  
870 ~~an emergency response device installed in the apartment or~~  
871 ~~living area of a resident shall not be classified as a personal~~  
872 ~~service.~~

873 ~~(23)-(30)~~ "Prader-Willi syndrome" means an inherited  
874 condition typified by neonatal hypotonia with failure to thrive,  
875 hyperphagia or an excessive drive to eat which leads to obesity  
876 usually at 18 to 36 months of age, mild to moderate mental  
877 retardation, hypogonadism, short stature, mild facial  
878 dysmorphism, and a characteristic neurobehavior.

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



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883        ~~(24)(32)~~ "Relative" means an individual who is connected  
884 by affinity or consanguinity to the client and who is 18 years  
885 of age or older ~~more~~.

886        ~~(25)(33)~~ "Resident" means any person with developmental  
887 disabilities ~~who is developmentally disabled~~ residing at a  
888 residential facility ~~in the state~~, whether or not such person is  
889 a client of the agency.

890        ~~(26)(34)~~ "Residential facility" means a facility providing  
891 room and board and personal care for persons with developmental  
892 disabilities.

893        ~~(27)(35)~~ "Residential habilitation" means supervision and  
894 training assistance ~~provided with the~~ acquisition, retention, or  
895 improvement in skills related to activities of daily living,  
896 such as personal hygiene skills ~~grooming and cleanliness,~~  
897 homemaking skills ~~bedmaking and household chores, eating and the~~  
898 ~~preparation of food~~, and the social and adaptive skills  
899 necessary to enable the individual to reside in the community ~~a~~  
900 ~~noninstitutional setting~~.

901        ~~(28)(36)~~ "Residential habilitation center" means a  
902 community residential facility licensed under this chapter which  
903 ~~that~~ provides ~~residential~~ services. The capacity of  
904 such a facility shall not be fewer than nine residents. After  
905 October 1, 1989, ~~no~~ new residential habilitation centers may not  
906 ~~shall~~ be licensed and the licensed capacity ~~shall not be~~  
907 ~~increased~~ for any existing residential habilitation center may  
908 not be increased.

909        ~~(29)(37)~~ "Respite service" means appropriate, short-term,  
910 temporary care that is provided to a person with developmental

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911 disabilities to meet the planned or emergency needs of the  
912 person or the family or other direct service provider.

913 (30) "Restraint" means a physical device, method, or drug  
914 used to control dangerous behavior.

915 (a) A physical restraint is any manual method or physical  
916 or mechanical device, material, or equipment attached or  
917 adjacent to the individual's body so that he or she cannot  
918 easily remove the restraint and which restricts freedom of  
919 movement or normal access to one's body.

920 (b) A drug used as a restraint is a medication used to  
921 control the person's behavior or to restrict his or her freedom  
922 of movement and is not a standard treatment for the person's  
923 medical or psychiatric condition. Physically holding a person  
924 during a procedure to forcibly administer psychotropic  
925 medication is a physical restraint.

926 (c) Restraint does not include physical devices, such as  
927 orthopedically prescribed appliances, surgical dressings and  
928 bandages, supportive body bands, or other physical holding when  
929 necessary for routine physical examinations and tests; for  
930 purposes of orthopedic, surgical, or other similar medical  
931 treatment; when used to provide support for the achievement of  
932 functional body position or proper balance; or when used to  
933 protect a person from falling out of bed.

934 (31)~~(38)~~ "Retardation" means significantly subaverage  
935 general intellectual functioning existing concurrently with  
936 deficits in adaptive behavior ~~and manifested during the period~~  
937 ~~from conception to age 18.~~ "Significantly subaverage general  
938 intellectual functioning," for the purpose of this definition,

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939 means performance which is two or more standard deviations from  
940 the mean score on a standardized intelligence test specified in  
941 the rules of the agency. "Adaptive behavior," for the purpose of  
942 this definition, means the effectiveness or degree with which an  
943 individual meets the standards of personal independence and  
944 social responsibility expected of his or her age, cultural  
945 group, and community.

946 (32) "Seclusion" means the involuntary isolation of a  
947 person in a room or area from which the person is prevented from  
948 leaving. The prevention may be by physical barrier or by a staff  
949 member who is acting in a manner, or who is physically situated,  
950 so as to prevent the person from leaving the room or area. For  
951 the purposes of this chapter, the term does not mean isolation  
952 due to the medical condition or symptoms of the person.

953 (33) "Self-determination" means an individual's freedom to  
954 exercise the same rights as all other citizens, authority to  
955 exercise control over funds needed for one's own support,  
956 including prioritizing these funds when necessary,  
957 responsibility for the wise use of public funds, and self  
958 advocacy to speak and advocate for oneself in order to gain  
959 independence and ensure that individuals with a developmental  
960 disability are treated equally.

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

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966        (34)~~(40)~~ "Specialized therapies" means those treatments or  
967 activities prescribed by and provided by an appropriately  
968 trained, licensed, or certified professional or staff person and  
969 may include, but are not limited to, physical therapy, speech  
970 therapy, respiratory therapy, occupational therapy, behavior  
971 therapy, physical management services, and related specialized  
972 equipment and supplies.

973        (35)~~(41)~~ "Spina bifida" means, for purposes of this  
974 chapter, a person with a medical diagnosis of spina bifida  
975 cystica or myelomeningocele.

976        (36)~~(42)~~ "Support coordinator" means a person who is  
977 designated by the agency to assist individuals and families in  
978 identifying their capacities, needs, and resources, as well as  
979 finding and gaining access to necessary supports and services;  
980 coordinating the delivery of supports and services; advocating  
981 on behalf of the individual and family; maintaining relevant  
982 records; and monitoring and evaluating the delivery of supports  
983 and services to determine the extent to which they meet the  
984 needs and expectations identified by the individual, family, and  
985 others who participated in the development of the support plan.

986        ~~(43) "Supported employee" means a person who requires and  
987 receives supported employment services in order to maintain  
988 community based employment.~~

989        (37)~~(44)~~ "Supported employment" means employment located  
990 or provided in a normal employment setting which provides at  
991 least 20 hours employment per week in an integrated work  
992 setting, with earnings paid on a commensurate wage basis, and  
993 for which continued support is needed for job maintenance.

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994            (38)~~(45)~~ "Supported living" means a category of  
 995 individually determined services designed and coordinated in  
 996 such a manner as to provide assistance to adult clients who  
 997 require ongoing supports to live as independently as possible in  
 998 their own homes, to be integrated into the community, and to  
 999 participate in community life to the fullest extent possible.

1000            (39)~~(46)~~ "Training" means a planned approach to assisting  
 1001 a client to attain or maintain his or her maximum potential and  
 1002 includes services ranging from sensory stimulation to  
 1003 instruction in skills for independent living and employment.

1004            (40)~~(47)~~ "Treatment" means the prevention, amelioration,  
 1005 or cure of a client's physical and mental disabilities or  
 1006 illnesses.

1007            Section 11. Subsections (1), (2), and (4) of section  
 1008 393.064, Florida Statutes, are amended to read:

1009            393.064 Prevention.--

1010            (1) The agency shall give priority to the development,  
 1011 planning, and implementation of programs which have the  
 1012 potential to prevent, correct, cure, or reduce the severity of  
 1013 developmental disabilities. The agency shall direct an  
 1014 interagency and interprogram effort for the continued  
 1015 development of a prevention plan and program. The agency shall  
 1016 identify, through demonstration projects, through program  
 1017 evaluation, and through monitoring of programs and projects  
 1018 conducted outside of the agency, any medical, social, economic,  
 1019 or educational methods, techniques, or procedures that have the  
 1020 potential to effectively ameliorate, correct, or cure  
 1021 developmental disabilities. The agency ~~program~~ shall determine

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1022 | the costs and benefits that would be associated with such  
 1023 | prevention efforts and shall implement, or recommend the  
 1024 | implementation of, those methods, techniques, or procedures  
 1025 | which are found likely to be cost-beneficial.

1026 |         (2) Prevention services provided by the agency shall  
 1027 | ~~developmental services program~~ include services to high-risk and  
 1028 | ~~developmentally disabled~~ children from 3 birth to 5 years of  
 1029 | age, and their families, to meet the intent of chapter 411.

1030 | Except for services for children from birth to age 3 years which  
 1031 | ~~Such services shall include individual evaluations or~~  
 1032 | ~~assessments necessary to diagnose a developmental disability or~~  
 1033 | ~~high risk condition and to determine appropriate individual~~  
 1034 | ~~family and support services, unless evaluations or assessments~~  
 1035 | are the responsibility of the Division of Children's Medical  
 1036 | Services in the Department of Health Prevention and Intervention  
 1037 | ~~for children ages birth to 3 years eligible for services under~~  
 1038 | ~~this chapter~~ or part H of the Individuals with Disabilities  
 1039 | Education Act, such services and may include:

1040 |             (a) Individual evaluations or assessments necessary to  
 1041 | diagnose a developmental disability or high-risk condition and  
 1042 | to determine appropriate, individual family and support  
 1043 | services.

1044 |             (b)~~(a)~~ Early intervention services, including  
 1045 | developmental training and specialized therapies. ~~Early~~  
 1046 | ~~intervention services, which are the responsibility of the~~  
 1047 | ~~Division of Children's Medical Services Prevention and~~  
 1048 | ~~Intervention for children ages birth to 3 years who are eligible~~  
 1049 | ~~for services under this chapter or under part H of the~~

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1050 ~~Individuals with Disabilities Education Act, shall not be~~  
 1051 ~~provided through the developmental services program unless~~  
 1052 ~~funding is specifically appropriated to the developmental~~  
 1053 ~~services program for this purpose.~~

1054 (c) ~~(b)~~ Support services, such as respite care, parent  
 1055 education and training, parent-to-parent counseling, homemaker  
 1056 services, and other services which allow families to maintain  
 1057 and provide quality care to children in their homes. ~~The~~  
 1058 ~~Division of Children's Medical Services Prevention and~~  
 1059 ~~Intervention is responsible for the provision of services to~~  
 1060 ~~children from birth to 3 years who are eligible for services~~  
 1061 ~~under this chapter.~~

1062 (4) There is created at the developmental disabilities  
 1063 ~~services~~ institution in Gainesville a research and education  
 1064 unit. Such unit shall be named the Raymond C. Philips Research  
 1065 and Education Unit. The functions of such unit shall include:

1066 (a) Research into the etiology of developmental  
 1067 disabilities.

1068 (b) Ensuring that new knowledge is rapidly disseminated  
 1069 throughout ~~the developmental services program~~ of the agency.

1070 (c) Diagnosis of unusual conditions and syndromes  
 1071 associated with developmental disabilities in clients identified  
 1072 throughout ~~the developmental~~ disabilities ~~services~~ programs.

1073 (d) Evaluation of families of clients with developmental  
 1074 disabilities of genetic origin in order to provide them with  
 1075 genetic counseling aimed at preventing the recurrence of the  
 1076 disorder in other family members.

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1077 (e) Ensuring that health professionals in the  
 1078 developmental disabilities ~~services~~ institution at Gainesville  
 1079 have access to information systems that will allow them to  
 1080 remain updated on newer knowledge and maintain their  
 1081 postgraduate education standards.

1082 (f) Enhancing staff training for professionals throughout  
 1083 the agency in the areas of genetics and developmental  
 1084 disabilities.

1085 Section 12. Section 393.0641, Florida Statutes, is amended  
 1086 to read:

1087 393.0641 Program for the prevention and treatment of  
 1088 severe self-injurious behavior.--

1089 (1) Contingent upon specific appropriations, there is  
 1090 created a diagnostic, treatment, training, and research program  
 1091 for clients exhibiting severe self-injurious behavior. As used  
 1092 in this section, the term "severe self-injurious behavior" means  
 1093 any chronic behavior that results in injury to the person's own  
 1094 body, including, but not limited to, self-hitting, head banging,  
 1095 self-biting, scratching, and the ingestion of harmful or  
 1096 potentially harmful nutritive or nonnutritive substances.

1097 (2) The ~~This~~ program shall:

1098 (a) Serve as a resource center for information, training,  
 1099 and program development.

1100 (b) Research the diagnosis and treatment of severe self-  
 1101 injurious behavior, and related disorders, and develop methods  
 1102 of prevention and treatment of self-injurious behavior.

1103 (c) Identify individuals in critical need.



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1104 (d) Develop treatment programs which are meaningful to  
1105 individuals with developmental disabilities, in critical need,  
1106 while safeguarding and respecting the legal and human rights of  
1107 the individuals.

1108 (e) Disseminate research findings on the prevention and  
1109 treatment of severe self-injurious behavior.

1110 (f) Collect data on the type, severity, incidence, and  
1111 demographics of individuals with severe self-injurious behavior,  
1112 and disseminate the data.

1113 ~~(3)-(2)~~ The ~~This~~ program shall adhere to the provisions of  
1114 s. 393.13.

1115 ~~(4)-(3)~~ The agency may contract for the provision of any  
1116 portion or all of the services required by the program.

1117 ~~(5)-(4)~~ The agency may ~~has the authority to~~ license this  
1118 program and ~~shall~~ adopt rules to administer ~~implement~~ the  
1119 program.

1120 Section 13. Subsections (1) and (4) of section 393.065,  
1121 Florida Statutes, are amended, and subsections (5) and (6) are  
1122 added to that section, to read:

1123 393.065 Application and eligibility determination.--

1124 (1) Application for services shall be made in writing to  
1125 the agency, in the service area ~~district~~ in which the applicant  
1126 resides. The agency ~~Employees of the agency's developmental~~  
1127 ~~services program~~ shall review each applicant for eligibility  
1128 within 45 days after the date the application is signed for  
1129 children under 6 years of age and within 60 days after the date  
1130 the application is signed for all other applicants. When  
1131 necessary to definitively identify individual conditions or

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1132 | needs, the agency shall provide a comprehensive assessment. Only  
 1133 | applicants ~~individuals~~ whose domicile is in Florida are eligible  
 1134 | for services. Information accumulated by other agencies,  
 1135 | including professional reports and collateral data, shall be  
 1136 | considered in this process when available.

1137 |       (4) The agency shall assess the level of need and medical  
 1138 | necessity for prospective residents of intermediate-care  
 1139 | facilities for the developmentally disabled ~~after October 1,~~  
 1140 | ~~1999~~. The agency may enter into an agreement with the Department  
 1141 | of Elderly Affairs for its Comprehensive Assessment and Review  
 1142 | for Long-Term-Care Services (CARES) program to conduct  
 1143 | assessments to determine the level of need and medical necessity  
 1144 | for long-term-care services under this chapter. To the extent  
 1145 | permissible under federal law, the assessments shall ~~must~~ be  
 1146 | funded under Title XIX of the Social Security Act.

1147 |       (5) With the exception of clients deemed to be in crisis  
 1148 | whom the agency shall serve as described in rule, the agency  
 1149 | shall place at the top of its wait list for waiver services  
 1150 | those children on the wait list who are from the child welfare  
 1151 | system with an open case in the Department of Children and  
 1152 | Family Services' statewide automated child welfare information  
 1153 | system.

1154 |       (6) The agency may adopt rules specifying application  
 1155 | procedures and eligibility criteria as needed to administer this  
 1156 | section.

1157 |       Section 14. Section 393.0651, Florida Statutes, is amended  
 1158 | to read:

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1159           393.0651 Family or individual support plan.--The agency  
 1160 shall provide directly or contract for the development of a an  
 1161 ~~appropriate~~ family support plan for children ages 3 ~~birth~~ to 18  
 1162 years of age and an individual support plan for each client. ~~The~~  
 1163 ~~parent or guardian of~~ The client ~~or~~, if competent, the client's  
 1164 parent or guardian ~~client~~, or, when appropriate, the client  
 1165 advocate, shall be consulted in the development of the plan and  
 1166 shall receive a copy of the plan. Each plan must ~~shall~~ include  
 1167 the most appropriate, least restrictive, and most cost-  
 1168 beneficial environment for accomplishment of the objectives for  
 1169 client progress and a specification of all services authorized.  
 1170 The plan must ~~shall~~ include provisions for the most appropriate  
 1171 level of care for the client. Within the specification of needs  
 1172 and services for each client, when residential care is  
 1173 necessary, the agency shall move toward placement of clients in  
 1174 residential facilities based within the client's community. The  
 1175 ultimate goal of each plan, whenever possible, shall be to  
 1176 enable the client to live a dignified life in the least  
 1177 restrictive setting, be that in the home or in the community.  
 1178 For children under 6 years of age, the family support plan shall  
 1179 be developed within the 45-day application period as specified  
 1180 in s. 393.065(1); for all applicants 6 years of age or older,  
 1181 the family or individual support plan shall be developed within  
 1182 the 60-day period as specified in that subsection.

1183           (1) The agency shall develop and specify by rule the core  
 1184 components of support plans ~~to be used by each district~~.

1185           (2) ~~(a)~~ The family or individual support plan shall be  
 1186 integrated with the individual education plan (IEP) for all

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1187 clients who are public school students entitled to a free  
1188 appropriate public education under the Individuals with  
1189 Disabilities Education Act, I.D.E.A., as amended. The family or  
1190 individual support plan and IEP shall be implemented to maximize  
1191 the attainment of educational and habilitation goals.

1192 (a) If the IEP for a student enrolled in a public school  
1193 program indicates placement in a public or private residential  
1194 program is necessary to provide special education and related  
1195 services to a client, the local education agency shall provide  
1196 for the costs of that service in accordance with the  
1197 requirements of the Individuals with Disabilities Education Act,  
1198 I.D.E.A., as amended. This shall not preclude local education  
1199 agencies and the agency from sharing the residential service  
1200 costs of students who are clients and require residential  
1201 placement. ~~Under no circumstances shall clients entitled to a~~  
1202 ~~public education or their parents be assessed a fee by the~~  
1203 ~~agency under s. 402.33 for placement in a residential program.~~

1204 (b) For clients who are entering or exiting the school  
1205 system, an interdepartmental staffing team composed of  
1206 representatives of the agency and the local school system shall  
1207 develop a written transitional living and training plan with the  
1208 participation of the client or with the parent or guardian of  
1209 the client, or the client advocate, as appropriate.

1210 (3) Each family or individual support plan shall be  
1211 facilitated through case management designed solely to advance  
1212 the individual needs of the client.

1213 (4) In the development of the family or individual support  
1214 plan, a client advocate may be appointed by the support planning

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1215 team for a client who is a minor or for a client who is not  
1216 capable of express and informed consent when:

- 1217 (a) The parent or guardian cannot be identified;
- 1218 (b) The whereabouts of the parent or guardian cannot be  
1219 discovered; or
- 1220 (c) The state is the only legal representative of the  
1221 client.

1222  
1223 Such appointment shall not be construed to extend the powers of  
1224 the client advocate to include any of those powers delegated by  
1225 law to a legal guardian.

1226 (5) The agency shall place a client in the most  
1227 appropriate and least restrictive, and cost-beneficial,  
1228 residential facility according to his or her individual support  
1229 ~~habilitation~~ plan. ~~The parent or guardian of~~ The client ~~or~~, if  
1230 competent, the client's parent or guardian ~~client~~, or, when  
1231 appropriate, the client advocate, and the administrator of the  
1232 ~~residential~~ facility to which placement is proposed shall be  
1233 consulted in determining the appropriate placement for the  
1234 client. Considerations for placement shall be made in the  
1235 following order:

- 1236 (a) Client's own home or the home of a family member or  
1237 direct service provider.
- 1238 (b) Foster care facility.
- 1239 (c) Group home facility.
- 1240 (d) Intermediate care facility for the developmentally  
1241 disabled.

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1242 (e) Other facilities licensed by the agency which offer  
 1243 special programs for people with developmental disabilities.  
 1244 (f) Developmental disabilities ~~services~~ institution.  
 1245 (6) In developing a client's annual family or individual  
 1246 support plan, the individual or family with the assistance of  
 1247 the support planning team shall identify measurable objectives  
 1248 for client progress and shall specify a time period expected for  
 1249 achievement of each objective.  
 1250 (7) The individual, family, and support coordinator shall  
 1251 review progress in achieving the objectives specified in each  
 1252 client's family or individual support plan, and shall revise the  
 1253 plan annually, following consultation with the client, if  
 1254 competent, or with the parent or guardian of the client, or,  
 1255 when appropriate, the client advocate. The agency or designated  
 1256 contractor shall annually report in writing to the client, if  
 1257 competent, or to the parent or guardian of the client, or to the  
 1258 client advocate, when appropriate, with respect to the client's  
 1259 habilitative and medical progress.  
 1260 (8) Any client, or any parent of a minor client, or  
 1261 guardian, authorized guardian advocate, or client advocate for a  
 1262 client, who is substantially affected by the client's initial  
 1263 family or individual support plan, or the annual review thereof,  
 1264 shall have the right to file a notice to challenge the decision  
 1265 pursuant to ss. 120.569 and 120.57. Notice of such right to  
 1266 appeal shall be included in all support plans provided by the  
 1267 agency.  
 1268 Section 15. Section 393.0654, Florida Statutes, is created  
 1269 to read.

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1270           393.0654 Direct service providers; private sector  
 1271 services.--It is not a violation of s. 112.313(7) for a direct  
 1272 service provider who is employed by the agency to own, operate,  
 1273 or work in a private facility that is a service provider under  
 1274 contract with the agency if:  
 1275           (1) The employee does not have any role in the agency's  
 1276 placement recommendations or the client's decisionmaking process  
 1277 regarding placement;  
 1278           (2) The direct service provider's employment with the  
 1279 agency does not compromise the ability of the client to make a  
 1280 voluntary choice among private providers for services;  
 1281           (3) The employee's employment outside the agency does not  
 1282 create a conflict with the employee's public duties and does not  
 1283 impede the full and faithful discharge of the employee's duties  
 1284 as assigned by the agency; and  
 1285           (4) The service provider discloses the dual employment or  
 1286 ownership status to the agency and all clients within the  
 1287 provider's care. The disclosure must be given to the agency, the  
 1288 client, and the client's guardian or guardian advocate, if  
 1289 appropriate.

1290           Section 16. Section 393.0655, Florida Statutes, is amended  
 1291 to read:

1292           393.0655 Screening of direct service providers.--  
 1293           (1) MINIMUM STANDARDS.--The agency shall require level 2  
 1294 employment screening pursuant to chapter 435 for direct service  
 1295 providers who are unrelated to their clients, including support  
 1296 coordinators, and managers and supervisors of residential  
 1297 facilities or comprehensive transitional education programs

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1298 licensed under this chapter ~~s. 393.067~~ and any other person,  
 1299 including volunteers, who provide care or services, who have  
 1300 access to a client's living areas, or who have access to a  
 1301 client's funds or personal property. Background screening shall  
 1302 include employment history checks as provided in s. 435.03(1)  
 1303 and local criminal records checks through local law enforcement  
 1304 agencies.

1305 (a) A volunteer who assists on an intermittent basis for  
 1306 less than 40 hours per month does not have to be screened if the  
 1307 volunteer is under the direct and constant visual supervision of  
 1308 persons who meet the screening requirements of this section.

1309 (b) Licensed physicians, nurses, or other professionals  
 1310 licensed and regulated by the Department of Health are not  
 1311 subject to background screening pursuant to this section if they  
 1312 are providing a service that is within their scope of licensed  
 1313 practice.

1314 (c) A person selected by the family or the individual with  
 1315 developmental disabilities and paid by the family or the  
 1316 individual to provide supports or services is not required to  
 1317 have a background screening under this section.

1318 (d) Persons 12 years of age or older, including family  
 1319 members, residing with a the direct services provider who  
 1320 provides services to clients in his or her own place of  
 1321 residence, including family members, are subject to background  
 1322 screening; however, such persons who are 12 to 18 years of age  
 1323 shall be screened for delinquency records only.

1324 (e) A direct service provider who is awaiting the  
 1325 completion of background screening is temporarily exempt from



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1326 | the screening requirements under this section if the provider is  
 1327 | under the direct and constant visual supervision of persons who  
 1328 | meet the screening requirements of this section. Such exemption  
 1329 | expires 90 days after the direct service provider first provides  
 1330 | care or services to clients, has access to a client's living  
 1331 | areas, or has access to a client's funds or personal property.

1332 | (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may  
 1333 | grant exemptions from disqualification from working with  
 1334 | children or adults with developmental disabilities only as  
 1335 | provided in s. 435.07.

1336 | (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE  
 1337 | CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints  
 1338 | and the state criminal records checks shall be borne by the  
 1339 | employer or by the employee or individual who is being screened.

1340 | (4) TERMINATION ~~EXCLUSION FROM OWNING, OPERATING, OR BEING~~  
 1341 | ~~EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;~~  
 1342 | HEARINGS PROVIDED.--

1343 | (a) The agency shall deny, suspend, terminate, or revoke a  
 1344 | license, certification, rate agreement, purchase order, or  
 1345 | contract, or pursue other remedies provided in s. 393.0673, s.  
 1346 | 393.0675, or s. 393.0678 in addition to or in lieu of denial,  
 1347 | suspension, termination, or revocation for failure to comply  
 1348 | with this section.

1349 | (b) When the agency has reasonable cause to believe that  
 1350 | grounds for denial or termination of employment exist, it shall  
 1351 | notify, in writing, the employer and the person ~~direct service~~  
 1352 | ~~provider~~ affected, stating the specific record that ~~which~~  
 1353 | indicates noncompliance with the standards in this section.

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1354 (c) The procedures established for hearing under chapter  
1355 120 shall be available to the employer and the person affected  
1356 ~~direct service provider~~ in order to present evidence relating  
1357 either to the accuracy of the basis of exclusion or to the  
1358 denial of an exemption from disqualification.

1359 (d) Refusal on the part of an employer to dismiss a  
1360 manager, supervisor, or direct service provider who has been  
1361 found to be in noncompliance with standards of this section  
1362 shall result in automatic denial, termination, or revocation of  
1363 the license or, certification, rate agreement, purchase order,  
1364 or contract, in addition to any other remedies pursued by the  
1365 agency.

1366 Section 17. Section 393.0657, Florida Statutes, is amended  
1367 to read:

1368 393.0657 Persons not required to be refingerprinted or  
1369 rescreened.--Persons who have undergone any portion of the  
1370 background screening required under s. 393.0655 within the last  
1371 12 months are ~~Any provision of law to the contrary~~  
1372 ~~notwithstanding, human resource personnel who have been~~  
1373 ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~  
1374 ~~402, and 409, and teachers who have been fingerprinted pursuant~~  
1375 ~~to chapter 1012, who have not been unemployed for more than 90~~  
1376 ~~days thereafter, and who under the penalty of perjury attest to~~  
1377 ~~the completion of such fingerprinting or screening and to~~  
1378 ~~compliance with the provisions of this section and the standards~~  
1379 ~~for good moral character as contained in such provisions as ss.~~  
1380 ~~110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and~~  
1381 ~~409.175(6), shall not be required to repeat such screening be~~

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1382 ~~refingerprinted or rescreened~~ in order to comply with the any  
1383 ~~direct service provider screening or fingerprinting~~  
1384 requirements. Such persons are responsible for providing  
1385 documentation of the screening and shall undergo screening for  
1386 any remaining background screening requirements that have never  
1387 been conducted or have not been completed within the last 12  
1388 months.

1389 Section 18. Section 393.066, Florida Statutes, is amended  
1390 to read:

1391 393.066 Community services and treatment ~~for persons who~~  
1392 ~~are developmentally disabled.--~~

1393 (1) The agency shall plan, develop, organize, and  
1394 implement its programs of services and treatment for persons  
1395 with developmental disabilities ~~who are developmentally disabled~~  
1396 to allow clients to live as independently as possible in their  
1397 own homes or communities and to achieve productive lives as  
1398 close to normal as possible. All elements of community-based  
1399 services shall be made available, and eligibility for these  
1400 services shall be consistent across the state. ~~In addition, all~~  
1401 ~~purchased services shall be approved by the agency.~~

1402 (2) All services needed shall be purchased instead of  
1403 provided directly by the agency, when such arrangement is more  
1404 cost-efficient than having those services provided directly. All  
1405 purchased services must be approved by the agency.

1406 (3) Community-based services that are medically necessary  
1407 to prevent institutionalization shall, to the extent of  
1408 available resources, include:

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- 1409           (a) Adult day training ~~habilitation~~ services, ~~including~~  
 1410 ~~developmental training~~ services.
- 1411           (b) Family care services.
- 1412           (c) Guardian advocate referral services.
- 1413           (d) Medical/dental services, except that medical services  
 1414 shall not be provided to clients with spina bifida except as  
 1415 specifically appropriated by the Legislature.
- 1416           (e) Parent training.
- 1417           (f) Personal care services.
- 1418           (g) ~~(f)~~ Recreation.
- 1419           (h) ~~(g)~~ Residential facility services.
- 1420           (i) ~~(h)~~ Respite services.
- 1421           (j) ~~(i)~~ Social services.
- 1422           (k) ~~(j)~~ Specialized therapies.
- 1423           (l) ~~(k)~~ Supported employment, ~~including enclave, job coach,~~  
 1424 ~~mobile work crew, and follow along~~ services.
- 1425           (m) ~~(l)~~ Supported living.
- 1426           (n) ~~(m)~~ Training, including behavioral-analysis services  
 1427 ~~behavioral programming.~~
- 1428           (o) ~~(n)~~ Transportation.
- 1429           (p) ~~(o)~~ Other habilitative and rehabilitative services as  
 1430 needed.
- 1431           (4) The agency shall utilize the services of private  
 1432 businesses, not-for-profit organizations, and units of local  
 1433 government whenever such services are more cost-efficient than  
 1434 such services provided directly by the department, including  
 1435 arrangements for provision of residential facilities.

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1436 (5) In order to improve the potential for utilization of  
1437 more cost-effective, community-based residential facilities, the  
1438 agency shall promote the statewide development of day  
1439 habilitation services for clients who live with a direct service  
1440 provider in a community-based residential facility and who do  
1441 not require 24-hour-a-day care in a hospital or other health  
1442 care institution, but who may, in the absence of day  
1443 habilitation services, require admission to a developmental  
1444 disabilities institution. Each day service facility shall  
1445 provide a protective physical environment for clients, ensure  
1446 that direct service providers meet minimum screening standards  
1447 as required in s. 393.0655, make available to all day  
1448 habilitation service participants at least one meal on each day  
1449 of operation, provide facilities to enable participants to  
1450 obtain needed rest while attending the program, as appropriate,  
1451 and provide social and educational activities designed to  
1452 stimulate interest and provide socialization skills.

1453 (6) To promote independence and productivity, the agency  
1454 shall provide supports and services, within available resources,  
1455 to assist clients enrolled in Medicaid waivers who choose to  
1456 pursue gainful employment.

1457 (7) For the purpose of making needed community-based  
1458 residential facilities available at the least possible cost to  
1459 the state, the agency is authorized to lease privately owned  
1460 residential facilities under long-term rental agreements, if  
1461 such rental agreements are projected to be less costly to the  
1462 state over the useful life of the facility than state purchase  
1463 or state construction of such a facility.

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1464 (8) The agency may adopt rules providing definitions,  
 1465 eligibility criteria, and procedures for the purchase of  
 1466 services to ensure compliance with federal laws or regulations  
 1467 ~~that apply to services~~ provided pursuant to this section.

1468 Section 19. Section 393.067, Florida Statutes, is amended  
 1469 to read:

1470 393.067 Facility licensure of residential facilities and  
 1471 ~~comprehensive transitional education programs.--~~

1472 (1) The agency shall provide through its licensing  
 1473 authority and by rule license application procedures, a system  
 1474 ~~of~~ provider qualifications, facility and client care standards,  
 1475 requirements for client records, requirements for staff  
 1476 qualifications and training eriteria for meeting standards, and  
 1477 requirements for monitoring foster care for residential  
 1478 facilities, group home facilities, residential habilitation  
 1479 centers, and comprehensive transitional education programs that  
 1480 serve agency clients.

1481 (2) The agency shall conduct annual inspections and  
 1482 reviews of ~~residential facilities and comprehensive transitional~~  
 1483 ~~education programs~~ licensed under this section annually.

1484 (3) An application for a license under this section must  
 1485 ~~for a residential facility or a comprehensive transitional~~  
 1486 ~~education program shall~~ be made to the agency on a form  
 1487 furnished by it and shall be accompanied by the appropriate  
 1488 license fee.

1489 (4) The application shall be under oath and shall contain  
 1490 the following:

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1491 (a) The name and address of the applicant, if an applicant  
 1492 is an individual; if the applicant is a firm, partnership, or  
 1493 association, the name and address of each member thereof; if the  
 1494 applicant is a corporation, its name and address and the name  
 1495 and address of each director and each officer thereof; and the  
 1496 name by which the facility or program is to be known.

1497 (b) The location of the facility or program for which a  
 1498 license is sought.

1499 (c) The name of the person or persons under whose  
 1500 management or supervision the facility or program will be  
 1501 conducted.

1502 (d) The number and type of residents or clients for which  
 1503 maintenance, care, education, or treatment is to be provided by  
 1504 the facility or program.

1505 (e) The number and location of the component centers or  
 1506 units which will compose the comprehensive transitional  
 1507 education program.

1508 (f) A description of the types of services and treatment  
 1509 to be provided by the facility or program.

1510 (g) Information relating to the number, experience, and  
 1511 training of the employees of the facility or program.

1512 (h) Certification that the staff of the facility or  
 1513 program will receive training to detect and prevent sexual abuse  
 1514 of residents and clients.

1515 (i) Such other information as the agency determines is  
 1516 necessary to carry out the provisions of this chapter.

1517 ~~(5) The applicant shall submit evidence which establishes~~  
 1518 ~~the good moral character of the manager or supervisor of the~~

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1519 ~~facility or program and the direct service providers in the~~  
1520 ~~facility or program and its component centers or units. A~~  
1521 ~~license may be issued if all the screening materials have been~~  
1522 ~~timely submitted; however, a license may not be issued or~~  
1523 ~~renewed if any of the direct service providers have failed the~~  
1524 ~~screening required by s. 393.0655.~~

1525 ~~(a)1. A licensed residential facility or comprehensive~~  
1526 ~~transitional education program which applies for renewal of its~~  
1527 ~~license shall submit to the agency a list of direct service~~  
1528 ~~providers who have worked on a continuous basis at the applicant~~  
1529 ~~facility or program since submitting fingerprints to the agency~~  
1530 ~~or the Department of Children and Family Services, identifying~~  
1531 ~~those direct service providers for whom a written assurance of~~  
1532 ~~compliance was provided by the agency or department and~~  
1533 ~~identifying those direct service providers who have recently~~  
1534 ~~begun working at the facility or program and are awaiting the~~  
1535 ~~results of the required fingerprint check along with the date of~~  
1536 ~~the submission of those fingerprints for processing. The agency~~  
1537 ~~shall by rule determine the frequency of requests to the~~  
1538 ~~Department of Law Enforcement to run state criminal records~~  
1539 ~~checks for such direct service providers except for those direct~~  
1540 ~~service providers awaiting the results of initial fingerprint~~  
1541 ~~checks for employment at the applicant facility or program. The~~  
1542 ~~agency shall review the records of the direct service providers~~  
1543 ~~at the applicant facility or program with respect to the crimes~~  
1544 ~~specified in s. 393.0655 and shall notify the facility or~~  
1545 ~~program of its findings. When disposition information is missing~~  
1546 ~~on a criminal record, it is the responsibility of the person~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1547 ~~being screened, upon request of the agency, to obtain and supply~~  
1548 ~~within 30 days the missing disposition information to the~~  
1549 ~~agency. Failure to supply the missing information within 30 days~~  
1550 ~~or to show reasonable efforts to obtain such information shall~~  
1551 ~~result in automatic disqualification.~~

1552 ~~2. The applicant shall sign an affidavit under penalty of~~  
1553 ~~perjury stating that all new direct service providers have been~~  
1554 ~~fingerprinted and that the facility's or program's remaining~~  
1555 ~~direct service providers have worked at the applicant facility~~  
1556 ~~or program on a continuous basis since being initially screened~~  
1557 ~~at that facility or program or have a written assurance of~~  
1558 ~~compliance from the agency or department.~~

1559 ~~(5)(b)~~ As a prerequisite for issuance of an the initial or  
1560 renewal license, the applicant, and any manager, supervisor, and  
1561 staff member of the direct service provider of a facility or  
1562 program licensed under this section, must have submitted to  
1563 background screening as required under s. 393.0655. A license  
1564 may not be issued or renewed if the applicant or any manager,  
1565 supervisor, or staff member of the direct service provider has  
1566 failed background screenings as required under s. 393.0655. The  
1567 agency shall determine by rule the frequency of background  
1568 screening. The applicant shall submit with each initial or  
1569 renewal application a signed affidavit under penalty of perjury  
1570 stating that the applicant and any manager, supervisor, or staff  
1571 member of the direct service provider is in compliance with all  
1572 requirements for background screening. ~~to a residential facility~~  
1573 ~~or comprehensive transitional education program.~~

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1574 ~~1. The applicant shall submit to the agency a complete set~~  
 1575 ~~of fingerprints, taken by an authorized law enforcement agency~~  
 1576 ~~or an employee of the agency who is trained to take~~  
 1577 ~~fingerprints, for the manager, supervisor, or direct service~~  
 1578 ~~providers of the facility or program;~~

1579 ~~2. The agency shall submit the fingerprints to the~~  
 1580 ~~Department of Law Enforcement for state processing and for~~  
 1581 ~~federal processing by the Federal Bureau of Investigation; and~~

1582 ~~3. The agency shall review the record of the manager or~~  
 1583 ~~supervisor with respect to the crimes specified in s.~~  
 1584 ~~393.0655(1) and shall notify the applicant of its findings. When~~  
 1585 ~~disposition information is missing on a criminal record, it is~~  
 1586 ~~the responsibility of the manager or supervisor, upon request of~~  
 1587 ~~the agency, to obtain and supply within 30 days the missing~~  
 1588 ~~disposition information to the agency. Failure to supply the~~  
 1589 ~~missing information within 30 days or to show reasonable efforts~~  
 1590 ~~to obtain such information shall result in automatic~~  
 1591 ~~disqualification.~~

1592 ~~(c) The agency or a residential facility or comprehensive~~  
 1593 ~~transitional education program may not use the criminal records~~  
 1594 ~~or juvenile records of a person obtained under this subsection~~  
 1595 ~~for any purpose other than determining if that person meets the~~  
 1596 ~~minimum standards for good moral character for a manager or~~  
 1597 ~~supervisor of, or direct service provider in, such a facility or~~  
 1598 ~~program. The criminal records or juvenile records obtained by~~  
 1599 ~~the agency or a residential facility or comprehensive~~  
 1600 ~~transitional education program for determining the moral~~

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1601 ~~character of a manager, supervisor, or direct service provider~~  
1602 ~~are exempt from s. 119.07(1).~~

1603 ~~(6) Each applicant for licensure as an intermediate care~~  
1604 ~~facility for the developmentally disabled must comply with the~~  
1605 ~~following requirements:~~

1606 ~~(a) Upon receipt of a completed, signed, and dated~~  
1607 ~~application, the agency shall require background screening, in~~  
1608 ~~accordance with the level 2 standards for screening set forth in~~  
1609 ~~chapter 435, of the managing employee, or other similarly titled~~  
1610 ~~individual who is responsible for the daily operation of the~~  
1611 ~~facility, and of the financial officer, or other similarly~~  
1612 ~~titled individual who is responsible for the financial operation~~  
1613 ~~of the center, including billings for resident care and~~  
1614 ~~services. The applicant must comply with the procedures for~~  
1615 ~~level 2 background screening as set forth in chapter 435, as~~  
1616 ~~well as the requirements of s. 435.03(3).~~

1617 ~~(b) The agency may require background screening of any~~  
1618 ~~other individual who is an applicant if the agency has probable~~  
1619 ~~cause to believe that he or she has been convicted of a crime or~~  
1620 ~~has committed any other offense prohibited under the level 2~~  
1621 ~~standards for screening set forth in chapter 435.~~

1622 ~~(c) Proof of compliance with the level 2 background~~  
1623 ~~screening requirements of chapter 435 which has been submitted~~  
1624 ~~within the previous 5 years in compliance with any other health~~  
1625 ~~care licensure requirements of this state is acceptable in~~  
1626 ~~fulfillment of the requirements of paragraph (a).~~

1627 ~~(d) A provisional license may be granted to an applicant~~  
1628 ~~when each individual required by this section to undergo~~

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1629 ~~background screening has met the standards for the Department of~~  
1630 ~~Law Enforcement background check, but the agency has not yet~~  
1631 ~~received background screening results from the Federal Bureau of~~  
1632 ~~Investigation, or a request for a disqualification exemption has~~  
1633 ~~been submitted to the agency as set forth in chapter 435, but a~~  
1634 ~~response has not yet been issued. A standard license may be~~  
1635 ~~granted to the applicant upon the agency's receipt of a report~~  
1636 ~~of the results of the Federal Bureau of Investigation background~~  
1637 ~~screening for each individual required by this section to~~  
1638 ~~undergo background screening which confirms that all standards~~  
1639 ~~have been met, or upon the granting of a disqualification~~  
1640 ~~exemption by the agency as set forth in chapter 435. Any other~~  
1641 ~~person who is required to undergo level 2 background screening~~  
1642 ~~may serve in his or her capacity pending the agency's receipt of~~  
1643 ~~the report from the Federal Bureau of Investigation. However,~~  
1644 ~~the person may not continue to serve if the report indicates any~~  
1645 ~~violation of background screening standards and a~~  
1646 ~~disqualification exemption has not been requested of and granted~~  
1647 ~~by the agency as set forth in chapter 435.~~

1648 ~~(c) Each applicant must submit to the agency, with its~~  
1649 ~~application, a description and explanation of any exclusions,~~  
1650 ~~permanent suspensions, or terminations of the applicant from the~~  
1651 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
1652 ~~requirements for disclosure of ownership and control interests~~  
1653 ~~under the Medicaid or Medicare programs shall be accepted in~~  
1654 ~~lieu of this submission.~~

1655 ~~(f) Each applicant must submit to the agency a description~~  
1656 ~~and explanation of any conviction of an offense prohibited under~~

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1657 ~~the level 2 standards of chapter 435 by a member of the board of~~  
1658 ~~directors of the applicant, its officers, or any individual~~  
1659 ~~owning 5 percent or more of the applicant. This requirement does~~  
1660 ~~not apply to a director of a not-for-profit corporation or~~  
1661 ~~organization if the director serves solely in a voluntary~~  
1662 ~~capacity for the corporation or organization, does not regularly~~  
1663 ~~take part in the day to day operational decisions of the~~  
1664 ~~corporation or organization, receives no remuneration for his or~~  
1665 ~~her services on the corporation or organization's board of~~  
1666 ~~directors, and has no financial interest and has no family~~  
1667 ~~members with a financial interest in the corporation or~~  
1668 ~~organization, provided that the director and the not-for-profit~~  
1669 ~~corporation or organization include in the application a~~  
1670 ~~statement affirming that the director's relationship to the~~  
1671 ~~corporation satisfies the requirements of this paragraph.~~

1672 ~~(g) A license may not be granted to an applicant if the~~  
1673 ~~applicant or managing employee has been found guilty of,~~  
1674 ~~regardless of adjudication, or has entered a plea of nolo~~  
1675 ~~contendere or guilty to, any offense prohibited under the level~~  
1676 ~~2 standards for screening set forth in chapter 435, unless an~~  
1677 ~~exemption from disqualification has been granted by the agency~~  
1678 ~~as set forth in chapter 435.~~

1679 ~~(h) The agency may deny or revoke licensure if the~~  
1680 ~~applicant:~~

1681 ~~1. Has falsely represented a material fact in the~~  
1682 ~~application required by paragraph (c) or paragraph (f), or has~~  
1683 ~~omitted any material fact from the application required by~~  
1684 ~~paragraph (c) or paragraph (f); or~~

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1685 ~~2. Has had prior action taken against the applicant under~~  
1686 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1687 ~~(i) An application for license renewal must contain the~~  
1688 ~~information required under paragraphs (e) and (f).~~

1689 (6)~~(7)~~ The applicant shall furnish satisfactory proof of  
1690 financial ability to operate and conduct the facility or program  
1691 in accordance with the requirements of this chapter and adopted  
1692 ~~all rules promulgated hereunder.~~

1693 (7)~~(8)~~ The agency shall adopt rules establishing minimum  
1694 standards for ~~licensure of residential~~ facilities and  
1695 ~~comprehensive transitional education~~ programs licensed under  
1696 this section, including rules requiring facilities and programs  
1697 to train staff to detect and prevent sexual abuse of residents  
1698 and clients, minimum standards of quality and adequacy of client  
1699 care, incident-reporting requirements, and uniform firesafety  
1700 standards established by the State Fire Marshal which are  
1701 appropriate to the size of the facility or of the component  
1702 centers or units of the program.

1703 (8)~~(9)~~ The agency and the ~~Agency for Health Care~~  
1704 ~~Administration~~, after consultation with the Department of  
1705 Community Affairs, shall adopt rules for foster care residential  
1706 facilities, group home facilities, and residential habilitation  
1707 centers which establish ~~under the respective regulatory~~  
1708 ~~jurisdiction of each establishing~~ minimum standards for the  
1709 preparation and annual update of a comprehensive emergency  
1710 management plan. At a minimum, the rules must provide for plan  
1711 components that address emergency evacuation transportation;  
1712 adequate sheltering arrangements; postdisaster activities,

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1713 including emergency power, food, and water; postdisaster  
 1714 transportation; supplies; staffing; emergency equipment;  
 1715 individual identification of residents and transfer of records;  
 1716 and responding to family inquiries. The comprehensive emergency  
 1717 management plan for all comprehensive transitional education  
 1718 programs and for homes serving individuals who have complex  
 1719 medical conditions is subject to review and approval by the  
 1720 local emergency management agency. During its review, the local  
 1721 emergency management agency shall ensure that the agency and the  
 1722 Department of Community Affairs ~~following agencies~~, at a  
 1723 minimum, are given the opportunity to review the plan: ~~the~~  
 1724 ~~Agency for Health Care Administration, the Agency for Persons~~  
 1725 ~~with Disabilities, and the Department of Community Affairs.~~  
 1726 Also, appropriate volunteer organizations must be given the  
 1727 opportunity to review the plan. The local emergency management  
 1728 agency shall complete its review within 60 days and either  
 1729 approve the plan or advise the facility of necessary revisions.

1730 (9) ~~(10)~~ The agency may conduct unannounced inspections to  
 1731 determine compliance by foster care residential facilities,  
 1732 group home facilities, residential habilitation centers, and  
 1733 comprehensive transitional education programs with the  
 1734 applicable provisions of this chapter and the rules adopted  
 1735 pursuant hereto, including the rules adopted for training staff  
 1736 of a facility or a program to detect and prevent sexual abuse of  
 1737 residents and clients. The facility or program shall make copies  
 1738 of inspection reports available to the public upon request.

1739 ~~(11) An alternative living center and an independent~~  
 1740 ~~living education center, as defined in s. 393.063, shall be~~

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1741 ~~subject to the provisions of s. 419.001, except that such~~  
 1742 ~~centers shall be exempt from the 1,000 foot radius requirement~~  
 1743 ~~of s. 419.001(2) if:~~

1744 ~~(a) Such centers are located on a site zoned in a manner~~  
 1745 ~~so that all the component centers of a comprehensive transition~~  
 1746 ~~education center may be located thereon; or~~

1747 ~~(b) There are no more than three such centers within said~~  
 1748 ~~radius of 1,000 feet.~~

1749 ~~(10)(12)~~ Each ~~residential~~ facility or ~~comprehensive~~  
 1750 ~~transitional education~~ program licensed under this section by  
 1751 ~~the agency~~ shall forward annually to the agency a true and  
 1752 accurate sworn statement of its costs of providing care to  
 1753 clients funded by the agency.

1754 ~~(11)(13)~~ The agency may audit the records of any  
 1755 ~~residential~~ facility or ~~comprehensive transitional education~~  
 1756 program that it has reason to believe may not be in full  
 1757 compliance with the provisions of this section; provided that,  
 1758 any financial audit of such facility or program shall be limited  
 1759 to the records of clients funded by the agency.

1760 ~~(12)(14)~~ The agency shall establish, for the purpose of  
 1761 control of licensure costs, a uniform management information  
 1762 system and a uniform reporting system with uniform definitions  
 1763 and reporting categories.

1764 ~~(13)(15)~~ Facilities and programs licensed pursuant to this  
 1765 section shall adhere to all rights specified in s. 393.13,  
 1766 including those enumerated in s. 393.13(4).

1767 ~~(14)(16)~~ An ~~No~~ unlicensed ~~residential~~ facility or  
 1768 ~~comprehensive transitional education~~ program may not ~~shall~~



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1769 receive state funds. A license for the operation of a facility  
 1770 or program shall not be renewed if the licensee has any  
 1771 outstanding fines assessed pursuant to this chapter wherein  
 1772 final adjudication of such fines has been entered.

1773 (15)~~(17)~~ The agency is ~~shall~~ not ~~be~~ required to contract  
 1774 with new facilities licensed after October 1, 1989, pursuant to  
 1775 this chapter. Pursuant to chapter 287, the agency shall continue  
 1776 to contract within available resources for residential services  
 1777 with facilities licensed prior to October 1, 1989, if such  
 1778 facilities comply with the provisions of this chapter and all  
 1779 other applicable laws and regulations.

1780 Section 20. Section 393.0673, Florida Statutes, is amended  
 1781 to read:

1782 393.0673 Denial, suspension, revocation of license;  
 1783 moratorium on admissions; administrative fines; procedures.--

1784 (1) The agency may deny, revoke, or suspend a license or  
 1785 impose an administrative fine, not to exceed \$1,000 per  
 1786 violation per day, if the applicant or licensee:

1787 (a) Has falsely represented, or omitted a material fact in  
 1788 its license application submitted under s. 393.067.

1789 (b) Has had prior action taken against it under the  
 1790 Medicaid or Medicare program.

1791 (c) Has failed to comply with the applicable requirements  
 1792 of this chapter or rules applicable to the applicant or licensee  
 1793 for a violation of any provision of s. 393.0655 or s. 393.067 or  
 1794 rules adopted pursuant thereto.

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1795           (2) All hearings shall be held within the county in which  
1796 the licensee or applicant operates or applies for a license to  
1797 operate a facility as defined herein.

1798           ~~(3)-(2)~~ The agency, as a part of any final order issued by  
1799 it under ~~the provisions of~~ this chapter, may impose such fine as  
1800 it deems proper, except that such fine may not exceed \$1,000 for  
1801 each violation. Each day a violation of this chapter occurs  
1802 constitutes a separate violation and is subject to a separate  
1803 fine, but in no event may the aggregate amount of any fine  
1804 exceed \$10,000. Fines paid by any facility licensee under the  
1805 provisions of this subsection shall be deposited in the Resident  
1806 Protection Trust Fund and expended as provided in s. 400.063.

1807           ~~(4)-(3)~~ The agency may issue an order immediately  
1808 suspending or revoking a license when it determines that any  
1809 condition in the facility presents a danger to the health,  
1810 safety, or welfare of the residents in the facility.

1811           ~~(5)-(4)~~ The agency may impose an immediate moratorium on  
1812 admissions to any facility when the department determines that  
1813 any condition in the facility presents a threat to the health,  
1814 safety, or welfare of the residents in the facility.

1815           (6) The agency shall establish by rule criteria for  
1816 evaluating the severity of violations and for determining the  
1817 amount of fines imposed.

1818           Section 21. Subsection (1) of section 393.0674, Florida  
1819 Statutes, is amended to read:

1820           393.0674 Penalties.--

1821           (1) It is a misdemeanor of the first degree, punishable as

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1822 provided in s. 775.082 or s. 775.083, for any person willfully,  
1823 knowingly, or intentionally to:

1824 (a) Fail, by false statement, misrepresentation,  
1825 impersonation, or other fraudulent means, to disclose in any  
1826 application for voluntary or paid employment a material fact  
1827 used in making a determination as to such person's  
1828 qualifications to be a direct service provider;

1829 (b) Provide or attempt to provide supports or services  
1830 with direct service providers who are not in compliance  
1831 ~~noncompliance~~ with the background screening requirements ~~minimum~~  
1832 ~~standards for good moral character as contained~~ in this chapter;  
1833 or

1834 (c) Use information from the criminal records or central  
1835 abuse hotline obtained under s. 393.0655, s. 393.066, or s.  
1836 393.067 for any purpose other than screening that person for  
1837 employment as specified in those sections or release such  
1838 information to any other person for any purpose other than  
1839 screening for employment as specified in those sections.

1840 Section 22. Subsection (3) of section 393.0675, Florida  
1841 Statutes, is amended to read:

1842 393.0675 Injunctive proceedings authorized.--

1843 (3) The agency may institute proceedings for an injunction  
1844 in a court of competent jurisdiction to terminate the operation  
1845 of a provider of supports or services if such provider has  
1846 willfully and knowingly refused to comply with the screening  
1847 requirement for direct service providers or has refused to  
1848 terminate direct service providers found not to be in compliance  
1849 with such the requirements ~~for good moral character~~.

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1850 Section 23. Subsection (1) of section 393.0678, Florida  
1851 Statutes, is amended to read:

1852 393.0678 Receivership proceedings.--

1853 (1) The agency may petition a court of competent  
1854 jurisdiction for the appointment of a receiver for ~~an~~  
1855 ~~intermediate care facility for the developmentally disabled,~~ a  
1856 residential habilitation center, or a group home facility owned  
1857 and operated by a corporation or partnership when any of the  
1858 following conditions exist:

1859 (a) Any person is operating a facility without a license  
1860 and refuses to make application for a license as required by s.  
1861 393.067 ~~or, in the case of an intermediate care facility for the~~  
1862 ~~developmentally disabled, as required by ss. 393.067 and~~  
1863 ~~400.062.~~

1864 (b) The licensee is closing the facility or has informed  
1865 the department that it intends to close the facility; and  
1866 adequate arrangements have not been made for relocation of the  
1867 residents within 7 days, exclusive of weekends and holidays, of  
1868 the closing of the facility.

1869 (c) The agency determines that conditions exist in the  
1870 facility which present an imminent danger to the health, safety,  
1871 or welfare of the residents of the facility or which present a  
1872 substantial probability that death or serious physical harm  
1873 would result therefrom. Whenever possible, the agency shall  
1874 facilitate the continued operation of the program.

1875 (d) The licensee cannot meet its financial obligations to  
1876 provide food, shelter, care, and utilities. Evidence such as the  
1877 issuance of bad checks or the accumulation of delinquent bills

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1878 | for such items as personnel salaries, food, drugs, or utilities  
 1879 | constitutes prima facie evidence that the ownership of the  
 1880 | facility lacks the financial ability to operate the home in  
 1881 | accordance with the requirements of this chapter and all rules  
 1882 | promulgated thereunder.

1883 |       Section 24. Subsections (1), (2), (3), (5), and (7) of  
 1884 | section 393.068, Florida Statutes, are amended to read:

1885 |           393.068 Family care program.--

1886 |       (1) The family care program is established for the purpose  
 1887 | of providing services and support to families and individuals  
 1888 | with developmental disabilities in order to maintain the  
 1889 | individual in the home environment and avoid costly out-of-home  
 1890 | residential placement. Services and support available to  
 1891 | families and individuals with developmental disabilities shall  
 1892 | emphasize community living and self-determination and enable  
 1893 | individuals with developmental disabilities to enjoy typical  
 1894 | lifestyles. One way to accomplish this is to recognize that  
 1895 | families are the greatest resource available to individuals who  
 1896 | have developmental disabilities and must be supported in their  
 1897 | role as primary care givers.

1898 |       (2) Services and support authorized under the family care  
 1899 | ~~this~~ program shall, to the extent of available resources,  
 1900 | include the services listed under s. 393.066 and, in addition,  
 1901 | shall include, but not be limited to:

- 1902 |       (a) Attendant care.
- 1903 |       (b) Barrier-free modifications to the home.
- 1904 |       (c) Home visitation by agency workers.
- 1905 |       (d) In-home subsidies.

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- 1906 (e) Low-interest loans.
- 1907 (f) Modifications for vehicles used to transport the
- 1908 individual with a developmental disability.
- 1909 (g) Facilitated communication.
- 1910 (h) Family counseling.
- 1911 (i) Equipment and supplies.
- 1912 (j) Self-advocacy training.
- 1913 (k) Roommate services.
- 1914 (l) Integrated community activities.
- 1915 (m) Emergency services.
- 1916 (n) Support coordination.
- 1917 ~~(o) Supported employment.~~

1918 (o) ~~(p)~~ Other support services as identified by the family  
 1919 or individual.

1920 (3) When it is determined by the agency to be more cost-  
 1921 effective and in the best interest of the client to maintain  
 1922 such client in the home of a direct service provider, the parent  
 1923 or guardian of the client or, if competent, the client may  
 1924 enroll the client in the family care program. The direct service  
 1925 provider of a client enrolled in the family care program shall  
 1926 be reimbursed according to a rate schedule set by the agency,  
 1927 except that ~~in-home subsidies cited in paragraph (2)(d) shall~~  
 1928 be provided in accordance with ~~according to s. 393.0695 and are~~  
 1929 ~~not subject to any other payment method or rate schedule~~  
 1930 ~~provided for in this section.~~

1931 (5) The agency may contract for the provision of any  
 1932 portion of the services required by the program, except for in-  
 1933 home subsidies ~~cited in paragraph (2)(d)~~, which shall be

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1934 provided pursuant to s. 393.0695. ~~Otherwise, purchase of service~~  
 1935 ~~contracts shall be used~~ whenever the services so provided are  
 1936 more cost-efficient than those provided by the agency.

1937 (7) To provide a range of personal care services for the  
 1938 client, the use of volunteers shall be maximized. The agency  
 1939 shall assure appropriate insurance coverage to protect  
 1940 volunteers from personal liability while acting within the scope  
 1941 of their volunteer assignments under the program.

1942 Section 25. Subsection (3) of section 393.0695, Florida  
 1943 Statutes, is amended, and subsection (5) is added to that  
 1944 section, to read:

1945 393.0695 Provision of in-home subsidies.--

1946 (3) In-home subsidies must be based on an individual  
 1947 determination of need and must not exceed maximum amounts set by  
 1948 the agency and reassessed by the agency quarterly ~~annually~~.

1949 (5) The agency shall adopt rules to administer this  
 1950 section, including standards and procedures governing  
 1951 eligibility for services, selection of housing, selection of  
 1952 providers, and planning for services, and requirements for  
 1953 ongoing monitoring.

1954 Section 26. Subsection (2) of section 393.075, Florida  
 1955 Statutes, is amended to read:

1956 393.075 General liability coverage.--

1957 (2) The Division of Risk Management of the Department of  
 1958 Financial Services shall provide coverage through the agency to  
 1959 any person who owns or operates a foster care facility or group  
 1960 home facility solely for the agency, who cares for children  
 1961 placed by ~~developmental services staff of~~ the agency, and who is

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1962 licensed pursuant to s. 393.067 to provide such supervision and  
 1963 care in his or her place of residence. The coverage shall be  
 1964 provided from the general liability account of the State Risk  
 1965 Management Trust Fund. The coverage is limited to general  
 1966 liability claims arising from the provision of supervision and  
 1967 care of children in a foster care facility or group home  
 1968 facility pursuant to an agreement with the agency and pursuant  
 1969 to guidelines established through policy, rule, or statute.  
 1970 Coverage shall be subject to the limits provided in ss. 284.38  
 1971 and 284.385, and the exclusions set forth therein, together with  
 1972 other exclusions as may be set forth in the certificate of  
 1973 coverage issued by the trust fund. A person covered under the  
 1974 general liability account pursuant to this subsection shall  
 1975 immediately notify the Division of Risk Management of the  
 1976 Department of Financial Services of any potential or actual  
 1977 claim.

1978 Section 27. Section 393.11, Florida Statutes, is amended  
 1979 to read:

1980 393.11 Involuntary admission to residential services.--

1981 (1) JURISDICTION.--When a person who has been determined  
 1982 eligible for services for mental retardation under this chapter  
 1983 ~~is mentally retarded~~ and requires involuntary admission to  
 1984 residential services provided by the agency, the circuit court  
 1985 of the county in which the person resides shall have  
 1986 jurisdiction to conduct a hearing and enter an order  
 1987 involuntarily admitting the person in order that the person may  
 1988 receive the care, treatment, habilitation, and rehabilitation  
 1989 which the person needs. For the purpose of identifying mental



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1990 | retardation, diagnostic capability shall be established by the  
 1991 | agency. The involuntary commitment of a person with mental  
 1992 | retardation or autism who is charged with a felony offense shall  
 1993 | be determined in accordance with s. 916.302. ~~Except as otherwise~~  
 1994 | ~~specified, the proceedings under this section shall be governed~~  
 1995 | ~~by the Florida Rules of Civil Procedure.~~

1996 | (2) PETITION.--

1997 | (a) A petition for involuntary admission to residential  
 1998 | services may be executed by a petitioning commission. ~~For~~  
 1999 | ~~proposed involuntary admission to residential services arising~~  
 2000 | ~~out of chapter 916, the petition may be filed by a petitioning~~  
 2001 | ~~commission, the agency, the state attorney of the circuit from~~  
 2002 | ~~which the defendant was committed, or the defendant's attorney.~~

2003 | (b) The petitioning commission shall consist of three  
 2004 | persons. One of these persons shall be a physician licensed and  
 2005 | practicing under chapter 458 or chapter 459.

2006 | (c) The petition shall be verified and shall:

2007 | 1. State the name, age, and present address of the  
 2008 | commissioners and their relationship to the person with mental  
 2009 | retardation or autism;

2010 | 2. State the name, age, county of residence, and present  
 2011 | address of the person with mental retardation or autism;

2012 | 3. Allege that the commission believes that the person  
 2013 | needs involuntary residential services and specify the factual  
 2014 | information on which the ~~such~~ belief is based;

2015 | 4. Allege that the person lacks sufficient capacity to  
 2016 | give express and informed consent to a voluntary application for  
 2017 | services and lacks the basic survival and self-care skills to

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2018 | provide for the person's well-being or is likely to physically  
2019 | injure others if allowed to remain at liberty; and

2020 |         5. State which residential setting is the least  
2021 | restrictive and most appropriate alternative and specify the  
2022 | factual information on which the ~~such~~ belief is based.

2023 |         (d) The petition shall be filed in the circuit court of  
2024 | the county in which the person with mental retardation or autism  
2025 | resides.

2026 |         (3) NOTICE.--

2027 |         (a) Notice of the filing of the petition shall be given to  
2028 | the individual and his or her legal guardian. The notice shall  
2029 | be given both verbally and in writing in the language of the  
2030 | client, or in other modes of communication of the client, and in  
2031 | English. Notice shall also be given to such other persons as the  
2032 | court may direct. The petition for involuntary admission to  
2033 | residential services shall be served with the notice.

2034 |         (b) Whenever a motion or petition has been filed pursuant  
2035 | to s. 916.303 to dismiss criminal charges against a defendant  
2036 | with retardation or autism, and a petition is filed to  
2037 | involuntarily admit the defendant to residential services under  
2038 | this section, the notice of the filing of the petition shall  
2039 | also be given to the defendant's attorney, ~~and to~~ the state  
2040 | attorney of the circuit from which the defendant was committed,  
2041 | and the agency.

2042 |         (c) The notice shall state that a hearing shall be set to  
2043 | inquire into the need of the person with mental retardation or  
2044 | autism for involuntary residential services. The notice shall  
2045 | also state the date of the hearing on the petition.

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2046 (d) The notice shall state that the individual with mental  
2047 retardation or autism has the right to be represented by counsel  
2048 of his or her own choice and that, if the person cannot afford  
2049 an attorney, the court shall appoint one.

2050 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

2051 (a) Upon receiving the petition, the court shall  
2052 immediately order the developmental services program of the  
2053 agency to examine the person being considered for involuntary  
2054 admission to residential services.

2055 (b) Following examination, the agency shall file ~~After the~~  
2056 ~~developmental services program examines the person,~~ a written  
2057 report ~~shall be filed~~ with the court not less than 10 working  
2058 days before the date of the hearing. The report must ~~shall~~ be  
2059 served on the petitioner, the person with mental retardation,  
2060 and the person's attorney at the time the report is filed with  
2061 the court.

2062 (c) The report must ~~shall~~ contain the findings of the  
2063 agency's developmental services program evaluation, and any  
2064 recommendations deemed appropriate, and a determination of  
2065 whether the person is eligible for services under this chapter.

2066 (5) EXAMINING COMMITTEE.--

2067 (a) Upon receiving the petition, the court shall  
2068 immediately appoint an examining committee to examine the person  
2069 being considered for involuntary admission to residential  
2070 services provided by ~~of the developmental services program of~~  
2071 the agency.

2072 (b) The court shall appoint no fewer than three  
2073 disinterested experts who have demonstrated to the court an

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2074 expertise in the diagnosis, evaluation, and treatment of persons  
 2075 with mental retardation. The committee must ~~shall~~ include at  
 2076 least one licensed and qualified physician, one licensed and  
 2077 qualified psychologist, and one qualified professional with a  
 2078 minimum of a masters degree in social work, special education,  
 2079 or vocational rehabilitation counseling, to examine the person  
 2080 and to testify at the hearing on the involuntary admission to  
 2081 residential services.

2082 (c) Counsel for the person who is being considered for  
 2083 involuntary admission to residential services and counsel for  
 2084 the petition commission has ~~shall have~~ the right to challenge  
 2085 the qualifications of those appointed to the examining  
 2086 committee.

2087 (d) Members of the committee may ~~shall~~ not be employees of  
 2088 the agency or be associated with each other in practice or in  
 2089 employer-employee relationships. Members of the committee may  
 2090 ~~shall~~ not have served as members of the petitioning commission.  
 2091 Members of the committee may ~~shall~~ not be employees of the  
 2092 members of the petitioning commission or be associated in  
 2093 practice with members of the commission.

2094 (e) The committee shall prepare a written report for the  
 2095 court. The report must ~~shall~~ explicitly document the extent that  
 2096 the person meets the criteria for involuntary admission. The  
 2097 report, and expert testimony, must ~~shall~~ include, but not be  
 2098 limited to:

- 2099 1. The degree of the person's mental retardation and  
 2100 whether, using diagnostic capabilities established by the  
 2101 agency, the person is eligible for agency services;

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2102           2. Whether, because of the person's degree of mental  
 2103 retardation, the person:  
 2104           a. Lacks sufficient capacity to give express and informed  
 2105 consent to a voluntary application for services pursuant to s.  
 2106 393.065;  
 2107           b. Lacks basic survival and self-care skills to such a  
 2108 degree that close supervision and habilitation in a residential  
 2109 setting is necessary and if not provided would result in a real  
 2110 and present threat of substantial harm to the person's well-  
 2111 being; or  
 2112           c. Is likely to physically injure others if allowed to  
 2113 remain at liberty.  
 2114           3. The purpose to be served by residential care;  
 2115           4. A recommendation on the type of residential placement  
 2116 which would be the most appropriate and least restrictive for  
 2117 the person; and  
 2118           5. The appropriate care, habilitation, and treatment.  
 2119           (f) The committee shall file the report with the court not  
 2120 less than 10 working days before the date of the hearing. The  
 2121 report shall be served on the petitioner, the person with mental  
 2122 retardation, ~~and~~ the person's attorney at the time the report is  
 2123 filed with the court, and the agency.  
 2124           (g) Members of the examining committee shall receive a  
 2125 reasonable fee to be determined by the court. The fees are to be  
 2126 paid from the general revenue fund of the county in which the  
 2127 person with mental retardation resided when the petition was  
 2128 filed.

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2129 (h) The agency shall develop and prescribe by rule one or  
2130 more standard forms to be used as a guide for members of the  
2131 examining committee.

2132 (6) COUNSEL; GUARDIAN AD LITEM.--

2133 (a) The person with mental retardation shall be  
2134 represented by counsel at all stages of the judicial proceeding.  
2135 In the event the person is indigent and cannot afford counsel,  
2136 the court shall appoint a public defender not less than 20  
2137 working days before the scheduled hearing. The person's counsel  
2138 shall have full access to the records of the service provider  
2139 and the agency. In all cases, the attorney shall represent the  
2140 rights and legal interests of the person with mental  
2141 retardation, regardless of who may initiate the proceedings or  
2142 pay the attorney's fee.

2143 (b) If the attorney, during the course of his or her  
2144 representation, reasonably believes that the person with mental  
2145 retardation cannot adequately act in his or her own interest,  
2146 the attorney may seek the appointment of a guardian ad litem. A  
2147 prior finding of incompetency is not required before a guardian  
2148 ad litem is appointed pursuant to this section.

2149 (7) HEARING.--

2150 (a) The hearing for involuntary admission shall be  
2151 conducted, and the order shall be entered, in the county in  
2152 which the petition is filed ~~person is residing or be as~~  
2153 ~~convenient to the person as may be consistent with orderly~~  
2154 ~~procedure~~. The hearing shall be conducted in a physical setting  
2155 not likely to be injurious to the person's condition.

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2156 (b) A hearing on the petition must ~~shall~~ be held as soon  
2157 as practicable after the petition is filed, but reasonable delay  
2158 for the purpose of investigation, discovery, or procuring  
2159 counsel or witnesses shall be granted.

2160 (c) The court may appoint a general or special magistrate  
2161 to preside. Except as otherwise specified, the magistrate's  
2162 proceeding shall be governed by the ~~rule 1.490~~, Florida Rules of  
2163 Civil Procedure.

2164 (d) The person with mental retardation shall be physically  
2165 present throughout the entire proceeding. If the person's  
2166 attorney believes that the person's presence at the hearing is  
2167 not in the person's best interest, the person's presence may be  
2168 waived once the court has seen the person and the hearing has  
2169 commenced.

2170 (e) The person has ~~shall have~~ the right to present  
2171 evidence and to cross-examine all witnesses and other evidence  
2172 alleging the appropriateness of the person's admission to  
2173 residential care. Other relevant and material evidence regarding  
2174 the appropriateness of the person's admission to residential  
2175 services; the most appropriate, least restrictive residential  
2176 placement; and the appropriate care, treatment, and habilitation  
2177 of the person, including written or oral reports, may be  
2178 introduced at the hearing by any interested person.

2179 (f) The petitioning commission may be represented by  
2180 counsel at the hearing. The petitioning commission shall have  
2181 the right to call witnesses, present evidence, cross-examine  
2182 witnesses, and present argument on behalf of the petitioning  
2183 commission.

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2184 (g) All evidence shall be presented according to chapter  
2185 90. The burden of proof shall be on the party alleging the  
2186 appropriateness of the person's admission to residential  
2187 services. The burden of proof shall be by clear and convincing  
2188 evidence.

2189 (h) All stages of each proceeding shall be  
2190 stenographically reported.

2191 (8) ORDER.--

2192 (a) In all cases, the court shall issue written findings  
2193 of fact and conclusions of law to support its decision. The  
2194 order must ~~shall~~ state the basis for the ~~such~~ findings of fact.

2195 (b) An order of involuntary admission to residential  
2196 services may ~~shall~~ not be entered unless the court finds that:

2197 1. The person is mentally retarded or autistic;

2198 2. Placement in a residential setting is the least  
2199 restrictive and most appropriate alternative to meet the  
2200 person's needs; and

2201 3. Because of the person's degree of mental retardation or  
2202 autism, the person:

2203 a. Lacks sufficient capacity to give express and informed  
2204 consent to a voluntary application for services pursuant to s.  
2205 393.065 and lacks basic survival and self-care skills to such a  
2206 degree that close supervision and habilitation in a residential  
2207 setting is necessary and, if not provided, would result in a  
2208 real and present threat of substantial harm to the person's  
2209 well-being; or

2210 b. Is likely to physically injure others if allowed to  
2211 remain at liberty.



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2212 (c) If the evidence presented to the court is not  
 2213 sufficient to warrant involuntary admission to residential  
 2214 services, but the court feels that residential services would be  
 2215 beneficial, the court may recommend that the person seek  
 2216 voluntary admission.

2217 (d) If an order of involuntary admission to residential  
 2218 services provided by the ~~developmental services program of the~~  
 2219 agency is entered by the court, a copy of the written order  
 2220 shall be served upon the person, the person's counsel, the  
 2221 agency, and the state attorney and the person's defense counsel,  
 2222 if applicable. The order of involuntary admission sent to the  
 2223 agency shall also be accompanied by a copy of the examining  
 2224 committee's report and other reports contained in the court  
 2225 file.

2226 (e) Upon receiving the order, the agency shall, within 45  
 2227 days, provide the court with a copy of the person's family or  
 2228 individual support plan and copies of all examinations and  
 2229 evaluations, outlining the treatment and rehabilitative  
 2230 programs. The agency shall document that the person has been  
 2231 placed in the most appropriate, least restrictive and cost-  
 2232 beneficial residential setting ~~facility~~. A copy of the family or  
 2233 individual support plan and other examinations and evaluations  
 2234 shall be served upon the person and the person's counsel at the  
 2235 same time the documents are filed with the court.

2236 (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO  
 2237 RESIDENTIAL SERVICES.--

2238 (a) ~~In no case shall~~ An order authorizing an admission to  
 2239 residential care may not be considered an adjudication of mental

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2240 incompetency. A ~~No~~ person is not ~~shall be~~ presumed incompetent  
 2241 solely by reason of the person's involuntary admission to  
 2242 residential services. A ~~No~~ person may not ~~shall~~ be denied the  
 2243 full exercise of all legal rights guaranteed to citizens of this  
 2244 state and of the United States.

2245 (b) Any minor involuntarily admitted to residential  
 2246 services shall, upon reaching majority, be given a hearing to  
 2247 determine the continued appropriateness of his or her  
 2248 involuntary admission.

2249 (10) COMPETENCY.--

2250 (a) The issue of competency shall be separate and distinct  
 2251 from a determination of the appropriateness of involuntary  
 2252 admission to residential services for a condition of mental  
 2253 retardation.

2254 (b) The issue of the competency of a person with mental  
 2255 retardation for purposes of assigning guardianship shall be  
 2256 determined in a separate proceeding according to the procedures  
 2257 and requirements of chapter 744 ~~and the Florida Probate Rules~~.  
 2258 The issue of the competency of a person with mental retardation  
 2259 or autism for purposes of determining whether the person is  
 2260 competent to proceed in a criminal trial shall be determined in  
 2261 accordance with chapter 916.

2262 (11) CONTINUING JURISDICTION.--The court which issues the  
 2263 initial order for involuntary admission to residential services  
 2264 under this section has ~~shall have~~ continuing jurisdiction to  
 2265 enter further orders to ensure that the person is receiving  
 2266 adequate care, treatment, habilitation, and rehabilitation,  
 2267 including psychotropic medication and behavioral programming.

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2268 Upon request, the court may transfer the continuing jurisdiction  
 2269 to the court where a client resides if it is different from  
 2270 where the original involuntary admission order was issued. A ~~No~~  
 2271 person may not be released from an order for involuntary  
 2272 admission to residential services except by the order of the  
 2273 court.

2274 (12) APPEAL.--

2275 (a) Any party to the proceeding who is affected by an  
 2276 order of the court may appeal to the appropriate district court  
 2277 of appeal within the time and in the manner prescribed by the  
 2278 Florida Rules of Appellate Procedure.

2279 (b) The filing of an appeal by the person with mental  
 2280 retardation shall stay admission of the person into residential  
 2281 care. The stay shall remain in effect during the pendency of all  
 2282 review proceedings in Florida courts until a mandate issues.

2283 (13) HABEAS CORPUS.--At any time and without notice, any  
 2284 person involuntarily admitted into residential care ~~to the~~  
 2285 ~~developmental services program of the agency,~~ or the person's  
 2286 parent or legal guardian in his or her behalf, is entitled to  
 2287 file a petition for a writ of habeas corpus to question the  
 2288 cause, legality, and appropriateness of the person's involuntary  
 2289 admission. Each person, or the person's parent or legal  
 2290 guardian, shall receive specific written notice of the right to  
 2291 petition for a writ of habeas corpus at the time of his or her  
 2292 involuntary placement.

2293 Section 28. Section 393.122, Florida Statutes, is amended  
 2294 to read:

2295 393.122 Applications for continued residential services.--

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2296 (1) If a client is discharged from residential services  
2297 under the provisions of s. 393.115 ~~this section~~, application for  
2298 needed services shall be encouraged.

2299 (2) ~~A~~ No client receiving services from a state agency may  
2300 not ~~the department as of July 1, 1977,~~ shall be denied continued  
2301 services due to any change in eligibility requirements by  
2302 chapter 77-335, Laws of Florida.

2303 Section 29. Section 393.13, Florida Statutes, is amended  
2304 to read:

2305 393.13 ~~Personal~~ Treatment of persons with developmental  
2306 disabilities ~~who are developmentally disabled.~~--

2307 (1) SHORT TITLE.--This section ~~act~~ shall be known as "The  
2308 Bill of Rights of Persons with Developmental Disabilities ~~who~~  
2309 ~~are Developmentally Disabled.~~"

2310 (2) LEGISLATIVE INTENT.--

2311 (a) The Legislature finds and declares that the system of  
2312 care provided to individuals with developmental disabilities ~~who~~  
2313 ~~are developmentally disabled~~ must be designed to meet the needs  
2314 of the clients as well as protect the integrity of their legal  
2315 and human rights.

2316 (b) The Legislature further finds and declares that the  
2317 design and delivery of treatment and services to persons with  
2318 developmental disabilities ~~who are developmentally disabled~~  
2319 should be directed by the principles of self-determination  
2320 ~~normalization~~ and therefore should:

- 2321 1. Abate the use of large institutions.
- 2322 2. Continue the development of community-based services
- 2323 that ~~which~~ provide reasonable alternatives to

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2324 institutionalization in settings that are least restrictive to  
2325 the client and that provide opportunities for inclusion in the  
2326 community.

2327 3. Provide training and education that ~~to individuals who~~  
2328 ~~are developmentally disabled which~~ will maximize their potential  
2329 to lead independent and productive lives and that ~~which~~ will  
2330 afford opportunities for outward mobility from institutions.

2331 4. Reduce the use of sheltered workshops and other  
2332 noncompetitive employment day activities and promote  
2333 opportunities for those ~~gainful employment for persons with~~  
2334 ~~developmental disabilities~~ who choose to seek such employment.

2335 (c) It is the intent of the Legislature that duplicative  
2336 and unnecessary administrative procedures and practices shall be  
2337 eliminated, and areas of responsibility shall be clearly defined  
2338 and consolidated in order to economically utilize present  
2339 resources. Furthermore, personnel providing services should be  
2340 sufficiently qualified and experienced to meet the needs of the  
2341 clients, and they must be sufficient in number to provide  
2342 treatment in a manner which is beneficial to the clients.

2343 (d) It is the intent of the Legislature:

2344 1. To articulate the existing legal and human rights of  
2345 persons with developmental disabilities ~~who are developmentally~~  
2346 ~~disabled~~ so that they may be exercised and protected. Persons  
2347 with developmental disabilities shall have all the rights  
2348 enjoyed by citizens of the state and the United States.

2349 2. To provide a mechanism for the identification,  
2350 evaluation, and treatment of persons with developmental  
2351 disabilities.

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2352 3. To divert those individuals from institutional  
2353 commitment who, by virtue of comprehensive assessment, can be  
2354 placed in less costly, more effective community environments and  
2355 programs.

2356 4. To fund improvements in the program in accordance with  
2357 the availability of state resources and yearly priorities  
2358 determined by the Legislature.

2359 5. To ensure that persons with developmental disabilities  
2360 receive treatment and habilitation which fosters the  
2361 developmental potential of the individual.

2362 6. To provide programs for the proper habilitation and  
2363 treatment of persons with developmental disabilities which shall  
2364 include, but not be limited to, comprehensive medical/dental  
2365 care, education, recreation, specialized therapies, training,  
2366 social services, transportation, guardianship, family care  
2367 programs, day habilitation services, and habilitative and  
2368 rehabilitative services suited to the needs of the individual  
2369 regardless of age, degree of disability, or handicapping  
2370 condition. It is the intent of the Legislature that no person  
2371 with developmental disabilities shall be deprived of these  
2372 enumerated services by reason of inability to pay.

2373 7. To fully effectuate the principles of self-  
2374 determination ~~normalization principle~~ through the establishment  
2375 of community services for persons with developmental  
2376 disabilities as a viable and practical alternative to  
2377 institutional care at each stage of individual life development  
2378 and to promote opportunities for community inclusion. If care in

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2379 a residential facility becomes necessary, it shall be in the  
2380 least restrictive setting.

2381 8. To minimize and achieve an ongoing reduction in the use  
2382 of restraint and seclusion in facilities and programs serving  
2383 persons with developmental disabilities.

2384 (e) It is the clear, unequivocal intent of this act to  
2385 guarantee individual dignity, liberty, pursuit of happiness, and  
2386 protection of the civil and legal rights of persons with  
2387 developmental disabilities.

2388 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL  
2389 DISABILITIES.--The rights described in this subsection shall  
2390 apply to all persons with developmental disabilities, whether or  
2391 not such persons are clients of the agency.

2392 (a) Persons with developmental disabilities shall have a  
2393 right to dignity, privacy, and humane care, including the right  
2394 to be free from sexual abuse in residential facilities.

2395 (b) Persons with developmental disabilities shall have the  
2396 right to religious freedom and practice. Nothing shall restrict  
2397 or infringe on a person's right to religious preference and  
2398 practice.

2399 (c) Persons with developmental disabilities shall receive  
2400 services, within available sources, which protect the personal  
2401 liberty of the individual and which are provided in the least  
2402 restrictive conditions necessary to achieve the purpose of  
2403 treatment.

2404 (d) Persons with developmental disabilities ~~who are~~  
2405 ~~developmentally disabled~~ shall have a right to participate in an  
2406 appropriate program of quality education and training services,

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2407 within available resources, regardless of chronological age or  
2408 degree of disability. Such persons may be provided with  
2409 instruction in sex education, marriage, and family planning.

2410 (e) Persons with developmental disabilities ~~who are~~  
2411 ~~developmentally disabled~~ shall have a right to social  
2412 interaction and to participate in community activities.

2413 (f) Persons with developmental disabilities ~~who are~~  
2414 ~~developmentally disabled~~ shall have a right to physical exercise  
2415 and recreational opportunities.

2416 (g) Persons with developmental disabilities ~~who are~~  
2417 ~~developmentally disabled~~ shall have a right to be free from  
2418 harm, including unnecessary physical, chemical, or mechanical  
2419 restraint, isolation, excessive medication, abuse, or neglect.

2420 (h) Persons with developmental disabilities ~~who are~~  
2421 ~~developmentally disabled~~ shall have a right to consent to or  
2422 refuse treatment, subject to the provisions of s. 393.12(2)(a)  
2423 or chapter 744.

2424 (i) No otherwise qualified person shall, by reason of  
2425 having a developmental disability, be excluded from  
2426 participation in, or be denied the benefits of, or be subject to  
2427 discrimination under, any program or activity which receives  
2428 public funds, and all prohibitions set forth under any other  
2429 statute shall be actionable under this statute.

2430 (j) No otherwise qualified person shall, by reason of  
2431 having a developmental disability, be denied the right to vote  
2432 in public elections.

2433 (4) CLIENT RIGHTS.--For purposes of this subsection, the  
2434 term "client," as defined in s. 393.063, shall also include any



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2435 | person served in a facility licensed under ~~pursuant to~~ s.  
2436 | 393.067.

2437 | (a) Clients shall have an unrestricted right to  
2438 | communication:

2439 | 1. Each client is ~~shall be~~ allowed to receive, send, and  
2440 | mail sealed, unopened correspondence. A ~~No~~ client's incoming or  
2441 | outgoing correspondence may not ~~shall~~ be opened, delayed, held,  
2442 | or censored by the facility unless there is reason to believe  
2443 | that it contains items or substances which may be harmful to the  
2444 | client or others, in which case the chief administrator of the  
2445 | facility may direct reasonable examination of such mail and  
2446 | regulate the disposition of such items or substances.

2447 | 2. Clients in residential facilities shall be afforded  
2448 | reasonable opportunities for telephone communication, to make  
2449 | and receive confidential calls, unless there is reason to  
2450 | believe that the content of the telephone communication may be  
2451 | harmful to the client or others, in which case the chief  
2452 | administrator of the facility may direct reasonable observation  
2453 | and monitoring to the telephone communication.

2454 | 3. Clients ~~shall~~ have an unrestricted right to visitation  
2455 | subject to reasonable rules of the facility. However, ~~nothing in~~  
2456 | this provision may not ~~shall~~ be construed to permit infringement  
2457 | upon other clients' rights to privacy.

2458 | (b) Each client has the right to the possession and use of  
2459 | his or her own clothing and personal effects, except in those  
2460 | specific instances where the use of some of these items as  
2461 | reinforcers is essential for training the client as part of an  
2462 | appropriately approved behavioral program. The chief

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2463 administrator of the facility may take temporary custody of such  
 2464 effects when it is essential to do so for medical or safety  
 2465 reasons. Custody of such personal effects shall be promptly  
 2466 recorded in the client's record, and a receipt for such effects  
 2467 shall be immediately given to the client, if competent, or the  
 2468 client's parent or legal guardian.

2469 1. All money belonging to a client held by the agency  
 2470 shall be held in compliance with s. 402.17(2).

2471 2. All interest on money received and held for the  
 2472 personal use and benefit of a client shall be the property of  
 2473 that client and may ~~shall~~ not accrue to the general welfare of  
 2474 all clients or be used to defray the cost of residential care.  
 2475 Interest so accrued shall be used or conserved for the personal  
 2476 use or benefit of the individual client as provided in s.  
 2477 402.17(2).

2478 3. Upon the discharge or death of a client, a final  
 2479 accounting shall be made of all personal effects and money  
 2480 belonging to the client held by the agency. All ~~such~~ personal  
 2481 effects and money, including interest, shall be promptly turned  
 2482 over to the client or his or her heirs.

2483 (c) Each client shall receive prompt and appropriate  
 2484 medical treatment and care for physical and mental ailments and  
 2485 for the prevention of any illness or disability. Medical  
 2486 treatment shall be consistent with the accepted standards of  
 2487 medical practice in the community.

2488 1. Medication shall be administered only at the written  
 2489 order of a physician. Medication shall not be used as  
 2490 punishment, for the convenience of staff, as a substitute for

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2491 implementation of an individual or family support plan or  
 2492 behavior-analysis services ~~behavior modification programming~~, or  
 2493 in unnecessary or excessive quantities.

2494 2. Daily notation of medication received by each client in  
 2495 a residential facility shall be kept in the client's record.

2496 3. Periodically, but no less frequently than every 6  
 2497 months, the drug regimen of each client in a residential  
 2498 facility shall be reviewed by the attending physician or other  
 2499 appropriate monitoring body, consistent with appropriate  
 2500 standards of medical practice. All prescriptions shall have a  
 2501 termination date.

2502 4. When pharmacy services are provided at any residential  
 2503 facility, such services shall be directed or supervised by a  
 2504 professionally competent pharmacist licensed according to the  
 2505 provisions of chapter 465.

2506 5. Pharmacy services shall be delivered in accordance with  
 2507 the provisions of chapter 465.

2508 6. Prior to instituting a plan of experimental medical  
 2509 treatment or carrying out any necessary surgical procedure,  
 2510 express and informed consent shall be obtained from the client,  
 2511 if competent, or the client's parent or legal guardian.  
 2512 Information upon which the client shall make necessary treatment  
 2513 and surgery decisions shall include, but not be limited to:

- 2514 a. The nature and consequences of such procedures.
- 2515 b. The risks, benefits, and purposes of such procedures.
- 2516 c. Alternate procedures available.

2517 7. When the parent or legal guardian of the client is  
 2518 unknown or unlocatable and the physician is unwilling to perform

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2519 surgery based solely on the client's consent, a court of  
2520 competent jurisdiction shall hold a hearing to determine the  
2521 appropriateness of the surgical procedure. The client shall be  
2522 physically present, unless the client's medical condition  
2523 precludes such presence, represented by counsel, and provided  
2524 the right and opportunity to be confronted with, and to cross-  
2525 examine, all witnesses alleging the appropriateness of such  
2526 procedure. In such proceedings, the burden of proof by clear and  
2527 convincing evidence shall be on the party alleging the  
2528 appropriateness of such procedures. The express and informed  
2529 consent of a person described in subparagraph 6. may be  
2530 withdrawn at any time, with or without cause, prior to treatment  
2531 or surgery.

2532 8. The absence of express and informed consent  
2533 notwithstanding, a licensed and qualified physician may render  
2534 emergency medical care or treatment to any client who has been  
2535 injured or who is suffering from an acute illness, disease, or  
2536 condition if, within a reasonable degree of medical certainty,  
2537 delay in initiation of emergency medical care or treatment would  
2538 endanger the health of the client.

2539 (d) Each client shall have access to individual storage  
2540 space for his or her private use.

2541 (e) Each client shall be provided with appropriate  
2542 physical exercise as prescribed in the client's individual or  
2543 family support plan. Indoor and outdoor facilities and equipment  
2544 for such physical exercise shall be provided.

2545 (f) Each client shall receive humane discipline.

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2546 (g) ~~A~~ No client may not ~~shall~~ be subjected to a treatment  
 2547 program to eliminate problematic ~~bizarre~~ or unusual behaviors  
 2548 without first being examined by a physician who in his or her  
 2549 best judgment determines that such behaviors are not organically  
 2550 caused.

2551 1. Treatment programs involving the use of noxious or  
 2552 painful stimuli are ~~shall be~~ prohibited.

2553 2. All alleged violations of this paragraph shall be  
 2554 reported immediately to the chief administrator ~~administrative~~  
 2555 ~~officer~~ of the facility and ~~or the district administrator,~~ the  
 2556 agency head, ~~and the Florida local advocacy council.~~ A thorough  
 2557 investigation of each incident shall be conducted and a written  
 2558 report of the finding and results of the ~~such~~ investigation  
 2559 shall be submitted to the chief administrator ~~administrative~~  
 2560 ~~officer~~ of the facility ~~or the district administrator~~ and ~~to~~ the  
 2561 agency head within 24 hours after ~~of~~ the occurrence or discovery  
 2562 of the incident.

2563 3. The agency shall adopt by rule a system for the  
 2564 oversight of behavioral programs. The ~~Such~~ system shall  
 2565 establish guidelines and procedures governing the design,  
 2566 approval, implementation, and monitoring of all behavioral  
 2567 programs involving clients. The system shall ensure statewide  
 2568 and local review by committees of professionals certified as  
 2569 behavior analysts pursuant to s. 393.17. No behavioral program  
 2570 shall be implemented unless reviewed according to the rules  
 2571 established by the agency under this section. ~~Nothing stated in~~  
 2572 ~~this section shall prohibit the review of programs by the~~  
 2573 ~~Florida statewide or local advocacy councils.~~

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2574 ~~(h) Each client engaged in work programs which require~~  
2575 ~~compliance with federal wage and hour laws shall be provided~~  
2576 ~~with minimum wage protection and fair compensation for labor in~~  
2577 ~~accordance with the federal wage per hour regulations.~~

2578 (h)(i) Clients shall have the right to be free from  
2579 unnecessary use of physical, chemical, or mechanical restraint  
2580 or seclusion. Restraints and seclusion should only be used in  
2581 situations in which the client or others are at risk of injury.  
2582 ~~Restraints shall be employed only in emergencies or to protect~~  
2583 ~~the client from imminent injury to himself or herself or others.~~  
2584 Restraints may ~~shall~~ not be employed as punishment, for the  
2585 convenience of staff, or as a substitute for a support  
2586 habilitative plan. Restraints shall impose the least possible  
2587 restrictions consistent with their purpose and shall be removed  
2588 when the emergency ends. Restraints may ~~shall~~ not cause physical  
2589 injury to the client and must ~~shall~~ be designed to allow the  
2590 greatest possible comfort. Any instance of the use of restraint  
2591 or seclusion must be documented in the facility or program  
2592 record of the client.

2593 ~~1. Mechanical supports used in normative situations to~~  
2594 ~~achieve proper body position and balance shall not be considered~~  
2595 ~~restraints, but shall be prescriptively designed and applied~~  
2596 ~~under the supervision of a qualified professional with concern~~  
2597 ~~for principles of good body alignment, circulation, and~~  
2598 ~~allowance for change of position.~~

2599 ~~2. Totally enclosed cribs and barred enclosures shall be~~  
2600 ~~considered restraints.~~

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2601        ~~1.3.~~ Daily reports on the employment of restraint or  
2602 seclusion ~~physical, chemical, or mechanical restraints~~ by those  
2603 specialists authorized in the use of restraint and seclusion  
2604 ~~such restraints~~ shall be made to the ~~appropriate chief~~  
2605 administrator of the facility or program, and a monthly  
2606 compilation summary of the such reports shall be relayed to the  
2607 agency's local area office ~~district administrator and the~~  
2608 ~~Florida local advocacy council~~. The reports shall summarize all  
2609 such cases of restraints, the type used, the duration of usage,  
2610 and the reasons therefor. The area office ~~Districts~~ shall submit  
2611 the districtwide quarterly reports of these summaries to the  
2612 agency's headquarters ~~state Developmental Disabilities Program~~  
2613 ~~Office~~.

2614        2.4. The agency shall adopt by rule standards and  
2615 procedures governing the use of restraint and seclusion ~~post a~~  
2616 ~~copy of the rules adopted under this section in each living unit~~  
2617 ~~of residential facilities~~. A copy of the rules adopted under  
2618 this subparagraph ~~section~~ shall be given to the client, parent,  
2619 guardian or guardian advocate, and all staff members of ~~licensed~~  
2620 facilities and programs licensed under this chapter and shall be  
2621 made a part of all staff preservice and inservice training  
2622 programs.

2623        ~~(i)(j)1.~~ Each client shall have a central record. The  
2624 central record shall be established by the agency at the time  
2625 that an individual is determined eligible for services, shall be  
2626 maintained by the client's support coordinator, and must contain  
2627 information ~~include data~~ pertaining to admission, diagnosis and  
2628 treatment history, present condition, and such other information

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2629 | as may be required ~~under rules of the agency~~. The central record  
 2630 | is the property of the agency.

2631 | ~~1.2.~~ Unless waived by the client, if competent, or the  
 2632 | client's parent or legal guardian if the client is incompetent,  
 2633 | the client's central record shall be confidential and exempt  
 2634 | from the provisions of s. 119.07(1), and no part of it shall be  
 2635 | released except:

2636 | a. The record may be released to physicians, attorneys,  
 2637 | and government agencies having need of the record to aid the  
 2638 | client, as designated by the client, if competent, or the  
 2639 | client's parent or legal guardian, if the client is incompetent.

2640 | b. The record shall be produced in response to a subpoena  
 2641 | or released to persons authorized by order of court, excluding  
 2642 | matters privileged by other provisions of law.

2643 | c. The record or any part thereof may be disclosed to a  
 2644 | qualified researcher, a staff member of the facility where the  
 2645 | client resides, or an employee of the agency when the  
 2646 | administrator of the facility or the director of the agency  
 2647 | deems it necessary for the treatment of the client, maintenance  
 2648 | of adequate records, compilation of treatment data, or  
 2649 | evaluation of programs.

2650 | d. Information from the records may be used for  
 2651 | statistical and research purposes if the information is  
 2652 | abstracted in such a way to protect the identity of individuals.

2653 | ~~3. All central records for each client in residential~~  
 2654 | ~~facilities shall be kept on uniform forms distributed by the~~  
 2655 | ~~agency. The central record shall accurately summarize each~~  
 2656 | ~~client's history and present condition.~~



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2657        2.4- The client, if competent, or the client's parent or  
2658 legal guardian if the client is incompetent, shall be supplied  
2659 with a copy of the client's central record upon request.

2660        (j)~~(k)~~ Each client residing in a residential facility who  
2661 is eligible to vote in public elections according to the laws of  
2662 the state has ~~shall have~~ the right to vote. Facilities operators  
2663 shall arrange the means to exercise the client's right to vote.

2664        (5) LIABILITY FOR VIOLATIONS.--Any person who violates or  
2665 abuses any rights or privileges of persons with developmental  
2666 disabilities ~~who are developmentally disabled~~ provided by this  
2667 chapter is ~~act shall be~~ liable for damages as determined by law.  
2668 Any person who acts in good faith compliance with the provisions  
2669 of this chapter is ~~act shall be~~ immune from civil or criminal  
2670 liability for actions in connection with evaluation, admission,  
2671 habilitative programming, education, treatment, or discharge of  
2672 a client. However, this section does ~~shall~~ not relieve any  
2673 person from liability if the ~~such~~ person is guilty of  
2674 negligence, misfeasance, nonfeasance, or malfeasance.

2675        (6) NOTICE OF RIGHTS.--Each person with developmental  
2676 disabilities, if competent, or parent or legal guardian of such  
2677 person if the person is incompetent, shall promptly receive from  
2678 the agency or the Department of Education a written copy of this  
2679 act. Each person with developmental disabilities able to  
2680 comprehend shall be promptly informed, in the language or other  
2681 mode of communication which such person understands, of the  
2682 above legal rights of persons with developmental disabilities.

2683        (7) RESIDENT GOVERNMENT.--Each residential facility  
2684 providing services to clients who are desirous and capable of

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2685 participating shall initiate and develop a program of resident  
 2686 government to hear the views and represent the interests of all  
 2687 clients served by the facility. The resident government shall be  
 2688 composed of residents elected by other residents, staff advisers  
 2689 skilled in the administration of community organizations, and,  
 2690 at the option of the resident government, representatives of  
 2691 advocacy groups for persons with developmental disabilities from  
 2692 the community ~~a representative of the Florida local advocacy~~  
 2693 ~~council. The resident government shall work closely with the~~  
 2694 ~~Florida local advocacy council and the district administrator to~~  
 2695 ~~promote the interests and welfare of all residents in the~~  
 2696 ~~facility.~~

2697 Section 30. Subsections (1), (2), (3), (4), and (5) of  
 2698 section 393.135, Florida Statutes, are amended to read:

2699 393.135 Sexual misconduct prohibited; reporting required;  
 2700 penalties.--

2701 (1) As used in this section, the term:

2702 (a) "Covered person" ~~"Employee"~~ includes any employee,  
 2703 paid staff member, volunteer, or intern of the agency ~~or the~~  
 2704 ~~department;~~ any person under contract with the agency ~~or the~~  
 2705 ~~department;~~ and any person providing care or support to a client  
 2706 on behalf of the agency ~~department~~ or its providers.

2707 (b) "Sexual activity" means:

2708 1. Fondling the genital area, groin, inner thighs,  
 2709 buttocks, or breasts of a person.

2710 2. The oral, anal, or vaginal penetration by or union with  
 2711 the sexual organ of another or the anal or vaginal penetration  
 2712 of another by any other object.

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2713 |           3. Intentionally touching in a lewd or lascivious manner  
2714 | the breasts, genitals, the genital area, or buttocks, or the  
2715 | clothing covering them, of a person, or forcing or enticing a  
2716 | person to touch the perpetrator.

2717 |           4. Intentionally masturbating in the presence of another  
2718 | person.

2719 |           5. Intentionally exposing the genitals in a lewd or  
2720 | lascivious manner in the presence of another person.

2721 |           6. Intentionally committing any other sexual act that does  
2722 | not involve actual physical or sexual contact with the victim,  
2723 | including, but not limited to, sadomasochistic abuse, sexual  
2724 | bestiality, or the simulation of any act involving sexual  
2725 | activity in the presence of a victim.

2726 |           (c) "Sexual misconduct" means any sexual activity between  
2727 | a covered person ~~an employee~~ and a client to whom a covered  
2728 | person renders services, care, or support on behalf of the  
2729 | agency or its providers, or between a covered person and another  
2730 | client who lives in the same home as the client to whom a  
2731 | covered person is rendering the services, care, or support,  
2732 | regardless of the consent of the client. The term does not  
2733 | include an act done for a bona fide medical purpose or an  
2734 | internal search conducted in the lawful performance of duty by a  
2735 | covered person ~~an employee~~.

2736 |           (2) A covered person ~~An employee~~ who engages in sexual  
2737 | misconduct with an individual with a developmental disability  
2738 | who:

2739 |           ~~(a) Is in the custody of the department;~~

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2740        ~~(a)(b)~~ Resides in a residential facility, including any  
 2741 comprehensive transitional education program, developmental  
 2742 disabilities services institution, foster care facility, group  
 2743 home facility, intermediate care facility for the  
 2744 developmentally disabled, or residential habilitation center; or

2745        ~~(b)(c)~~ Is eligible to receive ~~Receives~~ services from the  
 2746 agency under this chapter ~~a family care program,~~

2747  
 2748 commits a felony of the second degree, punishable as provided in  
 2749 s. 775.082, s. 775.083, or s. 775.084. A covered person ~~An~~  
 2750 ~~employee~~ may be found guilty of violating this subsection  
 2751 without having committed the crime of sexual battery.

2752        (3) The consent of the client to sexual activity is not a  
 2753 defense to prosecution under this section.

2754        (4) This section does not apply to a covered person ~~an~~  
 2755 ~~employee~~ who:

2756        ~~(a)~~ is legally married to the client, ~~or~~

2757        ~~(b)~~ ~~Has no reason to believe that the person with whom the~~  
 2758 ~~employee engaged in sexual misconduct is a client receiving~~  
 2759 ~~services as described in subsection (2).~~

2760        (5) A covered person ~~An employee~~ who witnesses sexual  
 2761 misconduct, or who otherwise knows or has reasonable cause to  
 2762 suspect that a person has engaged in sexual misconduct, shall  
 2763 immediately report the incident to the ~~department's~~ central  
 2764 abuse hotline of the Department of Children and Family Services  
 2765 and to the appropriate local law enforcement agency. The covered  
 2766 person ~~Such employee~~ shall also prepare, date, and sign an  
 2767 independent report that specifically describes the nature of the

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2768 sexual misconduct, the location and time of the incident, and  
 2769 the persons involved. The covered person ~~employee~~ shall deliver  
 2770 the report to the supervisor or program director, who is  
 2771 responsible for providing copies to the agency's local office  
 2772 and the agency's department's inspector general. ~~The inspector~~  
 2773 ~~general shall immediately conduct an appropriate administrative~~  
 2774 ~~investigation, and, if there is probable cause to believe that~~  
 2775 ~~sexual misconduct has occurred, the inspector general shall~~  
 2776 ~~notify the state attorney in the circuit in which the incident~~  
 2777 ~~occurred.~~

2778 Section 31. Section 393.15, Florida Statutes, is amended  
 2779 to read:

2780 393.15 Legislative intent; Community Resources Development  
 2781 Loan Program Trust Fund.--

2782 (1) The Legislature finds and declares that the  
 2783 development of community-based treatment facilities for persons  
 2784 with developmental disabilities ~~who are developmentally disabled~~  
 2785 is desirable and recommended and should be encouraged and  
 2786 fostered by the state. The Legislature further recognizes that  
 2787 the development of such facilities is financially difficult for  
 2788 private individuals, due to initial expenditures required to  
 2789 adapt existing structures to the special needs of such persons  
 2790 ~~who are developmentally disabled~~ who may be served in community-  
 2791 based foster care, group home, ~~developmental training,~~ and  
 2792 supported employment programs. Therefore, ~~it is the intent of~~  
 2793 the Legislature intends that the agency ~~by this act to~~ develop  
 2794 and administer a loan program ~~trust fund~~ to provide support and  
 2795 encouragement in the establishment of community-based foster

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2796 care, group home, ~~developmental training,~~ and supported  
2797 employment programs for persons with developmental disabilities  
2798 ~~who are developmentally disabled.~~

2799 ~~(2) As used in this section, a foster care, group home,~~  
2800 ~~developmental training, or supported employment program may not~~  
2801 ~~be a for-profit corporation, but may be a nonprofit corporation,~~  
2802 ~~partnership, or sole proprietorship.~~

2803 ~~(2)(3)~~ There is created a Community Resources Development  
2804 Loan Program in Trust Fund in the State Treasury to be used by  
2805 the agency for the purpose of granting loans to eligible  
2806 programs for the initial costs of development of the programs.  
2807 In order to be eligible for the program, a foster home, group  
2808 home, or supported employment program must:

2809 (a) Serve persons with developmental disabilities;

2810 (b) Be a nonprofit corporation, partnership, or sole  
2811 proprietorship; and

2812 ~~(c) Be~~ Loans shall be made only to those facilities which  
2813 are in compliance with the zoning regulations of the local  
2814 community.

2815 (3) Loans may be made to pay for the costs of development  
2816 and may include structural modification, the purchase of  
2817 equipment and fire and safety devices, preoperational staff  
2818 training, and the purchase of insurance. Such costs may shall  
2819 not include the actual construction of a facility and may not be  
2820 in lieu of payment for maintenance, client services, or care  
2821 provided.

2822 (4) The agency may grant to an eligible program a lump-sum  
2823 loan in one payment not to exceed the cost ~~to the program of~~

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2824 providing 2 months' services, care, or maintenance to each  
 2825 person with developmental disabilities ~~who is developmentally~~  
 2826 ~~disabled~~ to be placed in the program by the agency, or the  
 2827 actual cost of firesafety renovations to a facility required by  
 2828 the state, whichever is greater. ~~Loans granted to programs shall~~  
 2829 ~~not be in lieu of payment for maintenance, services, or care~~  
 2830 ~~provided, but shall stand separate and distinct.~~

2831 (5) The agency shall adopt rules, ~~as provided in chapter~~  
 2832 ~~120,~~ to determine the criteria ~~standards~~ under which a program  
 2833 shall be eligible to receive a loan ~~as provided in this section~~  
 2834 and the methodology ~~criteria~~ for the equitable allocation of  
 2835 loan ~~trust~~ funds when eligible applications exceed the funds  
 2836 available.

2837 (6) ~~(5)~~ Any loan granted by the agency under this section  
 2838 shall be repaid by the program within 5 years and the amount  
 2839 paid shall be deposited into the agency's Administrative Trust  
 2840 Fund. Moneys repaid shall be used to fund new loans. A program  
 2841 that operates as a nonprofit corporation meeting the  
 2842 requirements of s. 501(c)(3) of the Internal Revenue Code, and  
 2843 that seeks forgiveness of its loan shall submit to the agency an  
 2844 annual a statement setting forth the service it has provided  
 2845 during the year together with such other information as the  
 2846 agency by rule shall require, and, upon approval of each such  
 2847 annual statement, the agency may ~~shall~~ forgive up to 20 percent  
 2848 of the principal of any such loan granted ~~after June 30, 1975.~~

2849 (7) ~~(6)~~ If any program that has received a loan under this  
 2850 section ceases to accept, or provide care, services, or  
 2851 maintenance to persons placed in the program by the department,

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2852 or if such program files papers of bankruptcy, at that point in  
2853 time the loan shall become an interest-bearing loan at the rate  
2854 of 5 percent per annum on the entire amount of the initial loan  
2855 which shall be repaid within a 1-year period from the date on  
2856 which the program ceases to provide care, services, or  
2857 maintenance, or files papers in bankruptcy, and the amount of  
2858 the loan due plus interest shall constitute a lien in favor of  
2859 the state against all real and personal property of the program.  
2860 The lien shall be perfected by the appropriate officer of the  
2861 agency by executing and acknowledging a statement of the name of  
2862 the program and the amount due on the loan and a copy of the  
2863 promissory note, which shall be recorded by the agency with the  
2864 clerk of the circuit court in the county wherein the program is  
2865 located. If the program has filed a petition for bankruptcy, the  
2866 agency shall file and enforce the lien in the bankruptcy  
2867 proceedings. Otherwise, the lien shall be enforced in the manner  
2868 provided in s. 85.011. All funds received by the agency from the  
2869 enforcement of the lien shall be deposited in the agency's  
2870 Administrative Community Resources Development Trust Fund and  
2871 used to fund new loans.

2872 Section 32. Section 393.17, Florida Statutes, is amended  
2873 to read:

2874 393.17 Behavioral programs; certification of behavior  
2875 analysts.--

2876 (1) The agency may establish a certification process for  
2877 behavior analysts in order to ensure that only qualified  
2878 employees and service providers provide behavioral analysis  
2879 services to clients. The procedures must be established by rule



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2880 and must include criteria for scope of practice, qualifications  
2881 for certification, including training and testing requirements,  
2882 continuing education requirements for ongoing certification, and  
2883 standards of performance. The procedures must also include  
2884 decertification procedures that may be used to determine whether  
2885 an individual continues to meet the qualifications for  
2886 certification or the professional performance standards and, if  
2887 not, the procedures necessary to decertify an employee or  
2888 service provider.

2889       (2) The agency shall ~~may~~ recognize the certification of  
2890 behavior analysts awarded by a nonprofit corporation that  
2891 adheres to the national standards of boards that determine  
2892 professional credentials and whose mission is to meet  
2893 professional credentialing needs identified by behavior  
2894 analysts, state governments, and consumers of behavior analysis  
2895 services and whose work has the support of the Association for  
2896 Behavior Analysis International. The certification procedure  
2897 recognized by the agency must undergo regular psychometric  
2898 review and validation, pursuant to a job analysis survey of the  
2899 profession and standards established by content experts in the  
2900 field.

2901       Section 33. Section 393.18, Florida Statutes, is created  
2902 to read:

2903       393.18 Comprehensive transitional education program.--A  
2904 comprehensive transition education program is a group of jointly  
2905 operating centers or units, the collective purpose of which is  
2906 to provide a sequential series of educational care, training,  
2907 treatment, habilitation, and rehabilitation services to persons

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2908 | who have developmental disabilities and who have severe or  
 2909 | moderate maladaptive behaviors. However, this section does not  
 2910 | require such programs to provide services only to persons with  
 2911 | developmental disabilities. All such services shall be temporary  
 2912 | in nature and delivered in a structured residential setting,  
 2913 | having the primary goal of incorporating the principle of self-  
 2914 | determination in establishing permanent residence for persons  
 2915 | with maladaptive behaviors in facilities that are not associated  
 2916 | with the comprehensive transitional education program. The staff  
 2917 | shall include behavior analysts and teachers, as appropriate,  
 2918 | who shall be available to provide services in each component  
 2919 | center or unit of the program. A behavior analyst must be  
 2920 | certified pursuant to s. 393.17.

2921 | (1) Comprehensive transitional education programs shall  
 2922 | include a minimum of two component centers or units, one of  
 2923 | which shall be an intensive treatment and educational center or  
 2924 | a transitional training and educational center, which provides  
 2925 | services to persons with maladaptive behaviors in the following  
 2926 | sequential order:

2927 | (a) Intensive treatment and educational center.--This  
 2928 | component is a self-contained residential unit providing  
 2929 | intensive behavioral and educational programming for persons  
 2930 | with severe maladaptive behaviors whose behaviors preclude  
 2931 | placement in a less-restrictive environment due to the threat of  
 2932 | danger or injury to themselves or others. Continuous-shift staff  
 2933 | shall be required for this component.

2934 | (b) Transitional training and educational center.--This  
 2935 | component is a residential unit for persons with moderate

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2936 maladaptive behaviors providing concentrated psychological and  
2937 educational programming that emphasizes a transition toward a  
2938 less-restrictive environment. Continuous-shift staff shall be  
2939 required for this component.

2940 (c) Community transition residence.--This component is a  
2941 residential center providing educational programs and any  
2942 support services, training, and care that are needed to assist  
2943 persons with maladaptive behaviors to avoid regression to more  
2944 restrictive environments while preparing them for more  
2945 independent living. Continuous-shift staff shall be required for  
2946 this component.

2947 (d) Alternative living center.--This component is a  
2948 residential unit providing an educational and family living  
2949 environment for persons with maladaptive behaviors in a  
2950 moderately unrestricted setting. Residential staff shall be  
2951 required for this component.

2952 (e) Independent living education center.--This component  
2953 is a facility providing a family living environment for persons  
2954 with maladaptive behaviors in a largely unrestricted setting and  
2955 includes education and monitoring that is appropriate to support  
2956 the development of independent living skills.

2957 (2) Components of a comprehensive transitional education  
2958 program are subject to the license issued under s. 393.067 to a  
2959 comprehensive transitional education program and may be located  
2960 on a single site or multiple sites.

2961 (3) Comprehensive transitional education programs shall  
2962 develop individual education plans for each person with  
2963 maladaptive behaviors who receives services from the program.

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2964 Each individual education plan shall be developed in accordance  
 2965 with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34  
 2966 C.F.R. part 300.

2967 (4) The total number of persons with maladaptive behaviors  
 2968 who are being provided with services in a comprehensive  
 2969 transitional education program may not in any instance exceed  
 2970 120 residents.

2971 (5) This section shall authorize licensure for  
 2972 comprehensive transitional education programs which by July 1,  
 2973 1989:

2974 (a) Were in actual operation; or

2975 (b) Owned a fee simple interest in real property for which  
 2976 a county or city government has approved zoning allowing for the  
 2977 placement of the facilities described in this subsection, and  
 2978 have registered an intent with the agency to operate a  
 2979 comprehensive transitional education program. However, nothing  
 2980 shall prohibit the assignment by such a registrant to another  
 2981 entity at a different site within the state, so long as there is  
 2982 compliance with all criteria of this program and local zoning  
 2983 requirements and provided that each residential facility within  
 2984 the component centers or units of the program authorized under  
 2985 this subparagraph does not exceed a capacity of 15 persons.

2986 Section 34. Section 393.23, Florida Statutes, is created  
 2987 to read:

2988 393.23 Developmental disabilities institutions; trust  
 2989 accounts.--All receipts from the operation of canteens, vending  
 2990 machines, hobby shops, sheltered workshops, activity centers,  
 2991 farming projects, and other like activities operated in a

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2992 developmental disabilities institution, and moneys donated to  
 2993 the institution, must be deposited in a trust account in any  
 2994 bank, credit union, or savings and loan association authorized  
 2995 by the State Treasury as a qualified depositor to do business in  
 2996 this state, if the moneys are available on demand.

2997 (1) Moneys in the trust account must be expended for the  
 2998 benefit, education, and welfare of clients. However, if  
 2999 specified, moneys that are donated to the institution must be  
 3000 expended in accordance with the intentions of the donor. Trust  
 3001 account money may not be used for the benefit of employees of  
 3002 the agency, or to pay the wages of such employees. The welfare  
 3003 of the clients includes the expenditure of funds for the  
 3004 purchase of items for resale at canteens or vending machines,  
 3005 and for the establishment of, maintenance of, and operation of  
 3006 canteens, hobby shops, recreational or entertainment facilities,  
 3007 sheltered workshops, activity centers, farming projects, or  
 3008 other like facilities or programs established at the  
 3009 institutions for the benefit of clients.

3010 (2) The institution may invest, in the manner authorized  
 3011 by law for fiduciaries, any money in a trust account which is  
 3012 not necessary for immediate use. The interest earned and other  
 3013 increments derived from the investments of the money must be  
 3014 deposited into the trust account for the benefit of clients.

3015 (3) The accounting system of an institution must account  
 3016 separately for revenues and expenses for each activity. The  
 3017 institution shall reconcile the trust account to the  
 3018 institution's accounting system and check registers and to the  
 3019 accounting system of the Chief Financial Officer.

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3020           (4) All sales taxes collected by the institution as a  
 3021 result of sales shall be deposited into the trust account and  
 3022 remitted to the Department of Revenue.

3023           (5) Funds shall be expended in accordance with  
 3024 requirements and guidelines established by the Chief Financial  
 3025 Officer.

3026           Section 35. Section 393.501, Florida Statutes, is amended  
 3027 to read:

3028           393.501 Rulemaking.--

3029           (1) The agency may ~~shall~~ adopt rules pursuant to ss.  
 3030 120.536(1) and 120.54 to carry out its statutory duties ~~the~~  
 3031 ~~provisions of this chapter.~~

3032           (2) Such rules shall address the number of facilities on a  
 3033 single lot parcel or on adjacent lots parcels of land, and in  
 3034 addition, ~~for ICF/MR, the rate and location of facility~~  
 3035 ~~development and level of care.~~ In adopting rules, an alternative  
 3036 living center and an independent living education center, as  
 3037 described in s. 393.18, shall be subject to the provisions of s.  
 3038 419.001, except that such centers shall be exempt from the  
 3039 1,000-foot-radius requirement of s. 419.001(2) if:

3040           (a) The centers are located on a site zoned in a manner  
 3041 that permits all the components of a comprehensive transition  
 3042 education center to be located on the site; or

3043           (b) There are no more than three such centers within a  
 3044 radius of 1,000 feet.

3045           Section 36. Section 394.453, Florida Statutes, is amended  
 3046 to read:

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3047 | 394.453 Legislative intent.--It is the intent of the  
3048 | Legislature to authorize and direct the Department of Children  
3049 | and Family Services to evaluate, research, plan, and recommend  
3050 | to the Governor and the Legislature programs designed to reduce  
3051 | the occurrence, severity, duration, and disabling aspects of  
3052 | mental, emotional, and behavioral disorders. It is the intent of  
3053 | the Legislature that treatment programs for such disorders shall  
3054 | include, but not be limited to, comprehensive health, social,  
3055 | educational, and rehabilitative services to persons requiring  
3056 | intensive short-term and continued treatment in order to  
3057 | encourage them to assume responsibility for their treatment and  
3058 | recovery. It is intended that such persons be provided with  
3059 | emergency service and temporary detention for evaluation when  
3060 | required; that they be admitted to treatment facilities on a  
3061 | voluntary basis when extended or continuing care is needed and  
3062 | unavailable in the community; that involuntary placement be  
3063 | provided only when expert evaluation determines that it is  
3064 | necessary; that any involuntary treatment or examination be  
3065 | accomplished in a setting which is clinically appropriate and  
3066 | most likely to facilitate the person's return to the community  
3067 | as soon as possible; and that individual dignity and human  
3068 | rights be guaranteed to all persons who are admitted to mental  
3069 | health facilities or who are being held under s. 394.463. It is  
3070 | the further intent of the Legislature that the least restrictive  
3071 | means of intervention be employed based on the individual needs  
3072 | of each person, within the scope of available services. It is  
3073 | the policy of this state that the use of restraint and seclusion  
3074 | on clients is justified only as an emergency safety measure to

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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3075 be used in response to imminent danger to the client or others.  
3076 It is, therefore, the intent of the Legislature to achieve an  
3077 ongoing reduction in the use of restraint and seclusion in  
3078 programs and facilities serving persons with mental illness.

3079 Section 37. Present subsections (28) through (33) of  
3080 section 394.455, Florida Statutes, are redesignated as  
3081 subsections (30) through (35), respectively, and new subsections  
3082 (28) and (29) are added to that section, to read:

3083 394.455 Definitions.--As used in this part, unless the  
3084 context clearly requires otherwise, the term:

3085 (28) (a) "Restraint" means a physical device, method, or  
3086 drug used to control behavior. A physical restraint is any  
3087 manual method or physical or mechanical device, material, or  
3088 equipment attached or adjacent to the individual's body so that  
3089 he or she cannot easily remove the restraint and which restricts  
3090 freedom of movement or normal access to one's body.

3091 (b) A drug used as a restraint is a medication used to  
3092 control the person's behavior or to restrict his or her freedom  
3093 of movement. Physically holding a person during a procedure to  
3094 forcibly administer psychotropic medication is a physical  
3095 restraint.

3096 (c) Restraint does not include physical devices, such as  
3097 orthopedically prescribed appliances, surgical dressings and  
3098 bandages, supportive body bands, or other physical holding when  
3099 necessary for routine physical examinations and tests; or for  
3100 purposes of orthopedic, surgical, or other similar medical  
3101 treatment; when used to provide support for the achievement of



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3102 functional body position or proper balance; or when used to  
 3103 protect a person from falling out of bed.

3104 (29) "Seclusion" means the physical segregation of a  
 3105 person in any fashion or involuntary isolation of a person in a  
 3106 room or area from which the person is prevented from leaving.  
 3107 The prevention may be by physical barrier or by a staff member  
 3108 who is acting in a manner, or who is physically situated, so as  
 3109 to prevent the person from leaving the room or area. For  
 3110 purposes of this chapter, the term does not mean isolation due  
 3111 to a person's medical condition or symptoms.

3112 Section 38. Paragraph (b) of subsection (5) of section  
 3113 394.457, Florida Statutes, is amended to read:

3114 394.457 Operation and administration.--

3115 (5) RULES.--

3116 (b) The department shall adopt rules necessary for the  
 3117 implementation and administration of the provisions of this  
 3118 part, and a program subject to the provisions of this part shall  
 3119 not be permitted to operate unless rules designed to ensure the  
 3120 protection of the health, safety, and welfare of the patients  
 3121 treated through such program have been adopted. Rules adopted  
 3122 under this subsection must include provisions governing the use  
 3123 of restraint and seclusion which are consistent with recognized  
 3124 best practices and professional judgment; prohibit inherently  
 3125 dangerous restraint or seclusion procedures; establish  
 3126 limitations on the use and duration of restraint and seclusion;  
 3127 establish measures to ensure the safety of program participants  
 3128 and staff during an incident of restraint or seclusion;  
 3129 establish procedures for staff to follow before, during, and

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3130 after incidents of restraint or seclusion; establish  
3131 professional qualifications of and training for staff who may  
3132 order or be engaged in the use of restraint or seclusion; and  
3133 establish mandatory reporting, data collection, and data  
3134 dissemination procedures and requirements. Rules adopted under  
3135 this subsection must require that each instance of the use of  
3136 restraint or seclusion be documented in the record of the  
3137 patient.

3138 Section 39. Paragraph (g) is added to subsection (1) of  
3139 section 394.879, Florida Statutes, to read:

3140 394.879 Rules; enforcement.--

3141 (1) The department, in consultation with the agency, shall  
3142 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
3143 the provisions of this chapter, including, at a minimum, rules  
3144 providing standards to ensure that:

3145 (g) The use of restraint and seclusion is consistent with  
3146 recognized best practices and professional judgment; that  
3147 inherently dangerous restraint or seclusion procedures are  
3148 prohibited; that limitations are established on the use and  
3149 duration of restraint and seclusion; that measures are  
3150 established to ensure the safety of program participants and  
3151 staff during an incident of restraint or seclusion; that  
3152 procedures are created for staff to follow before, during, and  
3153 after incidents of restraint or seclusion; that professional  
3154 qualifications and training are established for staff who may  
3155 order or be engaged in the use of restraint or seclusion; and  
3156 that mandatory reporting, data collection, and data  
3157 dissemination procedures and requirements are instituted. Rules

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3158 | adopted under this section must require that any instance of the  
 3159 | use of restraint or seclusion shall be documented in the record  
 3160 | of the client.

3161 | Section 40. Subsection (9) of section 397.405, Florida  
 3162 | Statutes, is amended to read:

3163 | 397.405 Exemptions from licensure.--The following are  
 3164 | exempt from the licensing provisions of this chapter:

3165 | (9) Facilities licensed under chapter 393 which ~~s. 393.063~~  
 3166 | ~~that~~, in addition to providing services to persons with  
 3167 | developmental disabilities ~~who are developmentally disabled as~~  
 3168 | ~~defined therein~~, also provide services to persons  
 3169 | developmentally at risk as a consequence of exposure to alcohol  
 3170 | or other legal or illegal drugs while in utero.

3171 |  
 3172 | The exemptions from licensure in this section do not apply to  
 3173 | any service provider that receives an appropriation, grant, or  
 3174 | contract from the state to operate as a service provider as  
 3175 | defined in this chapter or to any substance abuse program  
 3176 | regulated pursuant to s. 397.406. Furthermore, this chapter may  
 3177 | not be construed to limit the practice of a physician licensed  
 3178 | under chapter 458 or chapter 459, a psychologist licensed under  
 3179 | chapter 490, or a psychotherapist licensed under chapter 491 who  
 3180 | provides substance abuse treatment, so long as the physician,  
 3181 | psychologist, or psychotherapist does not represent to the  
 3182 | public that he or she is a licensed service provider and does  
 3183 | not provide services to clients pursuant to part V of this  
 3184 | chapter. Failure to comply with any requirement necessary to  
 3185 | maintain an exempt status under this section is a misdemeanor of

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3186 | the first degree, punishable as provided in s. 775.082 or s.  
3187 | 775.083.

3188 |       Section 41. Subsection (13) of section 400.419, Florida  
3189 | Statutes, is amended to read:

3190 |           400.419 Violations; imposition of administrative fines;  
3191 | grounds.--

3192 |       (13) The agency shall develop and disseminate an annual  
3193 | list of all facilities sanctioned or fined \$5,000 or more for  
3194 | violations of state standards, the number and class of  
3195 | violations involved, the penalties imposed, and the current  
3196 | status of cases. The list shall be disseminated, at no charge,  
3197 | to the Department of Elderly Affairs, the Department of Health,  
3198 | the Department of Children and Family Services, the Agency for  
3199 | Persons with Disabilities, the area agencies on aging, the  
3200 | Florida Statewide Advocacy Council, and the state and local  
3201 | ombudsman councils. The Department of Children and Family  
3202 | Services shall disseminate the list to service providers under  
3203 | contract to the department who are responsible for referring  
3204 | persons to a facility for residency. The agency may charge a fee  
3205 | commensurate with the cost of printing and postage to other  
3206 | interested parties requesting a copy of this list.

3207 |       Section 42. Section 400.960, Florida Statutes, is amended  
3208 | to read:

3209 |           400.960 Definitions.--As used in this part, the term:

3210 |       (1) "Active treatment" means the provision of services by  
3211 | an interdisciplinary team which are necessary to maximize a  
3212 | client's individual independence or prevent regression or loss  
3213 | of functional status.

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3214 (2) "Agency" means the Agency for Health Care  
3215 Administration.

3216 (3) "Autism" or "autistic disorder" has the same meaning  
3217 as in s. 393.063. ~~means a pervasive, neurologically based~~  
3218 ~~developmental disability of extended duration which causes~~  
3219 ~~severe learning, communication, and behavior disorders with age~~  
3220 ~~of onset during infancy or childhood. Individuals with autism~~  
3221 ~~exhibit impairment in reciprocal social interaction, impairment~~  
3222 ~~in verbal and nonverbal communication and imaginative ability,~~  
3223 ~~and a markedly restricted repertoire of activities and~~  
3224 ~~interests.~~

3225 (4) "Cerebral palsy" has the same meaning as in s.  
3226 393.063. ~~means a group of disabling symptoms of extended~~  
3227 ~~duration which results from damage to the developing brain~~  
3228 ~~occurring before, during, or after birth and resulting in the~~  
3229 ~~loss or impairment of control over voluntary muscles. The term~~  
3230 ~~does not include those symptoms or impairments resulting solely~~  
3231 ~~from a stroke.~~

3232 (5) "Client" means any person determined by the Agency for  
3233 Persons with Disabilities ~~department~~ to be eligible for  
3234 developmental services.

3235 ~~(6) "Client advocate" means a friend or relative of the~~  
3236 ~~client, or of the client's immediate family, who advocates for~~  
3237 ~~the best interests of the client in any proceedings under this~~  
3238 ~~part in which the client or his or her family has the right or~~  
3239 ~~duty to participate.~~

3240 ~~(7) "Department" means the Department of Children and~~  
3241 ~~Family Services.~~

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3242        (6)-(8) "Developmental disability" has the same meaning as  
3243 in s. 393.063 ~~means a disorder or syndrome that is attributable~~  
3244 ~~to retardation, cerebral palsy, autism, spina bifida, or Prader-~~  
3245 ~~Willi syndrome and that constitutes a substantial handicap that~~  
3246 ~~can reasonably be expected to continue indefinitely.~~

3247        (7)-(9) "Direct service provider" means a person 18 years  
3248 of age or older who has direct contact with individuals with  
3249 developmental disabilities and who is unrelated to the  
3250 individuals with developmental disabilities.

3251        ~~(10)~~ "Epilepsy" ~~means a chronic brain disorder of various~~  
3252 ~~causes which is characterized by recurrent seizures due to~~  
3253 ~~excessive discharge of cerebral neurons. When found concurrently~~  
3254 ~~with retardation, autism, or cerebral palsy, epilepsy is~~  
3255 ~~considered a secondary disability for which the client is~~  
3256 ~~eligible to receive services to ameliorate this condition~~  
3257 ~~according to the provisions of this part.~~

3258        ~~(11)~~ "Guardian advocate" ~~means a person appointed by the~~  
3259 ~~circuit court to represent a person with developmental~~  
3260 ~~disabilities in any proceedings brought pursuant to s. 393.12,~~  
3261 ~~and is distinct from a guardian advocate for mentally ill~~  
3262 ~~persons under chapter 394.~~

3263        (8)-(12) "Intermediate care facility for the  
3264 developmentally disabled" means a residential facility licensed  
3265 and certified in accordance with state law, and certified by the  
3266 Federal Government, pursuant to the Social Security Act, as a  
3267 provider of Medicaid services to persons with developmental  
3268 disabilities ~~who are developmentally disabled.~~

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3269 (9)-(13) "Prader-Willi syndrome" has the same meaning as in  
3270 s. 393.063. means an inherited condition typified by neonatal  
3271 hypotonia with failure to thrive, hyperphagia, or an excessive  
3272 drive to eat which leads to obesity, usually at 18 to 36 months  
3273 of age, mild to moderate retardation, hypogonadism, short  
3274 stature, mild facial dysmorphism, and a characteristic  
3275 neurobehavior.

3276 (10) (a) "Restraint" means a physical device, method, or  
3277 drug used to control behavior. A physical restraint is any  
3278 manual method or physical or mechanical device, material, or  
3279 equipment attached or adjacent to the individual's body so that  
3280 he or she cannot easily remove the restraint and which restricts  
3281 freedom of movement or normal access to one's body.

3282 (b) A drug used as a restraint is a medication used to  
3283 control the person's behavior or to restrict his or her freedom  
3284 of movement. Physically holding a person during a procedure to  
3285 forcibly administer psychotropic medication is a physical  
3286 restraint.

3287 (c) Restraint does not include physical devices, such as  
3288 orthopedically prescribed appliances, surgical dressings and  
3289 bandages, supportive body bands, or other physical holding when  
3290 necessary for routine physical examinations and tests; for  
3291 purposes of orthopedic, surgical, or other similar medical  
3292 treatment; when used to provide support for the achievement of  
3293 functional body position or proper balance; or when used to  
3294 protect a person from falling out of bed.

3295 (11)-(14) "Retardation" has the same meaning as in s.  
3296 393.063. means significantly subaverage general intellectual

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3297 ~~functioning existing concurrently with deficits in adaptive~~  
3298 ~~behavior and manifested during the period from conception to age~~  
3299 ~~18. "Significantly subaverage general intellectual functioning,"~~  
3300 ~~for the purpose of this definition, means performance that is~~  
3301 ~~two or more standard deviations from the mean score on a~~  
3302 ~~standardized intelligence test specified in rules of the~~  
3303 ~~department. "Deficits in adaptive behavior," for the purpose of~~  
3304 ~~this definition, means deficits in the effectiveness or degree~~  
3305 ~~with which an individual meets the standards of personal~~  
3306 ~~independence and social responsibility expected of his or her~~  
3307 ~~age, cultural group, and community.~~

3308 (12) "Seclusion" means the physical segregation of a  
3309 person in any fashion or the involuntary isolation of a person  
3310 in a room or area from which the person is prevented from  
3311 leaving. The prevention may be by physical barrier or by a staff  
3312 member who is acting in a manner, or who is physically situated,  
3313 so as to prevent the person from leaving the room or area. For  
3314 purposes of this part, the term does not mean isolation due to a  
3315 person's medical condition or symptoms.

3316 (13)~~(15)~~ "Spina bifida" has the same meaning as in s.  
3317 393.063 means a medical diagnosis of spina bifida cystica or  
3318 myelomeningocele.

3319 Section 43. Subsection (2) of section 400.967, Florida  
3320 Statutes, is amended to read:

3321 400.967 Rules and classification of deficiencies.--

3322 (2) Pursuant to the intention of the Legislature, the  
3323 agency, in consultation with the Agency for Persons with  
3324 Disabilities ~~Department of Children and Family Services~~ and the



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3325 Department of Elderly Affairs, shall adopt and enforce rules to  
3326 administer this part, which shall include reasonable and fair  
3327 criteria governing:

3328 (a) The location and construction of the facility;  
3329 including fire and life safety, plumbing, heating, cooling,  
3330 lighting, ventilation, and other housing conditions that will  
3331 ensure the health, safety, and comfort of residents. The agency  
3332 shall establish standards for facilities and equipment to  
3333 increase the extent to which new facilities and a new wing or  
3334 floor added to an existing facility after July 1, 2000, are  
3335 structurally capable of serving as shelters only for residents,  
3336 staff, and families of residents and staff, and equipped to be  
3337 self-supporting during and immediately following disasters. The  
3338 Agency for Health Care Administration shall work with facilities  
3339 licensed under this part and report to the Governor and the  
3340 Legislature by April 1, 2000, its recommendations for cost-  
3341 effective renovation standards to be applied to existing  
3342 facilities. In making such rules, the agency shall be guided by  
3343 criteria recommended by nationally recognized, reputable  
3344 professional groups and associations having knowledge concerning  
3345 such subject matters. The agency shall update or revise such  
3346 criteria as the need arises. All facilities must comply with  
3347 those lifesafety code requirements and building code standards  
3348 applicable at the time of approval of their construction plans.  
3349 The agency may require alterations to a building if it  
3350 determines that an existing condition constitutes a distinct  
3351 hazard to life, health, or safety. The agency shall adopt fair  
3352 and reasonable rules setting forth conditions under which

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3353 existing facilities undergoing additions, alterations,  
3354 conversions, renovations, or repairs are required to comply with  
3355 the most recent updated or revised standards.

3356 (b) The number and qualifications of all personnel,  
3357 including management, medical nursing, and other personnel,  
3358 having responsibility for any part of the care given to  
3359 residents.

3360 (c) All sanitary conditions within the facility and its  
3361 surroundings, including water supply, sewage disposal, food  
3362 handling, and general hygiene, which will ensure the health and  
3363 comfort of residents.

3364 (d) The equipment essential to the health and welfare of  
3365 the residents.

3366 (e) A uniform accounting system.

3367 (f) The care, treatment, and maintenance of residents and  
3368 measurement of the quality and adequacy thereof.

3369 (g) The preparation and annual update of a comprehensive  
3370 emergency management plan. The agency shall adopt rules  
3371 establishing minimum criteria for the plan after consultation  
3372 with the Department of Community Affairs. At a minimum, the  
3373 rules must provide for plan components that address emergency  
3374 evacuation transportation; adequate sheltering arrangements;  
3375 postdisaster activities, including emergency power, food, and  
3376 water; postdisaster transportation; supplies; staffing;  
3377 emergency equipment; individual identification of residents and  
3378 transfer of records; and responding to family inquiries. The  
3379 comprehensive emergency management plan is subject to review and  
3380 approval by the local emergency management agency. During its

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3381 review, the local emergency management agency shall ensure that  
3382 the following agencies, at a minimum, are given the opportunity  
3383 to review the plan: the Department of Elderly Affairs, the  
3384 Agency for Persons with Disabilities ~~Department of Children and~~  
3385 ~~Family Services~~, the Agency for Health Care Administration, and  
3386 the Department of Community Affairs. Also, appropriate volunteer  
3387 organizations must be given the opportunity to review the plan.  
3388 The local emergency management agency shall complete its review  
3389 within 60 days and either approve the plan or advise the  
3390 facility of necessary revisions.

3391 (h) The posting of licenses. Each licensee shall post its  
3392 license in a prominent place that is in clear and unobstructed  
3393 public view at or near the place where residents are being  
3394 admitted to the facility.

3395 (i) The use of restraint and seclusion. Such rules must be  
3396 consistent with recognized best practices and professional  
3397 judgment; prohibit inherently dangerous restraint or seclusion  
3398 procedures; establish limitations on the use and duration of  
3399 restraint and seclusion; establish measures to ensure the safety  
3400 of program participants and staff during an incident of  
3401 restraint or seclusion; create procedures for staff to follow  
3402 before, during, and after incidents of restraint or seclusion;  
3403 establish professional qualifications of and training for staff  
3404 who may order or be engaged in the use of restraint or  
3405 seclusion; and provide for mandatory reporting, data collection,  
3406 and data dissemination procedures and requirements. Rules  
3407 adopted under this section must require that any instance of the

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3408 | use of restraint or seclusion shall be documented in the  
3409 | facility's record of the client.

3410 |         Section 44. Section 402.115, Florida Statutes, is amended  
3411 | to read:

3412 |             402.115 Sharing confidential or exempt  
3413 | information.--Notwithstanding any other provision of law to the  
3414 | contrary, the Department of Health, ~~and~~ the Department of  
3415 | Children and Family Services, and the Agency for Persons with  
3416 | Disabilities may share confidential information or information  
3417 | exempt from disclosure under chapter 119 on any individual who  
3418 | is or has been the subject of a program within the jurisdiction  
3419 | of each agency. Information so exchanged remains confidential or  
3420 | exempt as provided by law.

3421 |         Section 45. Section 402.17, Florida Statutes, is amended  
3422 | to read:

3423 |             402.17 Claims for care and maintenance; trust  
3424 | property.--The Department of Children and Family Services and  
3425 | the Agency for Persons with Disabilities shall protect the  
3426 | financial interest of the state with respect to claims that  
3427 | ~~which~~ the state may have for the care and maintenance of clients  
3428 | of the department or agency. The department or agency shall, as  
3429 | trustee, hold in trust and administer money ~~of clients~~ and  
3430 | property designated for the personal benefit of clients. The  
3431 | department or agency shall act as trustee of clients' money and  
3432 | property entrusted to it in accordance with the usual fiduciary  
3433 | standards applicable generally to trustees, and shall act to  
3434 | protect both the short-term and long-term interests of the  
3435 | clients for whose benefit it is holding such money and property.

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- 3436 (1) CLAIMS FOR CARE AND MAINTENANCE.--
- 3437 (a) The department or agency shall perform the following
- 3438 acts:
- 3439 1. Receive and supervise the collection of sums due the
- 3440 state.
- 3441 2. Bring any court action necessary to collect any claim
- 3442 the state may have against any client, former client, guardian
- 3443 of any client or former client, executor or administrator of the
- 3444 client's estate, or any person against whom any client or former
- 3445 client may have a claim.
- 3446 3. Obtain a copy of any inventory or appraisal of the
- 3447 client's property filed with any court.
- 3448 4. Obtain from the department's Economic Self-Sufficiency
- 3449 Services Program Office a financial status report on any client
- 3450 or former client, including the ability of third parties
- 3451 responsible for such client to pay all or part of the cost of
- 3452 the client's care and maintenance.
- 3453 5. Petition the court for appointment of a guardian or
- 3454 administrator for an otherwise unrepresented client or former
- 3455 client should the financial status report or other information
- 3456 indicate the need for such action. The cost of any such action
- 3457 shall be charged against the assets or estate of the client.
- 3458 6. Represent the interest of the state in any litigation
- 3459 in which a client or former client is a party.
- 3460 7. File claims with any person, firm, or corporation or
- 3461 with any federal, state, county, district, or municipal agency
- 3462 on behalf of an unrepresented client.

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3463 8. Represent the state in the settlement of the estates of  
3464 deceased clients or in the settlement of estates in which a  
3465 client or a former client against whom the state may have a  
3466 claim has a financial interest.

3467 9. Establish procedures by rule for the use of amounts  
3468 held in trust for the client to pay for the cost of care and  
3469 maintenance, if such amounts would otherwise cause the client to  
3470 become ineligible for services which are in the client's best  
3471 interests.

3472 (b) The department or agency ~~of Children and Family~~  
3473 ~~Services~~ may charge off accounts if it certifies that the  
3474 accounts are uncollectible after diligent efforts have been made  
3475 to collect them. If the department certifies an account to the  
3476 Department of Financial Services, setting forth the  
3477 circumstances upon which it predicates the uncollectibility, and  
3478 if, pursuant to s. 17.04, the Department of Financial Services  
3479 concurs, the account shall be charged off.

3480 (2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE OR  
3481 BENEFIT OF ANY CLIENT.--The department or agency shall perform  
3482 the following acts:

3483 (a) Accept and administer in trust, as a trustee having a  
3484 fiduciary responsibility to a client ~~of the department~~, any  
3485 money or other property received for personal use or benefit of  
3486 that client. In the case of children in the legal custody of the  
3487 department, following the termination of the parental rights ~~as~~  
3488 ~~to that client~~, until the child ~~such client~~ leaves the legal  
3489 custody of the department due to ~~the client's~~ adoption or  
3490 attaining ~~because the client attains~~ the age of 18 or, in the

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3491 case of children who are otherwise in the custody of the  
 3492 department, the court having jurisdiction over such child ~~elient~~  
 3493 shall have jurisdiction, upon application of the department or  
 3494 other interested party, to review or approve any extraordinary  
 3495 action of the department acting as trustee as to the child's  
 3496 ~~elient's~~ money or other property. When directed by a court of  
 3497 competent jurisdiction, the department may further hold money or  
 3498 property of a child ~~person under the age of 18~~ who has been in  
 3499 the care, custody, or control of the department and who is the  
 3500 subject of a court proceeding during the pendency of that  
 3501 proceeding.

3502 (b) Deposit the money in banks qualified as state  
 3503 depositories, or in any bank, credit union, or savings and loan  
 3504 association authorized to do business in this state, provided  
 3505 moneys so deposited or held by such institutions are fully  
 3506 insured by a federal depository or share insurance program, or  
 3507 an approved state depository or share insurance program, and are  
 3508 available on demand.

3509 (c) Withdraw the money and use it to meet current needs of  
 3510 clients. For purposes of this paragraph, "current needs"  
 3511 includes payment of fees assessed under s. 402.33. The amount of  
 3512 money withdrawn ~~by the department to meet current needs of a~~  
 3513 ~~elient~~ shall take into account the need of the department or  
 3514 agency, as the trustee of a client's money and property, to  
 3515 provide for the long-term needs of a client, including, but not  
 3516 limited to, ensuring that ~~to provide for the need of a client~~  
 3517 under the age of 18 will ~~to~~ have sufficient financial resources  
 3518 available to be able to function as an adult upon reaching the

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3519 | age of 18, meeting ~~or to meet~~ the special needs of a client who  
 3520 | has a disability and whose special needs cannot otherwise be met  
 3521 | by any form of public assistance or family resources, or  
 3522 | maintaining ~~to maintain~~ the client's eligibility for public  
 3523 | assistance, including medical assistance, under state or federal  
 3524 | law.

3525 | (d) As trustee, invest in the manner authorized by law for  
 3526 | fiduciaries money not used for current needs of clients. Such  
 3527 | investments may include, but shall not be limited to,  
 3528 | investments in savings share accounts of any credit union  
 3529 | chartered under the laws of the United States and doing business  
 3530 | in this state, and savings share accounts of any credit union  
 3531 | chartered under the laws of this state, provided the credit  
 3532 | union is insured under the federal share insurance program or an  
 3533 | approved state share insurance program.

3534 | (3) DEPOSIT OF FUNDS RECEIVED.--Funds received by the  
 3535 | Department of Children and Family Services in accordance with s.  
 3536 | 402.33 shall be deposited into a trust fund for the operation of  
 3537 | the department.

3538 | (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the death  
 3539 | of any client affected by the provisions of this section, any  
 3540 | unclaimed money held in trust by the department, the agency, or  
 3541 | by the Chief Financial Officer for the child ~~him or her~~ shall be  
 3542 | applied first to the payment of any unpaid claim of the state  
 3543 | against the client, and any balance remaining unclaimed for a  
 3544 | period of 1 year shall escheat to the state as unclaimed funds  
 3545 | held by fiduciaries.



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3546 (5) LEGAL REPRESENTATION.--To the extent that the budget  
 3547 will permit, the Department of Legal Affairs shall furnish the  
 3548 legal services to carry out the provisions of this section. Upon  
 3549 the request of the department or agency ~~of Children and Family~~  
 3550 ~~Services~~, the various state and county attorneys shall assist in  
 3551 litigation within their jurisdiction. The ~~Such~~ department or  
 3552 agency may retain legal counsel for necessary legal services  
 3553 which cannot be furnished by the Department of Legal Affairs and  
 3554 the various state and county attorneys.

3555 (6) DEPOSIT OR INVESTMENT OF FUNDS OF CLIENTS.--

3556 (a) The department or agency ~~of Children and Family~~  
 3557 ~~Services~~ may deposit any funds of clients in its possession in  
 3558 any bank in the state or may invest or reinvest such funds in  
 3559 bonds or obligations of the United States for the payment of  
 3560 which the full faith and credit of the United States is pledged.  
 3561 For purposes of deposit only, the funds of any client may be  
 3562 mingled with the funds of any other clients.

3563 (b) The interest or increment accruing on such funds shall  
 3564 be the property of the clients and shall be used or conserved  
 3565 for the personal use or benefit of the ~~individual~~ client, in  
 3566 accordance with the department's or agency's fiduciary  
 3567 responsibility as a trustee for the money and property of the  
 3568 client ~~held by the department~~. Such interest shall not accrue to  
 3569 the general welfare of all clients. Whenever any proposed action  
 3570 of the department or agency, acting in its own interest, may  
 3571 conflict with the department's or agency's ~~obligation as a~~  
 3572 ~~trustee with a~~ fiduciary responsibility to the client, the  
 3573 department or agency shall promptly present the matter to a

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3574 court of competent jurisdiction for the court's determination as  
3575 to what action the department or agency may take. The department  
3576 or agency shall establish ~~rules governing~~ reasonable fees by  
3577 rule for the cost of administering such accounts and for  
3578 establishing the minimum balance eligible to earn interest.

3579 (7) DISPOSITION OF MONEY AND PROPERTY OF CLIENTS UPON  
3580 ATTAINING AGE 18 OR DISCHARGE FROM CARE, CUSTODY, CONTROL, OR  
3581 SERVICES OF THE DEPARTMENT.--

3582 (a) Whenever a client of the department for whom the  
3583 department is holding money or property as a trustee attains the  
3584 age of 18, and thereby will no longer be in the legal custody of  
3585 the department, the department shall promptly disburse such  
3586 money and property ~~of the client the department has held as a~~  
3587 ~~trustee~~ to that client, or as that client directs, as soon as  
3588 practicable ~~once the client attains the age of 18.~~

3589 (b) Whenever a client of the department over the age of 18  
3590 for whom the department is holding money or property as a  
3591 trustee no longer requires the care, custody, control, or  
3592 services of the department, the department shall promptly  
3593 disburse such money and property ~~of the client the department~~  
3594 ~~has held as a trustee~~ to that client, or as that client or a  
3595 court directs, as soon as practicable.

3596 (c) When a client under the age of 18 who has been in the  
3597 legal custody, care, or control of the department and for whom  
3598 the department is holding money or property as a trustee attains  
3599 the age of 18 and has a physical or mental disability, or is  
3600 otherwise incapacitated or incompetent to handle that client's  
3601 own financial affairs, the department shall apply for a court

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3602 | order from a court of competent jurisdiction to establish a  
 3603 | trust on behalf of that client. Where there is no willing  
 3604 | relative of the client acceptable to the court available to  
 3605 | serve as trustee of such proposed trust, the court may enter an  
 3606 | order authorizing the department to serve as trustee of a  
 3607 | separate trust under such terms and conditions as the court  
 3608 | determines appropriate to the circumstances.

3609 |         (d) When a client under the age of 18 who has been in the  
 3610 | legal custody, care, or control of the department and for whom  
 3611 | the department is holding money or property as a trustee leaves  
 3612 | the care, custody, and control of the department due to adoption  
 3613 | or placement of the client with a relative, or as otherwise  
 3614 | directed by a court of competent jurisdiction, the department  
 3615 | shall notify that court of the existence of the money and  
 3616 | property ~~in the possession of the department~~ either prior to, or  
 3617 | promptly after, receiving knowledge of the change of custody,  
 3618 | care, or control. The department shall apply for an order from  
 3619 | the court exercising jurisdiction over the client to direct the  
 3620 | disposition of the money and property belonging to that client.  
 3621 | The court order may establish a trust in which the money and  
 3622 | property of the client will be deposited, appoint a guardian of  
 3623 | a property as to the money or property of the client, or direct  
 3624 | the creation of a Uniform Transfers ~~Gifts~~ to Minors Act account  
 3625 | on behalf of that client, ~~as the court finds appropriate and~~  
 3626 | under the terms and conditions the court determines appropriate  
 3627 | to the circumstances.

3628 |         Section 46. Section 402.181, Florida Statutes, is amended  
 3629 | to read:

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3630 | 402.181 State Institutions Claims Program.--

3631 | (1) There is created a State Institutions Claims Program,  
 3632 | for the purpose of making restitution for property damages and  
 3633 | direct medical expenses for injuries caused by shelter children  
 3634 | or foster children, or escapees, inmates, or patients of state  
 3635 | institutions under the Department of Children and Family  
 3636 | Services, the Department of Health, the Department of Juvenile  
 3637 | Justice, ~~or~~ the Department of Corrections, or the Agency for  
 3638 | Persons with Disabilities.

3639 | (2) Claims for restitution may be filed with the  
 3640 | Department of Legal Affairs at its office in accordance with  
 3641 | regulations prescribed by the Department of Legal Affairs. The  
 3642 | Department of Legal Affairs shall have full power and authority  
 3643 | to hear, investigate, and determine all questions in respect to  
 3644 | such claims and is authorized, within the limits of current  
 3645 | appropriations, to pay individual claims up to \$1,000 or, with  
 3646 | respect to children in foster care and their families,  
 3647 | individual claims up to \$1,500. Claims in excess of these  
 3648 | amounts shall continue to require legislative approval.

3649 | (3) (a) The Department of Legal Affairs shall make or cause  
 3650 | to be made such investigations as it considers necessary in  
 3651 | respect to such claims. Hearings shall be held in accordance  
 3652 | with chapter 120.

3653 | (b) The Department of Legal Affairs shall work with the  
 3654 | Department of Children and Family Services, the Department of  
 3655 | Health, the Department of Juvenile Justice, ~~and~~ the Department  
 3656 | of Corrections, and the Agency for Persons with Disabilities to  
 3657 | streamline the process of investigations, hearings, and

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3658 | determinations with respect to claims under this section, to  
 3659 | ensure that eligible claimants receive restitution within a  
 3660 | reasonable time.

3661 |         Section 47. Section 402.20, Florida Statutes, is amended  
 3662 | to read:

3663 |         402.20 County contracts authorized for services and  
 3664 | facilities for in mental health and developmental disabilities  
 3665 | ~~retardation areas.~~--The boards of county commissioners are  
 3666 | authorized to provide monetary grants and facilities, and to  
 3667 | enter into renewable contracts, for services and facilities, for  
 3668 | a period not to exceed 2 years, with public and private  
 3669 | hospitals, clinics, and laboratories; other state agencies,  
 3670 | departments, or divisions; the state colleges and universities;  
 3671 | the community colleges; private colleges and universities;  
 3672 | counties; municipalities; towns; townships; and any other  
 3673 | governmental unit or nonprofit organization which provides  
 3674 | needed facilities for persons with mental illness or  
 3675 | developmental disabilities ~~the mentally ill or retarded~~. These  
 3676 | services are hereby declared to be for a public and county  
 3677 | purpose. The county commissioners may make periodic inspections  
 3678 | to assure that the services or facilities provided under this  
 3679 | chapter meet the standards of the Department of Children and  
 3680 | Family Services and the Agency for Persons with Disabilities.

3681 |         Section 48. Section 402.22, Florida Statutes, is amended  
 3682 | to read:

3683 |         402.22 Education program for students who reside in  
 3684 | residential care facilities operated by the Department of

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3685 | Children and Family Services or the Agency for Persons with  
3686 | Disabilities.--

3687 |       (1) (a) The Legislature recognizes that the Department of  
3688 | Children and Family Services and the Agency for Persons with  
3689 | Disabilities have under their ~~has under its~~ residential care  
3690 | students with critical problems of physical impairment,  
3691 | emotional disturbance, mental impairment, and learning  
3692 | impairment.

3693 |       (b) The Legislature recognizes the vital role of education  
3694 | in the rehabilitation of such students. It is the intent of the  
3695 | Legislature that all such students benefit from educational  
3696 | services and receive such services.

3697 |       (c) It is the intent of the Legislature that educational  
3698 | services be coordinated with appropriate and existing diagnostic  
3699 | and evaluative, social, followup, and other therapeutic services  
3700 | of the department and agency ~~of Children and Family Services~~ so  
3701 | that the effect of the total rehabilitation process is  
3702 | maximized.

3703 |       (d) It is the intent of the Legislature that, as  
3704 | educational programs for students in residential care facilities  
3705 | are implemented by the district school board, educational  
3706 | personnel in the ~~Department of Children and Family Services~~  
3707 | residential care facilities who meet the qualifications for  
3708 | employees of the district school board be employed by the  
3709 | district school board.

3710 |       (2) District school boards shall establish educational  
3711 | programs for all students ages 5 through 18 under the  
3712 | residential care of the Department of Children and Family

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3713 | Services and the Agency for Persons with Disabilities, and may  
 3714 | provide for students below age 3 as provided for in s.  
 3715 | 1003.21(1)(e). Funding of such programs shall be pursuant to s.  
 3716 | 1011.62.

3717 | (3) Notwithstanding any provisions of chapters 39, 393,  
 3718 | 394, and 397 to the contrary, the services of the Department of  
 3719 | Children and Family Services and the Agency for Persons with  
 3720 | Disabilities and those of the Department of Education and  
 3721 | district school boards shall be mutually supportive and  
 3722 | complementary of each other. The education programs provided by  
 3723 | the district school board shall meet the standards prescribed by  
 3724 | the State Board of Education and the district school board.  
 3725 | Decisions regarding the design and delivery of department or  
 3726 | agency of Children and Family Services treatment or habilitative  
 3727 | services shall be made by interdisciplinary teams of  
 3728 | professional and paraprofessional staff of which appropriate  
 3729 | district school system administrative and instructional  
 3730 | personnel shall be invited to be participating members. The  
 3731 | requirements for maintenance of confidentiality as prescribed in  
 3732 | chapters 39, 393, 394, and 397 shall be applied to information  
 3733 | used by such interdisciplinary teams, and such information shall  
 3734 | be exempt from the provisions of ss. 119.07(1) and 286.011.

3735 | (4) Students age 18 and under who are under the  
 3736 | residential care of the Department of Children and Family  
 3737 | Services or the Agency for Persons with Disabilities and who  
 3738 | receive an education program shall be calculated as full-time  
 3739 | equivalent student membership in the appropriate cost factor as  
 3740 | provided for in s. 1011.62(1)(c). Residential care facilities of

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3741 ~~the Department of Children and Family Services~~ shall include,  
 3742 but not be limited to, developmental disabilities ~~services~~  
 3743 institutions and state mental health facilities. All students  
 3744 shall receive their education program from the district school  
 3745 system, and funding shall be allocated through the Florida  
 3746 Education Finance Program for the district school system.

3747 (5) Instructional and special educational services that  
 3748 ~~which~~ are provided to ~~mental health and retardation~~ clients with  
 3749 mental illness or developmental disabilities of the department's  
 3750 or agency's ~~in the Department of Children and Family Services~~  
 3751 residential care facilities by local school districts shall not  
 3752 be less than 180 days or 900 hours; however, the 900 hours may  
 3753 be distributed over a 12-month period, unless otherwise stated  
 3754 in rules developed by the State Board of Education, with the  
 3755 concurrence of the department or agency and adopted ~~of Children~~  
 3756 ~~and Family Services promulgated~~ pursuant to subsection (6).

3757 (6) The State Board of Education, and the Department of  
 3758 Children and Family Services, and the Agency for Persons with  
 3759 Disabilities may adopt ~~shall have the authority to promulgate~~  
 3760 rules to ~~which shall~~ assist in the orderly transfer of the  
 3761 instruction of students from department or agency ~~Department of~~  
 3762 ~~Children and Family Services~~ residential care facilities to the  
 3763 district school system or to the public education agency and  
 3764 which shall assist in implementing the specific intent as stated  
 3765 in this act.

3766 (7) Notwithstanding the provisions of s. 1001.42(4)(n),  
 3767 the educational program at the Marianna Sunland Center in  
 3768 Jackson County shall be operated by the Department of Education,



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3769 | either directly or through grants or contractual agreements with  
 3770 | other public educational agencies. The annual state allocation  
 3771 | to any such agency shall be computed pursuant to s. 1011.62(1),  
 3772 | (2), and (5) and allocated in the amount that would have been  
 3773 | provided the local school district in which the residential  
 3774 | facility is located.

3775 |         Section 49. Paragraph (c) of subsection (1) and subsection  
 3776 | (2) of section 402.33, Florida Statutes, are amended to read:

3777 |             402.33 Department authority to charge fees for services  
 3778 | provided.--

3779 |         (1) As used in this section, the term:

3780 |             (c) "Department" means the Department of Children and  
 3781 | Family Services, ~~and~~ the Department of Health, and the Agency  
 3782 | for Persons with Disabilities.

3783 |         (2) The department, in accordance with rules established  
 3784 | by it, shall either charge, assess, or collect, or cause to be  
 3785 | charged, assessed, or collected, fees for any service it  
 3786 | provides to its clients either directly or through its agencies  
 3787 | or contractors, except for:

3788 |             (a) Diagnosis and evaluation procedures necessary to  
 3789 | determine the client's eligibility and need for services  
 3790 | provided by the department;

3791 |             (b) Customary and routine information and referral  
 3792 | services;

3793 |             (c) Educational services provided in lieu of public  
 3794 | education;

3795 |             (d) Specific services exempted by law from fee assessment;

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3796 (e) Emergency shelter or emergency detention care and  
 3797 custody prior to a detention hearing under chapter 39;  
 3798 (f) Specific classes or types of services provided in  
 3799 programs funded by grants, donations, or contracts that prohibit  
 3800 charging fees;  
 3801 (g) Developmental disability services provided under  
 3802 chapter 393 to any person who is determined to be eligible for  
 3803 such services ~~by the department~~ and whose earned income falls  
 3804 below the federal Health and Human Services Poverty Guidelines,  
 3805 unless such fees are collected from third-party benefits and  
 3806 benefit payments; or  
 3807 (h) Any type of service for which the department  
 3808 determines that the net estimated revenue from such fees after  
 3809 deducting any loss of funds from federal grants occasioned by  
 3810 such fees will be less than the estimated cost to charge and  
 3811 collect such fees.  
 3812  
 3813 Fees, other than third-party benefits and benefit payments, may  
 3814 not be charged for services provided to indigents whose only  
 3815 sources of income are from state and federal aid. In addition,  
 3816 fees may not be charged parents of a minor client for services  
 3817 requested by the minor without parental consent or for services  
 3818 provided a minor client who has been permanently committed to  
 3819 the care and custody of the department with parental rights  
 3820 permanently severed. However, lack of parental consent does not  
 3821 preclude the charging of fees established under chapter 39. ~~The~~  
 3822 ~~department may not require~~ A client who is receiving wages that  
 3823 ~~which~~ are below the minimum wage under the federal Fair Labor

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3824 Standards Act may not be required to pay fees from such wages.  
3825 Voluntary payments for services must be encouraged.

3826 Section 50. Paragraphs (r) and (s) of subsection (3) of  
3827 section 408.036, Florida Statutes, are amended to read:

3828 408.036 Projects subject to review; exemptions.--

3829 (3) EXEMPTIONS.--Upon request, the following projects are  
3830 subject to exemption from the provisions of subsection (1):

3831 (r) For beds in state mental health treatment facilities  
3832 operated under s. 394.455 (32) ~~(30)~~ and state mental health  
3833 forensic facilities operated under s. 916.106(8).

3834 (s) For beds in state developmental disabilities ~~services~~  
3835 institutions as defined in s. 393.063.

3836 Section 51. Paragraphs (a), (j), and (k) of subsection (4)  
3837 of section 409.221, Florida Statutes, are amended to read:

3838 409.221 Consumer-directed care program.--

3839 (4) CONSUMER-DIRECTED CARE.--

3840 (a) Program established.--The Agency for Health Care  
3841 Administration shall establish the consumer-directed care  
3842 program which shall be based on the principles of consumer  
3843 choice and control. The agency shall implement the program upon  
3844 federal approval. The agency shall establish interagency  
3845 cooperative agreements with and shall work with the Departments  
3846 of Elderly Affairs, Health, and Children and Family Services and  
3847 the Agency for Persons with Disabilities to implement and  
3848 administer the program. The program shall allow enrolled persons  
3849 to choose the providers of services and to direct the delivery  
3850 of services, to best meet their long-term care needs. The

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3851 | program must operate within the funds appropriated by the  
3852 | Legislature.

3853 | (j) Rules; federal waivers.--In order to implement this  
3854 | section:

3855 | 1. The agency and the Departments of Elderly Affairs,  
3856 | Health, and Children and Family Services and the Agency for  
3857 | Persons with Disabilities are authorized to adopt and enforce  
3858 | rules.

3859 | 2. The agency shall take all necessary action to ensure  
3860 | state compliance with federal regulations. The agency shall  
3861 | apply for any necessary federal waivers or waiver amendments  
3862 | needed to implement the program.

3863 | (k) Reviews and reports.--The agency and the Departments  
3864 | of Elderly Affairs, Health, and Children and Family Services and  
3865 | the Agency for Persons with Disabilities shall each, on an  
3866 | ongoing basis, review and assess the implementation of the  
3867 | consumer-directed care program. By January 15 of each year, the  
3868 | agency shall submit a written report to the Legislature that  
3869 | includes each department's review of the program and contains  
3870 | recommendations for improvements to the program.

3871 | Section 52. Paragraph (a) of subsection (2) and subsection  
3872 | (8) of section 409.908, Florida Statutes, are amended to read:

3873 | 409.908 Reimbursement of Medicaid providers.--Subject to  
3874 | specific appropriations, the agency shall reimburse Medicaid  
3875 | providers, in accordance with state and federal law, according  
3876 | to methodologies set forth in the rules of the agency and in  
3877 | policy manuals and handbooks incorporated by reference therein.  
3878 | These methodologies may include fee schedules, reimbursement

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3879 | methods based on cost reporting, negotiated fees, competitive  
 3880 | bidding pursuant to s. 287.057, and other mechanisms the agency  
 3881 | considers efficient and effective for purchasing services or  
 3882 | goods on behalf of recipients. If a provider is reimbursed based  
 3883 | on cost reporting and submits a cost report late and that cost  
 3884 | report would have been used to set a lower reimbursement rate  
 3885 | for a rate semester, then the provider's rate for that semester  
 3886 | shall be retroactively calculated using the new cost report, and  
 3887 | full payment at the recalculated rate shall be effected  
 3888 | retroactively. Medicare-granted extensions for filing cost  
 3889 | reports, if applicable, shall also apply to Medicaid cost  
 3890 | reports. Payment for Medicaid compensable services made on  
 3891 | behalf of Medicaid eligible persons is subject to the  
 3892 | availability of moneys and any limitations or directions  
 3893 | provided for in the General Appropriations Act or chapter 216.  
 3894 | Further, nothing in this section shall be construed to prevent  
 3895 | or limit the agency from adjusting fees, reimbursement rates,  
 3896 | lengths of stay, number of visits, or number of services, or  
 3897 | making any other adjustments necessary to comply with the  
 3898 | availability of moneys and any limitations or directions  
 3899 | provided for in the General Appropriations Act, provided the  
 3900 | adjustment is consistent with legislative intent.

3901 |       (2)(a)1. Reimbursement to nursing homes licensed under  
 3902 | part II of chapter 400 and state-owned-and-operated intermediate  
 3903 | care facilities for the developmentally disabled licensed under  
 3904 | part XI of chapter 400 ~~chapter 393~~ must be made prospectively.

3905 |       2. Unless otherwise limited or directed in the General  
 3906 | Appropriations Act, reimbursement to hospitals licensed under

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3907 part I of chapter 395 for the provision of swing-bed nursing  
 3908 home services must be made on the basis of the average statewide  
 3909 nursing home payment, and reimbursement to a hospital licensed  
 3910 under part I of chapter 395 for the provision of skilled nursing  
 3911 services must be made on the basis of the average nursing home  
 3912 payment for those services in the county in which the hospital  
 3913 is located. When a hospital is located in a county that does not  
 3914 have any community nursing homes, reimbursement shall ~~must~~ be  
 3915 determined by averaging the nursing home payments, in counties  
 3916 that surround the county in which the hospital is located.  
 3917 Reimbursement to hospitals, including Medicaid payment of  
 3918 Medicare copayments, for skilled nursing services shall be  
 3919 limited to 30 days, unless a prior authorization has been  
 3920 obtained from the agency. Medicaid reimbursement may be extended  
 3921 by the agency beyond 30 days, and approval must be based upon  
 3922 verification by the patient's physician that the patient  
 3923 requires short-term rehabilitative and recuperative services  
 3924 only, in which case an extension of no more than 15 days may be  
 3925 approved. Reimbursement to a hospital licensed under part I of  
 3926 chapter 395 for the temporary provision of skilled nursing  
 3927 services to nursing home residents who have been displaced as  
 3928 the result of a natural disaster or other emergency may not  
 3929 exceed the average county nursing home payment for those  
 3930 services in the county in which the hospital is located and is  
 3931 limited to the period of time which the agency considers  
 3932 necessary for continued placement of the nursing home residents  
 3933 in the hospital.

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3934 (8) A provider of home-based or community-based services  
 3935 rendered pursuant to a federally approved waiver shall be  
 3936 reimbursed based on an established or negotiated rate for each  
 3937 service. These rates shall be established according to an  
 3938 analysis of the expenditure history and prospective budget  
 3939 developed by each contract provider participating in the waiver  
 3940 program, or under any other methodology adopted by the agency  
 3941 and approved by the Federal Government in accordance with the  
 3942 waiver. ~~Effective July 1, 1996,~~ Privately owned and operated  
 3943 community-based residential facilities which meet agency  
 3944 requirements and which formerly received Medicaid reimbursement  
 3945 for the optional intermediate care facility for the mentally  
 3946 retarded service may participate in the developmental services  
 3947 waiver as part of a home-and-community-based continuum of care  
 3948 for Medicaid recipients who receive waiver services.

3949 Section 53. Subsection (3) of section 409.9127, Florida  
 3950 Statutes, is amended to read:

3951 409.9127 Preauthorization and concurrent utilization  
 3952 review; conflict-of-interest standards.--

3953 (3) The agency shall help the Agency for Persons with  
 3954 Disabilities ~~Department of Children and Family Services~~ meet the  
 3955 requirements of s. 393.065(4). Only admissions approved pursuant  
 3956 to such assessments are eligible for reimbursement under this  
 3957 chapter.

3958 Section 54. Paragraph (c) of subsection (2) and subsection  
 3959 (5) of section 411.224, Florida Statutes, are amended to read:

3960 411.224 Family support planning process.--The Legislature  
 3961 establishes a family support planning process to be used by the

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3962 Department of Children and Family Services as the service  
3963 planning process for targeted individuals, children, and  
3964 families under its purview.

3965 (2) To the extent possible within existing resources, the  
3966 following populations must be included in the family support  
3967 planning process:

3968 (c) Children from age 3 ~~birth~~ through age 5 who are served  
3969 by the Agency for Persons with Disabilities Developmental  
3970 ~~Disabilities Program Office of the Department of Children and~~  
3971 ~~Family Services.~~

3972 (5) There must be only a single-family support plan to  
3973 address the problems of the various family members unless the  
3974 family requests that an individual family support plan be  
3975 developed for different members of that family. The family  
3976 support plan must replace individual habilitation plans for  
3977 children from 3 ~~birth~~ through 5 years old who are served by the  
3978 Agency for Persons with Disabilities Developmental Disabilities  
3979 ~~Program Office of the Department of Children and Family~~  
3980 ~~Services. To the extent possible, the family support plan must~~  
3981 ~~replace other case planning forms used by the Department of~~  
3982 ~~Children and Family Services.~~

3983 Section 55. Subsection (4) of section 411.232, Florida  
3984 Statutes, is amended to read:

3985 411.232 Children's Early Investment Program.--

3986 (4) RULES FOR IMPLEMENTATION.--The Department of Health  
3987 ~~and Rehabilitative Services~~ shall adopt rules necessary to  
3988 implement this section.



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3989 Section 56. Subsection (8) of section 415.102, Florida  
3990 Statutes, is amended to read:

3991 415.102 Definitions of terms used in ss. 415.101-  
3992 415.113.--As used in ss. 415.101-415.113, the term:

3993 (8) "Facility" means any location providing day or  
3994 residential care or treatment for vulnerable adults. The term  
3995 "facility" may include, but is not limited to, any hospital,  
3996 state institution, nursing home, assisted living facility, adult  
3997 family-care home, adult day care center, residential facility  
3998 licensed under chapter 393, adult day training center, group  
3999 home, or mental health treatment center.

4000 Section 57. Section 415.1035, Florida Statutes, is amended  
4001 to read:

4002 415.1035 Facility's duty to inform residents of their  
4003 right to report abusive, neglectful, or exploitive  
4004 practices.--The department shall work cooperatively with the  
4005 Agency for Health Care Administration, the Agency for Persons  
4006 with Disabilities, and the Department of Elderly Affairs to  
4007 ensure that every facility that serves vulnerable adults informs  
4008 residents of their right to report abusive, neglectful, or  
4009 exploitive practices. Each facility must establish appropriate  
4010 policies and procedures to facilitate such reporting.

4011 Section 58. Subsections (1) and (10) of section 415.1055,  
4012 Florida Statutes, are amended to read:

4013 415.1055 Notification to administrative entities.--

4014 (1) Upon receipt of a report that alleges that an employee  
4015 or agent of the department, the Agency for Persons with  
4016 Disabilities, or the Department of Elderly Affairs, acting in an

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4017 | official capacity, has committed an act of abuse, neglect, or  
 4018 | exploitation, the department shall notify the state attorney in  
 4019 | whose circuit the abuse, neglect, or exploitation occurred. This  
 4020 | notification may be oral or written.

4021 |       (10) When a report has been received and the department  
 4022 | has reason to believe that a vulnerable adult resident of a  
 4023 | facility licensed by the Agency for Health Care Administration  
 4024 | or the Agency for Persons with Disabilities has been the victim  
 4025 | of abuse, neglect, or exploitation, the department shall provide  
 4026 | a copy of its investigation to the appropriate agency. If the  
 4027 | investigation determines that a health professional licensed or  
 4028 | certified under the Department of Health may have abused,  
 4029 | neglected, or exploited a vulnerable adult, the department shall  
 4030 | also provide a copy to the Department of Health.

4031 |       Section 59. Paragraphs (a) and (h) of subsection (3) of  
 4032 | section 415.107, Florida Statutes, are amended to read:

4033 |       415.107 Confidentiality of reports and records.--

4034 |       (3) Access to all records, excluding the name of the  
 4035 | reporter which shall be released only as provided in subsection  
 4036 | (6), shall be granted only to the following persons, officials,  
 4037 | and agencies:

4038 |       (a) Employees or agents of the department, the Agency for  
 4039 | Persons with Disabilities, ~~of~~ the Agency for Health Care  
 4040 | Administration, or ~~of~~ the Department of Elderly Affairs who are  
 4041 | responsible for carrying out protective investigations, ongoing  
 4042 | protective services, or licensure or approval of nursing homes,  
 4043 | assisted living facilities, adult day care centers, adult  
 4044 | family-care homes, home care for the elderly, hospices,

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4045 residential facilities licensed under chapter 393, or other  
4046 facilities used for the placement of vulnerable adults.

4047 (h) Any appropriate official of the department, the Agency  
4048 for Persons with Disabilities, ~~of~~ the Agency for Health Care  
4049 Administration, or ~~of~~ the Department of Elderly Affairs who is  
4050 responsible for:

4051 1. Administration or supervision of the programs for the  
4052 prevention, investigation, or treatment of abuse, neglect, or  
4053 exploitation of vulnerable adults when carrying out an official  
4054 function; or

4055 2. Taking appropriate administrative action concerning an  
4056 employee alleged to have perpetrated abuse, neglect, or  
4057 exploitation of a vulnerable adult in an institution.

4058 Section 60. Paragraph (a) of subsection (3) of section  
4059 435.03, Florida Statutes, is amended to read:

4060 435.03 Level 1 screening standards.--

4061 (3) Standards must also ensure that the person:

4062 (a) For employees and employers licensed or registered  
4063 pursuant to chapter 400, and for employees and employers of  
4064 developmental disabilities ~~services~~ institutions as defined in  
4065 s. 393.063, intermediate care facilities for the developmentally  
4066 disabled as defined in s. 400.960 ~~s. 393.063~~, and mental health  
4067 treatment facilities as defined in s. 394.455, meets the  
4068 requirements of this chapter.

4069 Section 61. Paragraph (a) of subsection (2) of section  
4070 490.014, Florida Statutes, is amended to read:

4071 490.014 Exemptions.--

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4072 (2) No person shall be required to be licensed or  
4073 provisionally licensed under this chapter who:

4074 (a) Is a salaried employee of a government agency;  
4075 developmental disability facility or ~~services~~ program, mental  
4076 health, alcohol, or drug abuse facility operating under ~~pursuant~~  
4077 ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child  
4078 care program, subsidized child care case management program, or  
4079 child care resource and referral program operating pursuant to  
4080 chapter 402; child-placing or child-caring agency licensed  
4081 pursuant to chapter 409; domestic violence center certified  
4082 pursuant to chapter 39; accredited academic institution; or  
4083 research institution, if such employee is performing duties for  
4084 which he or she was trained and hired solely within the confines  
4085 of such agency, facility, or institution, so long as the  
4086 employee is not held out to the public as a psychologist  
4087 pursuant to s. 490.012(1)(a).

4088 Section 62. Paragraph (a) of subsection (4) of section  
4089 491.014, Florida Statutes, is amended to read:

4090 491.014 Exemptions.--

4091 (4) No person shall be required to be licensed,  
4092 provisionally licensed, registered, or certified under this  
4093 chapter who:

4094 (a) Is a salaried employee of a government agency;  
4095 developmental disability facility or ~~services~~ program, mental  
4096 health, alcohol, or drug abuse facility operating under ~~pursuant~~  
4097 ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child  
4098 care program, subsidized child care case management program, or  
4099 child care resource and referral program operating pursuant to

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4100 chapter 402; child-placing or child-caring agency licensed  
4101 pursuant to chapter 409; domestic violence center certified  
4102 pursuant to chapter 39; accredited academic institution; or  
4103 research institution, if such employee is performing duties for  
4104 which he or she was trained and hired solely within the confines  
4105 of such agency, facility, or institution, so long as the  
4106 employee is not held out to the public as a clinical social  
4107 worker, mental health counselor, or marriage and family  
4108 therapist.

4109 Section 63. Section 944.602, Florida Statutes, is amended  
4110 to read:

4111 944.602 Agency notification of ~~Department of Children and~~  
4112 ~~Family Services~~ before release of mentally retarded  
4113 inmates.--Before the release by parole, release by reason of  
4114 gain-time allowances provided for in s. 944.291, or expiration  
4115 of sentence of any inmate who has been diagnosed as mentally  
4116 retarded as defined in s. 393.063, the Department of Corrections  
4117 shall notify the Agency for Persons with Disabilities ~~Department~~  
4118 ~~of Children and Family Services~~ in order that sufficient time be  
4119 allowed to notify the inmate or the inmate's representative, in  
4120 writing, at least 7 days prior to the inmate's release, of  
4121 available community services.

4122 Section 64. Subsections (2) and (3) of section 945.025,  
4123 Florida Statutes, are amended to read:

4124 945.025 Jurisdiction of department.--

4125 (2) In establishing, operating, and utilizing these  
4126 facilities, the department shall attempt, whenever possible, to  
4127 avoid the placement of nondangerous offenders who have potential

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4128 | for rehabilitation with repeat offenders or dangerous offenders.  
4129 | Medical, mental, and psychological problems shall be diagnosed  
4130 | and treated whenever possible. The Department of Children and  
4131 | Family Services and the Agency for Persons with Disabilities  
4132 | shall cooperate to ensure the delivery of services to persons  
4133 | under the custody or supervision of the department. When it is  
4134 | the intent of the department to transfer a mentally ill or  
4135 | retarded prisoner to the Department of Children and Family  
4136 | Services or the Agency for Persons with Disabilities, an  
4137 | involuntary commitment hearing shall be held according to the  
4138 | provisions of chapter 393 or chapter 394.

4139 |       (3) There shall be other correctional facilities,  
4140 | including detention facilities of varying levels of security,  
4141 | work-release facilities, and community correctional facilities,  
4142 | halfway houses, and other approved community residential and  
4143 | nonresidential facilities and programs; however, no adult  
4144 | correctional facility may be established by changing the use and  
4145 | purpose of any mental health facility or mental health  
4146 | institution under the jurisdiction of any state agency or  
4147 | department without authorization in the General Appropriation  
4148 | Act or other approval by the Legislature. ~~Any facility the~~  
4149 | ~~purpose and use of which was changed subsequent to January 1,~~  
4150 | ~~1975, shall be returned to its original use and purpose by July~~  
4151 | ~~1, 1977. However, the G. Pierce Wood Memorial Hospital located~~  
4152 | ~~at Arcadia, DeSoto County, may not be converted into a~~  
4153 | ~~correctional facility as long as such hospital is in use as a~~  
4154 | ~~state mental health hospital.~~ Any community residential facility  
4155 | may be deemed a part of the state correctional system for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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4156 | purposes of maintaining custody of offenders, and for this  
4157 | purpose the department may contract for and purchase the  
4158 | services of such facilities.

4159 |         Section 65. Section 947.185, Florida Statutes, is amended  
4160 | to read:

4161 |             947.185 Application for mental retardation services as  
4162 | condition of parole.--The Parole Commission may require as a  
4163 | condition of parole that any inmate who has been diagnosed as  
4164 | mentally retarded as defined in s. 393.063 shall, upon release,  
4165 | apply for ~~retardation~~ services from the Agency for Persons with  
4166 | Disabilities ~~Department of Children and Family Services~~.

4167 |         Section 66. Subsection (3) of section 984.19, Florida  
4168 | Statutes, is amended to read:

4169 |             984.19 Medical screening and treatment of child;  
4170 | examination of parent, guardian, or person requesting custody.--

4171 |             (3) A judge may order that a child alleged to be or  
4172 | adjudicated a child in need of services be examined by a  
4173 | licensed health care professional. The judge may also order such  
4174 | child to be evaluated by a psychiatrist or a psychologist, by a  
4175 | district school board educational needs assessment team, or, if  
4176 | a developmental disability is suspected or alleged, by a the  
4177 | developmental disability diagnostic and evaluation team ~~with~~ ~~of~~  
4178 | ~~the~~ Agency for Persons with Disabilities ~~Department of Children~~  
4179 | ~~and Family Services~~. The judge may order a family assessment if  
4180 | that assessment was not completed at an earlier time. If it is  
4181 | necessary to place a child in a residential facility for such  
4182 | evaluation, then the criteria and procedure established in s.  
4183 | 394.463(2) or chapter 393 shall be used, whichever is

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4184 applicable. The educational needs assessment provided by the  
4185 district school board educational needs assessment team shall  
4186 include, but not be limited to, reports of intelligence and  
4187 achievement tests, screening for learning disabilities and other  
4188 handicaps, and screening for the need for alternative education  
4189 pursuant to s. 1003.53.

4190 Section 67. Subsection (8) of section 984.225, Florida  
4191 Statutes, is amended to read:

4192 984.225 Powers of disposition; placement in a staff-secure  
4193 shelter.--

4194 (8) If the child requires residential mental health  
4195 treatment or residential care for a developmental disability,  
4196 the court shall refer the child to the Department of Children  
4197 and Family Services or the Agency for Persons with Disabilities,  
4198 as appropriate, for the provision of necessary services.

4199 Section 68. Paragraph (e) of subsection (5) of section  
4200 984.226, Florida Statutes, is amended to read:

4201 984.226 Physically secure setting.--

4202 (5)

4203 (e) If the child requires residential mental health  
4204 treatment or residential care for a developmental disability,  
4205 the court shall refer the child to the Department of Children  
4206 and Family Services or the Agency for Persons with Disabilities,  
4207 as appropriate, for the provision of necessary services.

4208 Section 69. Subsection (1) of section 985.224, Florida  
4209 Statutes, is amended to read:

4210 985.224 Medical, psychiatric, psychological, substance  
4211 abuse, and educational examination and treatment.--



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4212 (1) After a detention petition or a petition for  
 4213 delinquency has been filed, the court may order the child named  
 4214 in the petition to be examined by a physician. The court may  
 4215 also order the child to be evaluated by a psychiatrist or a  
 4216 psychologist, by a district school board educational needs  
 4217 assessment team, or, if a developmental disability is suspected  
 4218 or alleged, by a the developmental disabilities diagnostic and  
 4219 evaluation team with of the Agency for Persons with Disabilities  
 4220 Department of Children and Family Services. If it is necessary  
 4221 to place a child in a residential facility for such evaluation,  
 4222 the criteria and procedures established in chapter 393, chapter  
 4223 394, or chapter 397, whichever is applicable, shall be used.

4224 Section 70. Section 1003.58, Florida Statutes, is amended  
 4225 to read:

4226 1003.58 Students in residential care facilities.--Each  
 4227 district school board shall provide educational programs  
 4228 according to rules of the State Board of Education to students  
 4229 who reside in residential care facilities operated by the  
 4230 Department of Children and Family Services or the Agency for  
 4231 Persons with Disabilities.

4232 (1) The district school board shall not be charged any  
 4233 rent, maintenance, utilities, or overhead on such facilities.  
 4234 Maintenance, repairs, and remodeling of existing facilities  
 4235 shall be provided by the Department of Children and Family  
 4236 Services or the Agency for Persons with Disabilities, as  
 4237 appropriate.

4238 (2) If additional facilities are required, the district  
 4239 school board and the Department of Children and Family Services

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4240 | or the Agency for Persons with Disabilities, as appropriate,  
 4241 | shall agree on the appropriate site based on the instructional  
 4242 | needs of the students. When the most appropriate site for  
 4243 | instruction is on district school board property, a special  
 4244 | capital outlay request shall be made by the commissioner in  
 4245 | accordance with s. 1013.60. When the most appropriate site is on  
 4246 | state property, state capital outlay funds shall be requested by  
 4247 | the department or agency in accordance with chapter 216 of  
 4248 | ~~Children and Family Services as provided by s. 216.043 and shall~~  
 4249 | ~~be submitted as specified by s. 216.023.~~ Any instructional  
 4250 | facility to be built on state property shall have educational  
 4251 | specifications jointly developed by the school district and the  
 4252 | department or agency of ~~Children and Family Services~~ and  
 4253 | approved by the Department of Education. The size of space and  
 4254 | occupant design capacity criteria as provided by state board  
 4255 | rules shall be used for remodeling or new construction whether  
 4256 | facilities are provided on state property or district school  
 4257 | board property. The planning of such additional facilities shall  
 4258 | incorporate current state Department of Children and Family  
 4259 | ~~Services~~ deinstitutionalization goals and plans.

4260 |         (3) The district school board shall have full and complete  
 4261 | authority in the matter of the assignment and placement of such  
 4262 | students in educational programs. The parent of an exceptional  
 4263 | student shall have the same due process rights as are provided  
 4264 | under s. 1003.57(5).

4265 |         (4) The district school board shall have a written  
 4266 | agreement with the Department of Children and Family Services

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4267 | and the Agency for Persons with Disabilities outlining the  
4268 | respective duties and responsibilities of each party.

4269 |  
4270 | Notwithstanding the provisions herein, the educational program  
4271 | at the Marianna Sunland Center in Jackson County shall be  
4272 | operated by the Department of Education, either directly or  
4273 | through grants or contractual agreements with other public or  
4274 | duly accredited educational agencies approved by the Department  
4275 | of Education.

4276 |         Section 71. Paragraph (c) of subsection (3) of section  
4277 | 17.61, Florida Statutes, is amended to read:

4278 |         17.61 Chief Financial Officer; powers and duties in the  
4279 | investment of certain funds.--

4280 |         (3)

4281 |         (c) Except as provided in this paragraph and except for  
4282 | moneys described in paragraph (d), the following agencies shall  
4283 | not invest trust fund moneys as provided in this section, but  
4284 | shall retain such moneys in their respective trust funds for  
4285 | investment, with interest appropriated to the General Revenue  
4286 | Fund, pursuant to s. 17.57:

4287 |         1. The Agency for Health Care Administration, except for  
4288 | the Tobacco Settlement Trust Fund.

4289 |         2. The Department of Children and Family Services, except  
4290 | for:

4291 |             a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.

4292 |             b. The Community Resources Development Loan Trust Fund in  
4293 | the Agency for Disabilities Administrative Trust Fund.

4294 |             c. The Refugee Assistance Trust Fund.

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- 4295 |           d. The Social Services Block Grant Trust Fund.
- 4296 |           e. The Tobacco Settlement Trust Fund.
- 4297 |           f. The Working Capital Trust Fund.
- 4298 |           3. The Department of Community Affairs, only for the
- 4299 | Operating Trust Fund.
- 4300 |           4. The Department of Corrections.
- 4301 |           5. The Department of Elderly Affairs, except for:
- 4302 |           a. The Federal Grants Trust Fund.
- 4303 |           b. The Tobacco Settlement Trust Fund.
- 4304 |           6. The Department of Health, except for:
- 4305 |           a. The Federal Grants Trust Fund.
- 4306 |           b. The Grants and Donations Trust Fund.
- 4307 |           c. The Maternal and Child Health Block Grant Trust Fund.
- 4308 |           d. The Tobacco Settlement Trust Fund.
- 4309 |           7. The Department of Highway Safety and Motor Vehicles,
- 4310 | only for:
- 4311 |           a. The DUI Programs Coordination Trust Fund.
- 4312 |           b. The Security Deposits Trust Fund.
- 4313 |           8. The Department of Juvenile Justice.
- 4314 |           9. The Department of Law Enforcement.
- 4315 |           10. The Department of Legal Affairs.
- 4316 |           11. The Department of State, only for:
- 4317 |           a. The Grants and Donations Trust Fund.
- 4318 |           b. The Records Management Trust Fund.
- 4319 |           12. The Executive Office of the Governor, only for:
- 4320 |           a. The Economic Development Transportation Trust Fund.
- 4321 |           b. The Economic Development Trust Fund.

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4322 | 13. The Florida Public Service Commission, only for the  
 4323 | Florida Public Service Regulatory Trust Fund.  
 4324 | 14. The Justice Administrative Commission.  
 4325 | 15. The state courts system.  
 4326 | Section 72. Paragraph (b) of subsection (5) of section  
 4327 | 400.464, Florida Statutes, is amended to read:  
 4328 | 400.464 Home health agencies to be licensed; expiration of  
 4329 | license; exemptions; unlawful acts; penalties.--  
 4330 | (5) The following are exempt from the licensure  
 4331 | requirements of this part:  
 4332 | (b) Home health services provided by a state agency,  
 4333 | either directly or through a contractor with:  
 4334 | 1. The Department of Elderly Affairs.  
 4335 | 2. The Department of Health, a community health center, or  
 4336 | a rural health network that furnishes home visits for the  
 4337 | purpose of providing environmental assessments, case management,  
 4338 | health education, personal care services, family planning, or  
 4339 | followup treatment, or for the purpose of monitoring and  
 4340 | tracking disease.  
 4341 | 3. Services provided to persons with ~~who have~~  
 4342 | developmental disabilities, as defined in s. 393.063.  
 4343 | 4. Companion and sitter organizations that were registered  
 4344 | under s. 400.509(1) on January 1, 1999, and were authorized to  
 4345 | provide personal services ~~under s. 393.063(33)~~ under a  
 4346 | developmental services provider certificate on January 1, 1999,  
 4347 | may continue to provide such services to past, present, and  
 4348 | future clients of the organization who need such services,  
 4349 | notwithstanding the provisions of this act.

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4350           5. The Department of Children and Family Services.  
 4351           Section 73. Subsection (7) of section 744.704, Florida  
 4352 Statutes, is amended to read:  
 4353           744.704 Powers and duties.--  
 4354           (7) A public guardian shall not commit a ward to a mental  
 4355 health treatment facility, as defined in s. 394.455 (32) ~~(30)~~,  
 4356 without an involuntary placement proceeding as provided by law.  
 4357           Section 74. Subsection (4) of section 984.22, Florida  
 4358 Statutes, is amended to read:  
 4359           984.22 Powers of disposition.--  
 4360           (4) All payments of fees made to the department under  
 4361 ~~pursuant to this chapter, or child support payments made to the~~  
 4362 ~~department pursuant to subsection (3), shall be deposited in the~~  
 4363 ~~General Revenue Fund. In cases in which the child is placed in~~  
 4364 ~~foster care with the Department of Children and Family Services,~~  
 4365 ~~such child support payments shall be deposited in the Community~~  
 4366 ~~Resources Development Trust Fund.~~  
 4367           Section 75. This act shall take effect July 1, 2006.