

CHAMBER ACTION

1 The Health Care Appropriations Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

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

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80 fines; amending s. 393.0674, F.S.; providing a penalty for
81 failure by a provider to comply with background screening
82 requirements; amending s. 393.0675, F.S.; deleting certain
83 obsolete provisions requiring that a provider be of good
84 moral character; amending s. 393.0678, F.S.; deleting
85 provisions governing receivership proceedings for an
86 intermediate care facility for the developmentally
87 disabled; amending s. 393.068, F.S.; requiring that the
88 family care program emphasize self-determination; removing
89 supported employment from the list of services available
90 under the family care program; revising certain
91 requirements for reimbursing a family care program
92 provider; amending s. 393.0695, F.S., relating to in-home
93 subsidies; requiring that the Agency for Persons with
94 Disabilities adopt rules for such subsidies; amending s.
95 393.075, F.S., relating to liability coverage for
96 facilities licensed by the agency; conforming terminology;
97 amending s. 393.11, F.S.; revising provisions governing
98 the involuntary admission of a person to residential
99 services; clarifying provisions governing involuntary
100 commitment; requiring that a person who is charged with a
101 felony will have his or her competency determined under
102 ch. 916, F.S.; conforming terminology; amending s.
103 393.122, F.S.; clarifying requirements governing
104 applications for continued residential services; amending
105 s. 393.13, F.S., relating to the Bill of Rights of Persons
106 Who are Developmentally Disabled; deleting a provision
107 protecting minimum wage compensation for certain programs;

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

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136 | programs; creating s. 393.23, F.S.; requiring that
137 | receipts from operating canteens, vending machines, and
138 | other like activities in a developmental disabilities
139 | institution be deposited in a trust account in a bank,
140 | credit union, or savings and loan association; describing
141 | how the moneys earned may be expended; allowing for the
142 | investment of the funds; requiring that the accounting
143 | system at the institution account for the revenues and
144 | expenses of the activities; requiring that sales tax
145 | moneys be remitted to the Department of Revenue; amending
146 | s. 393.501, F.S.; revising the agency's rulemaking
147 | authority; providing requirements for rules governing
148 | alternative living centers and independent living
149 | education centers; amending s. 394.453, F.S.; declaring
150 | that the policy of the state is to achieve an ongoing
151 | reduction of the use of restraint and seclusion on persons
152 | with mental illness who are served by programs and
153 | facilities operated, licensed, or monitored by the agency;
154 | amending s. 394.455, F.S.; defining the terms "restraint"
155 | and "seclusion" for purposes of the Baker Act; amending s.
156 | 394.457, F.S.; requiring the Department of Children and
157 | Family Services to adopt rules for the use of restraint
158 | and seclusion for cases handled under the Baker Act;
159 | amending s. 394.879, F.S.; requiring that rules be adopted
160 | for the use of restraint and seclusion; amending s.
161 | 397.405, F.S.; clarifying an exemption from licensure
162 | provided to certain facilities licensed under ch. 393,
163 | F.S.; amending s. 400.419, F.S.; requiring that a list of

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164 facilities subject to sanctions or fines be disseminated
165 to the Agency for Persons with Disabilities; amending s.
166 400.960, F.S.; revising definitions for purposes of part
167 XI of ch. 400, F.S., relating to nursing homes and related
168 facilities; amending 400.962, F.S.; requiring an applicant
169 for a license to operate an intermediate care facility to
170 agree to provide or arrange for active treatment services;
171 providing rulemaking authority; amending s. 400.967, F.S.,
172 relating to rules and classification of deficiencies;
173 conforming provisions to the transfer of duties from the
174 Department of Children and Family Services to the Agency
175 for Persons with Disabilities; requiring that rules be
176 adopted for the use of restraint and seclusion; amending
177 ss. 402.115, 402.17, 402.181, 402.20, 402.22, and 402.33,
178 F.S.; including the Agency for Persons with Disabilities
179 within provisions governing the sharing of information,
180 claims for the care and maintenance of facility residents,
181 county contracts for services for persons with
182 developmental disabilities, education programs for
183 students who reside in state facilities, and fees for
184 services; conforming provisions to changes made by the
185 act; correcting a cross-reference; amending s. 408.036,
186 F.S., relating to projects that are exempt from obtaining
187 a certificate of need; conforming terminology; amending s.
188 409.221, F.S., relating to the consumer directed care
189 program; conforming provisions to changes made by the act;
190 amending ss. 409.908 and 409.9127, F.S., relating to the
191 Medicaid program; conforming a cross-reference; deleting

192 | obsolete provisions; amending ss. 411.224 and 411.232,
193 | F.S.; conforming provisions to the transfer of duties from
194 | the Developmental Disabilities Program Office within the
195 | Department of Children and Family Services to the Agency
196 | for Persons with Disabilities; amending ss. 415.102,
197 | 415.1035, 415.1055, and 415.107, F.S.; conforming
198 | terminology; including the Agency for Persons with
199 | Disabilities within provisions providing requirements that
200 | a facility inform residents of certain rights,
201 | notification requirements for administrative entities, and
202 | requirements for maintaining the confidentiality of
203 | reports and records; amending s. 435.03, F.S., relating to
204 | screening standards; conforming terminology and a cross-
205 | reference; amending ss. 490.014 and 491.014, F.S.,
206 | relating to exemptions from licensure for psychologists
207 | and certain specified counselors, respectively; conforming
208 | provisions to changes made by the act; amending ss.
209 | 944.602, 945.025, 947.185, and 985.224, F.S., relating to
210 | the Department of Corrections, the Parole Commission, and
211 | petitions alleging delinquency; conforming provisions to
212 | the transfer of duties from the Developmental Disabilities
213 | Program Office within the Department of Children and
214 | Family Services to the Agency for Persons with
215 | Disabilities; amending s. 1003.58, F.S.; including
216 | facilities operated by the Agency for Persons with
217 | Disabilities within provisions governing the residential
218 | care of students; amending ss. 17.61 and 400.464, F.S.,
219 | relating to investment of certain funds and home health

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220 services for persons with disabilities, respectively;
 221 conforming provisions to changes made by the act; amending
 222 s. 744.704, F.S.; correcting a cross-reference; amending
 223 s. 984.22, F.S.; removing a provision that specifies fines
 224 be deposited into the Community Resources Development
 225 Trust Fund; providing an effective date.

226

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

228

229 Section 1. Section 20.197, Florida Statutes, is amended to
 230 read:

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

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

248 (2) The agency shall include a Division of Budget and
249 Planning and a Division of Operations. In addition, and in
250 accordance with s. 20.04, the director of the agency may
251 recommend establishing additional divisions, bureaus, sections,
252 and subsections of the agency in order to promote efficient and
253 effective operation of the agency.

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

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

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

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

269 (b) The billing, payment, and reconciliation of claims for
270 Medicaid services reimbursed by the agency.

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

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

280 Section 2. Paragraph (b) of subsection (7) of section
 281 39.001, Florida Statutes, is amended to read:

282 39.001 Purposes and intent; personnel standards and
 283 screening.--

284 (7) PLAN FOR COMPREHENSIVE APPROACH.--

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

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

301 a. Developing a plan of action for better coordination and
 302 integration of the goals, activities, and funding pertaining to
 303 the prevention of child abuse, abandonment, and neglect

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304 | conducted by the department in order to maximize staff and
305 | resources at the state level. The plan of action shall be
306 | included in the state plan.

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

311 | c. Providing the districts with technical assistance in
312 | the development of local plans of action, if requested.

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

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

329 | f. Working with the specified state agency in fulfilling
330 | the requirements of subparagraphs 2., 3., 4., and 5.

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

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

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

353 5. The department, the Department of Education, and the
354 Department of Health shall work together on the enhancement or
355 adaptation of curriculum materials to assist instructional
356 personnel in providing instruction through a multidisciplinary
357 approach on the identification, intervention, and prevention of
358 child abuse, abandonment, and neglect. The curriculum materials

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359 shall be geared toward a sequential program of instruction at
360 the four progressional levels, K-3, 4-6, 7-9, and 10-12.
361 Strategies for encouraging all school districts to utilize the
362 curriculum are to be included in the comprehensive state plan
363 for the prevention of child abuse, abandonment, and neglect.

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

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387 a. Documentation of the magnitude of the problems of child
388 abuse, including sexual abuse, physical abuse, and emotional
389 abuse, and child abandonment and neglect in its geographical
390 area.

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

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

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

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

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

413 g. Recommendations for changes that can be accomplished
414 only at the state program level or by legislative action.

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

417 39.202 Confidentiality of reports and records in cases of
418 child abuse or neglect.--

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

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

- 427 1. Child or adult protective investigations;
- 428 2. Ongoing child or adult protective services;
- 429 3. Healthy Start services; or
- 430 4. Licensure or approval of adoptive homes, foster homes,
431 ~~or~~ child care facilities, facilities licensed under chapter 393,
432 or family day care homes or informal child care providers who
433 receive subsidized child care funding, or other homes used to
434 provide for the care and welfare of children.
- 435 5. Services for victims of domestic violence when provided
436 by certified domestic violence centers working at the
437 department's request as case consultants or with shared clients.

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

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

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

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

453 3. Employing and continuing employment of personnel of the
454 department or the agency.

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

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

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

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470 ~~disabilities or~~ mental health services in emergency situations,
 471 pursuant to the procedures and criteria contained in s.
 472 394.463(1) ~~or chapter 393, whichever is applicable.~~

473 Section 5. Section 287.155, Florida Statutes, is amended
 474 to read:

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

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

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

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

502 Section 6. Paragraph (a) of subsection (3) of section
503 381.0072, Florida Statutes, is amended to read:

504 381.0072 Food service protection.--It shall be the duty of
505 the Department of Health to adopt and enforce sanitation rules
506 consistent with law to ensure the protection of the public from
507 food-borne illness. These rules shall provide the standards and
508 requirements for the storage, preparation, serving, or display
509 of food in food service establishments as defined in this
510 section and which are not permitted or licensed under chapter
511 500 or chapter 509.

512 (3) LICENSES REQUIRED.--

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

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

529 | Section 7. Subsection (5) of section 383.14, Florida
530 | Statutes, is amended to read:

531 | 383.14 Screening for metabolic disorders, other hereditary
532 | and congenital disorders, and environmental risk factors.--

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

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

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

560 | (b) Procedures for collection and transmission of
561 | specimens and recording of results.

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

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

567 | Section 9. Section 393.062, Florida Statutes, is amended
568 | to read:

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

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

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

620 Section 10. Section 393.063, Florida Statutes, is amended
621 to read:

622 393.063 Definitions.--For the purposes of this chapter,
623 the term:

624 (1) "Agency" means the Agency for Persons with
625 Disabilities.

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

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

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638 and a markedly restricted repertoire of activities and
639 interests.

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

647 (5)~~(4)~~ "Client" means any person determined eligible by
648 the agency for services under this chapter.

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

654 (7)~~(6)~~ "Comprehensive assessment" means the process used
655 to determine eligibility for services under this chapter.

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

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

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

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

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

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

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

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

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

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

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

723 ~~(e) This subsection shall authorize licensure for~~
724 ~~comprehensive transitional education programs which by July 1,~~
725 ~~1989.~~

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

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

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

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748 ~~physical, occupational, or speech therapies listed in the plan~~
749 ~~of care.~~

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

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

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

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

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

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

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

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

792 ~~(14)~~(17) "Family care program" means the program
793 established in s. 393.068.

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

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

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

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

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

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

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

827 (a) A developmental delay in cognition, language, or
828 physical development.

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

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

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

837 ~~(20)-(24)~~ "Intermediate care facility for the
838 developmentally disabled" or "ICF/DD" means a residential
839 facility licensed and certified pursuant to part XI of chapter
840 400.

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

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

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

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

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

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

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

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

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

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

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

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

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

911 ~~(29)(37)~~ "Respite service" means appropriate, short-term,
912 temporary care that is provided to a person with developmental

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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996 | ~~(38)-(45)~~ "Supported living" means a category of
997 | individually determined services designed and coordinated in
998 | such a manner as to provide assistance to adult clients who
999 | require ongoing supports to live as independently as possible in
1000 | their own homes, to be integrated into the community, and to
1001 | participate in community life to the fullest extent possible.

1002 | ~~(39)-(46)~~ "Training" means a planned approach to assisting
1003 | a client to attain or maintain his or her maximum potential and
1004 | includes services ranging from sensory stimulation to
1005 | instruction in skills for independent living and employment.

1006 | ~~(40)-(47)~~ "Treatment" means the prevention, amelioration,
1007 | or cure of a client's physical and mental disabilities or
1008 | illnesses.

1009 | Section 11. Subsections (1), (2), and (4) of section
1010 | 393.064, Florida Statutes, are amended to read:

1011 | 393.064 Prevention.--

1012 | (1) The agency shall give priority to the development,
1013 | planning, and implementation of programs which have the
1014 | potential to prevent, correct, cure, or reduce the severity of
1015 | developmental disabilities. The agency shall direct an
1016 | interagency and interprogram effort for the continued
1017 | development of a prevention plan and program. The agency shall
1018 | identify, through demonstration projects, through program
1019 | evaluation, and through monitoring of programs and projects
1020 | conducted outside of the agency, any medical, social, economic,
1021 | or educational methods, techniques, or procedures that have the
1022 | potential to effectively ameliorate, correct, or cure
1023 | developmental disabilities. The agency ~~program~~ shall determine

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1024 the costs and benefits that would be associated with such
1025 prevention efforts and shall implement, or recommend the
1026 implementation of, those methods, techniques, or procedures
1027 which are found likely to be cost-beneficial.

1028 (2) Prevention services provided by the agency shall
1029 ~~developmental services program~~ include services to high-risk and
1030 ~~developmentally disabled~~ children from 3 birth to 5 years of
1031 age, and their families, to meet the intent of chapter 411.
1032 Except for services for children from birth to age 3 years which
1033 ~~Such services shall include individual evaluations or~~
1034 ~~assessments necessary to diagnose a developmental disability or~~
1035 ~~high risk condition and to determine appropriate individual~~
1036 ~~family and support services, unless evaluations or assessments~~
1037 are the responsibility of the Division of Children's Medical
1038 Services in the Department of Health Prevention and Intervention
1039 ~~for children ages birth to 3 years eligible for services under~~
1040 ~~this chapter~~ or part H of the Individuals with Disabilities
1041 Education Act, such services and may include:

1042 (a) Individual evaluations or assessments necessary to
1043 diagnose a developmental disability or high-risk condition and
1044 to determine appropriate, individual family and support
1045 services.

1046 (b)~~(a)~~ Early intervention services, including
1047 developmental training and specialized therapies. ~~Early~~
1048 ~~intervention services, which are the responsibility of the~~
1049 ~~Division of Children's Medical Services Prevention and~~
1050 ~~Intervention for children ages birth to 3 years who are eligible~~
1051 ~~for services under this chapter or under part H of the~~

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1052 ~~Individuals with Disabilities Education Act, shall not be~~
1053 ~~provided through the developmental services program unless~~
1054 ~~funding is specifically appropriated to the developmental~~
1055 ~~services program for this purpose.~~

1056 (c) ~~(b)~~ Support services, such as respite care, parent
1057 education and training, parent-to-parent counseling, homemaker
1058 services, and other services which allow families to maintain
1059 and provide quality care to children in their homes. ~~The~~
1060 ~~Division of Children's Medical Services Prevention and~~
1061 ~~Intervention is responsible for the provision of services to~~
1062 ~~children from birth to 3 years who are eligible for services~~
1063 ~~under this chapter.~~

1064 (4) There is created at the developmental disabilities
1065 ~~services~~ institution in Gainesville a research and education
1066 unit. Such unit shall be named the Raymond C. Philips Research
1067 and Education Unit. The functions of such unit shall include:

1068 (a) Research into the etiology of developmental
1069 disabilities.

1070 (b) Ensuring that new knowledge is rapidly disseminated
1071 throughout ~~the developmental services program~~ of the agency.

1072 (c) Diagnosis of unusual conditions and syndromes
1073 associated with developmental disabilities in clients identified
1074 throughout ~~the developmental~~ disabilities ~~services~~ programs.

1075 (d) Evaluation of families of clients with developmental
1076 disabilities of genetic origin in order to provide them with
1077 genetic counseling aimed at preventing the recurrence of the
1078 disorder in other family members.

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1079 (e) Ensuring that health professionals in the
1080 developmental disabilities ~~services~~ institution at Gainesville
1081 have access to information systems that will allow them to
1082 remain updated on newer knowledge and maintain their
1083 postgraduate education standards.

1084 (f) Enhancing staff training for professionals throughout
1085 the agency in the areas of genetics and developmental
1086 disabilities.

1087 Section 12. Section 393.0641, Florida Statutes, is amended
1088 to read:

1089 393.0641 Program for the prevention and treatment of
1090 severe self-injurious behavior.--

1091 (1) Contingent upon specific appropriations, there is
1092 created a diagnostic, treatment, training, and research program
1093 for clients exhibiting severe self-injurious behavior. As used
1094 in this section, the term "severe self-injurious behavior" means
1095 any chronic behavior that results in injury to the person's own
1096 body, including, but not limited to, self-hitting, head banging,
1097 self-biting, scratching, and the ingestion of harmful or
1098 potentially harmful nutritive or nonnutritive substances.

1099 (2) The ~~This~~ program shall:

1100 (a) Serve as a resource center for information, training,
1101 and program development.

1102 (b) Research the diagnosis and treatment of severe self-
1103 injurious behavior, and related disorders, and develop methods
1104 of prevention and treatment of self-injurious behavior.

1105 (c) Identify individuals in critical need.

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1106 (d) Develop treatment programs which are meaningful to
1107 individuals with developmental disabilities, in critical need,
1108 while safeguarding and respecting the legal and human rights of
1109 the individuals.

1110 (e) Disseminate research findings on the prevention and
1111 treatment of severe self-injurious behavior.

1112 (f) Collect data on the type, severity, incidence, and
1113 demographics of individuals with severe self-injurious behavior,
1114 and disseminate the data.

1115 ~~(3)-(2)~~ The ~~This~~ program shall adhere to the provisions of
1116 s. 393.13.

1117 ~~(4)-(3)~~ The agency may contract for the provision of any
1118 portion or all of the services required by the program.

1119 ~~(5)-(4)~~ The agency may ~~has the authority to~~ license this
1120 program and ~~shall~~ adopt rules to administer ~~implement~~ the
1121 program.

1122 Section 13. Subsections (1) and (4) of section 393.065,
1123 Florida Statutes, are amended, and subsections (5) and (6) are
1124 added to that section, to read:

1125 393.065 Application and eligibility determination.--

1126 (1) Application for services shall be made in writing to
1127 the agency, in the service area ~~district~~ in which the applicant
1128 resides. The agency ~~Employees of the agency's developmental~~
1129 ~~services program~~ shall review each applicant for eligibility
1130 within 45 days after the date the application is signed for
1131 children under 6 years of age and within 60 days after the date
1132 the application is signed for all other applicants. When
1133 necessary to definitively identify individual conditions or

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1134 needs, the agency shall provide a comprehensive assessment. Only
 1135 applicants ~~individuals~~ whose domicile is in Florida are eligible
 1136 for services. Information accumulated by other agencies,
 1137 including professional reports and collateral data, shall be
 1138 considered in this process when available.

1139 (4) The agency shall assess the level of need and medical
 1140 necessity for prospective residents of intermediate-care
 1141 facilities for the developmentally disabled ~~after October 1,~~
 1142 ~~1999~~. The agency may enter into an agreement with the Department
 1143 of Elderly Affairs for its Comprehensive Assessment and Review
 1144 for Long-Term-Care Services (CARES) program to conduct
 1145 assessments to determine the level of need and medical necessity
 1146 for long-term-care services under this chapter. To the extent
 1147 permissible under federal law, the assessments shall ~~must~~ be
 1148 funded under Title XIX of the Social Security Act.

1149 (5) With the exception of clients deemed to be in crisis
 1150 whom the agency shall serve as described in rule, the agency
 1151 shall place at the top of its wait list for waiver services
 1152 those children on the wait list who are from the child welfare
 1153 system with an open case in the Department of Children and
 1154 Family Services' statewide automated child welfare information
 1155 system.

1156 (6) The agency may adopt rules specifying application
 1157 procedures and eligibility criteria as needed to administer this
 1158 section.

1159 Section 14. Section 393.0651, Florida Statutes, is amended
 1160 to read:

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1161 393.0651 Family or individual support plan.--The agency
 1162 shall provide directly or contract for the development of a an
 1163 ~~appropriate~~ family support plan for children ages 3 ~~birth~~ to 18
 1164 years of age and an individual support plan for each client. ~~The~~
 1165 ~~parent or guardian of~~ The client ~~or~~, if competent, the client's
 1166 parent or guardian ~~client~~, or, when appropriate, the client
 1167 advocate, shall be consulted in the development of the plan and
 1168 shall receive a copy of the plan. Each plan must ~~shall~~ include
 1169 the most appropriate, least restrictive, and most cost-
 1170 beneficial environment for accomplishment of the objectives for
 1171 client progress and a specification of all services authorized.
 1172 The plan must ~~shall~~ include provisions for the most appropriate
 1173 level of care for the client. Within the specification of needs
 1174 and services for each client, when residential care is
 1175 necessary, the agency shall move toward placement of clients in
 1176 residential facilities based within the client's community. The
 1177 ultimate goal of each plan, whenever possible, shall be to
 1178 enable the client to live a dignified life in the least
 1179 restrictive setting, be that in the home or in the community.
 1180 For children under 6 years of age, the family support plan shall
 1181 be developed within the 45-day application period as specified
 1182 in s. 393.065(1); for all applicants 6 years of age or older,
 1183 the family or individual support plan shall be developed within
 1184 the 60-day period as specified in that subsection.

1185 (1) The agency shall develop and specify by rule the core
 1186 components of support plans ~~to be used by each district~~.

1187 (2) ~~(a)~~ The family or individual support plan shall be
 1188 integrated with the individual education plan (IEP) for all

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1189 clients who are public school students entitled to a free
 1190 appropriate public education under the Individuals with
 1191 Disabilities Education Act, I.D.E.A., as amended. The family or
 1192 individual support plan and IEP shall be implemented to maximize
 1193 the attainment of educational and habilitation goals.

1194 (a) If the IEP for a student enrolled in a public school
 1195 program indicates placement in a public or private residential
 1196 program is necessary to provide special education and related
 1197 services to a client, the local education agency shall provide
 1198 for the costs of that service in accordance with the
 1199 requirements of the Individuals with Disabilities Education Act,
 1200 I.D.E.A., as amended. This shall not preclude local education
 1201 agencies and the agency from sharing the residential service
 1202 costs of students who are clients and require residential
 1203 placement. ~~Under no circumstances shall clients entitled to a~~
 1204 ~~public education or their parents be assessed a fee by the~~
 1205 ~~agency under s. 402.33 for placement in a residential program.~~

1206 (b) For clients who are entering or exiting the school
 1207 system, an interdepartmental staffing team composed of
 1208 representatives of the agency and the local school system shall
 1209 develop a written transitional living and training plan with the
 1210 participation of the client or with the parent or guardian of
 1211 the client, or the client advocate, as appropriate.

1212 (3) Each family or individual support plan shall be
 1213 facilitated through case management designed solely to advance
 1214 the individual needs of the client.

1215 (4) In the development of the family or individual support
 1216 plan, a client advocate may be appointed by the support planning

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1217 team for a client who is a minor or for a client who is not
1218 capable of express and informed consent when:

- 1219 (a) The parent or guardian cannot be identified;
- 1220 (b) The whereabouts of the parent or guardian cannot be
1221 discovered; or
- 1222 (c) The state is the only legal representative of the
1223 client.

1224
1225 Such appointment shall not be construed to extend the powers of
1226 the client advocate to include any of those powers delegated by
1227 law to a legal guardian.

1228 (5) The agency shall place a client in the most
1229 appropriate and least restrictive, and cost-beneficial,
1230 residential facility according to his or her individual support
1231 ~~habilitation~~ plan. ~~The parent or guardian of~~ The client ~~or~~, if
1232 competent, the client's parent or guardian ~~client~~, or, when
1233 appropriate, the client advocate, and the administrator of the
1234 ~~residential~~ facility to which placement is proposed shall be
1235 consulted in determining the appropriate placement for the
1236 client. Considerations for placement shall be made in the
1237 following order:

- 1238 (a) Client's own home or the home of a family member or
1239 direct service provider.
- 1240 (b) Foster care facility.
- 1241 (c) Group home facility.
- 1242 (d) Intermediate care facility for the developmentally
1243 disabled.

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1244 (e) Other facilities licensed by the agency which offer
1245 special programs for people with developmental disabilities.

1246 (f) Developmental disabilities ~~services~~ institution.

1247 (6) In developing a client's annual family or individual
1248 support plan, the individual or family with the assistance of
1249 the support planning team shall identify measurable objectives
1250 for client progress and shall specify a time period expected for
1251 achievement of each objective.

1252 (7) The individual, family, and support coordinator shall
1253 review progress in achieving the objectives specified in each
1254 client's family or individual support plan, and shall revise the
1255 plan annually, following consultation with the client, if
1256 competent, or with the parent or guardian of the client, or,
1257 when appropriate, the client advocate. The agency or designated
1258 contractor shall annually report in writing to the client, if
1259 competent, or to the parent or guardian of the client, or to the
1260 client advocate, when appropriate, with respect to the client's
1261 habilitative and medical progress.

1262 (8) Any client, or any parent of a minor client, or
1263 guardian, authorized guardian advocate, or client advocate for a
1264 client, who is substantially affected by the client's initial
1265 family or individual support plan, or the annual review thereof,
1266 shall have the right to file a notice to challenge the decision
1267 pursuant to ss. 120.569 and 120.57. Notice of such right to
1268 appeal shall be included in all support plans provided by the
1269 agency.

1270 Section 15. Section 393.0654, Florida Statutes, is created
1271 to read.

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1272 393.0654 Direct service providers; private sector
1273 services.--It is not a violation of s. 112.313(7) for a direct
1274 service provider who is employed by the agency to own, operate,
1275 or work in a private facility that is a service provider under
1276 contract with the agency if:

1277 (1) The employee does not have any role in the agency's
1278 placement recommendations or the client's decisionmaking process
1279 regarding placement;

1280 (2) The direct service provider's employment with the
1281 agency does not compromise the ability of the client to make a
1282 voluntary choice among private providers for services;

1283 (3) The employee's employment outside the agency does not
1284 create a conflict with the employee's public duties and does not
1285 impede the full and faithful discharge of the employee's duties
1286 as assigned by the agency; and

1287 (4) The service provider discloses the dual employment or
1288 ownership status to the agency and all clients within the
1289 provider's care. The disclosure must be given to the agency, the
1290 client, and the client's guardian or guardian advocate, if
1291 appropriate.

1292 Section 16. Section 393.0655, Florida Statutes, is amended
1293 to read:

1294 393.0655 Screening of direct service providers.--
1295 (1) MINIMUM STANDARDS.--The agency shall require level 2
1296 employment screening pursuant to chapter 435 for direct service
1297 providers who are unrelated to their clients, including support
1298 coordinators, and managers and supervisors of residential
1299 facilities or comprehensive transitional education programs

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1300 licensed under this chapter ~~s. 393.067~~ and any other person,
1301 including volunteers, who provide care or services, who have
1302 access to a client's living areas, or who have access to a
1303 client's funds or personal property. Background screening shall
1304 include employment history checks as provided in s. 435.03(1)
1305 and local criminal records checks through local law enforcement
1306 agencies.

1307 (a) A volunteer who assists on an intermittent basis for
1308 less than 40 hours per month does not have to be screened if the
1309 volunteer is under the direct and constant visual supervision of
1310 persons who meet the screening requirements of this section.

1311 (b) Licensed physicians, nurses, or other professionals
1312 licensed and regulated by the Department of Health are not
1313 subject to background screening pursuant to this section if they
1314 are providing a service that is within their scope of licensed
1315 practice.

1316 (c) A person selected by the family or the individual with
1317 developmental disabilities and paid by the family or the
1318 individual to provide supports or services is not required to
1319 have a background screening under this section.

1320 (d) Persons 12 years of age or older, including family
1321 members, residing with a the direct services provider who
1322 provides services to clients in his or her own place of
1323 residence, including family members, are subject to background
1324 screening; however, such persons who are 12 to 18 years of age
1325 shall be screened for delinquency records only.

1326 (e) A direct service provider who is awaiting the
1327 completion of background screening is temporarily exempt from

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1328 | the screening requirements under this section if the provider is
 1329 | under the direct and constant visual supervision of persons who
 1330 | meet the screening requirements of this section. Such exemption
 1331 | expires 90 days after the direct service provider first provides
 1332 | care or services to clients, has access to a client's living
 1333 | areas, or has access to a client's funds or personal property.

1334 | (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may
 1335 | grant exemptions from disqualification from working with
 1336 | children or adults with developmental disabilities only as
 1337 | provided in s. 435.07.

1338 | (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE
 1339 | CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints
 1340 | and the state criminal records checks shall be borne by the
 1341 | employer or by the employee or individual who is being screened.

1342 | (4) TERMINATION ~~EXCLUSION FROM OWNING, OPERATING, OR BEING~~
 1343 | ~~EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;~~
 1344 | HEARINGS PROVIDED.--

1345 | (a) The agency shall deny, suspend, terminate, or revoke a
 1346 | license, certification, rate agreement, purchase order, or
 1347 | contract, or pursue other remedies provided in s. 393.0673, s.
 1348 | 393.0675, or s. 393.0678 in addition to or in lieu of denial,
 1349 | suspension, termination, or revocation for failure to comply
 1350 | with this section.

1351 | (b) When the agency has reasonable cause to believe that
 1352 | grounds for denial or termination of employment exist, it shall
 1353 | notify, in writing, the employer and the person ~~direct service~~
 1354 | ~~provider~~ affected, stating the specific record that ~~which~~
 1355 | indicates noncompliance with the standards in this section.

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1356 (c) The procedures established for hearing under chapter
1357 120 shall be available to the employer and the person affected
1358 ~~direct service provider~~ in order to present evidence relating
1359 either to the accuracy of the basis of exclusion or to the
1360 denial of an exemption from disqualification.

1361 (d) Refusal on the part of an employer to dismiss a
1362 manager, supervisor, or direct service provider who has been
1363 found to be in noncompliance with standards of this section
1364 shall result in automatic denial, termination, or revocation of
1365 the license or, certification, rate agreement, purchase order,
1366 or contract, in addition to any other remedies pursued by the
1367 agency.

1368 Section 17. Section 393.0657, Florida Statutes, is amended
1369 to read:

1370 393.0657 Persons not required to be refingerprinted or
1371 rescreened.--Persons who have undergone any portion of the
1372 background screening required under s. 393.0655 within the last
1373 12 months are ~~Any provision of law to the contrary~~
1374 ~~notwithstanding, human resource personnel who have been~~
1375 ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~
1376 ~~402, and 409, and teachers who have been fingerprinted pursuant~~
1377 ~~to chapter 1012, who have not been unemployed for more than 90~~
1378 ~~days thereafter, and who under the penalty of perjury attest to~~
1379 ~~the completion of such fingerprinting or screening and to~~
1380 ~~compliance with the provisions of this section and the standards~~
1381 ~~for good moral character as contained in such provisions as ss.~~
1382 ~~110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and~~
1383 ~~409.175(6), shall not be required to repeat such screening be~~

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1384 ~~refingerprinted or rescreened~~ in order to comply with the any
1385 ~~direct service provider screening or fingerprinting~~
1386 requirements. Such persons are responsible for providing
1387 documentation of the screening and shall undergo screening for
1388 any remaining background screening requirements that have never
1389 been conducted or have not been completed within the last 12
1390 months.

1391 Section 18. Section 393.066, Florida Statutes, is amended
1392 to read:

1393 393.066 Community services and treatment ~~for persons who~~
1394 ~~are developmentally disabled.--~~

1395 (1) The agency shall plan, develop, organize, and
1396 implement its programs of services and treatment for persons
1397 with developmental disabilities ~~who are developmentally disabled~~
1398 to allow clients to live as independently as possible in their
1399 own homes or communities and to achieve productive lives as
1400 close to normal as possible. All elements of community-based
1401 services shall be made available, and eligibility for these
1402 services shall be consistent across the state. ~~In addition, all~~
1403 ~~purchased services shall be approved by the agency.~~

1404 (2) All services needed shall be purchased instead of
1405 provided directly by the agency, when such arrangement is more
1406 cost-efficient than having those services provided directly. All
1407 purchased services must be approved by the agency.

1408 (3) Community-based services that are medically necessary
1409 to prevent institutionalization shall, to the extent of
1410 available resources, include:

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- 1411 (a) Adult day training ~~habilitation~~ services, ~~including~~
 1412 ~~developmental training~~ services.
- 1413 (b) Family care services.
- 1414 (c) Guardian advocate referral services.
- 1415 (d) Medical/dental services, except that medical services
 1416 shall not be provided to clients with spina bifida except as
 1417 specifically appropriated by the Legislature.
- 1418 (e) Parent training.
- 1419 (f) Personal care services.
- 1420 (g) ~~(f)~~ Recreation.
- 1421 (h) ~~(g)~~ Residential facility services.
- 1422 (i) ~~(h)~~ Respite services.
- 1423 (j) ~~(i)~~ Social services.
- 1424 (k) ~~(j)~~ Specialized therapies.
- 1425 (l) ~~(k)~~ Supported employment, ~~including enclave, job coach,~~
 1426 ~~mobile work crew, and follow along~~ services.
- 1427 (m) ~~(l)~~ Supported living.
- 1428 (n) ~~(m)~~ Training, including behavioral-analysis services
 1429 ~~behavioral programming.~~
- 1430 (o) ~~(n)~~ Transportation.
- 1431 (p) ~~(o)~~ Other habilitative and rehabilitative services as
 1432 needed.
- 1433 (4) The agency shall utilize the services of private
 1434 businesses, not-for-profit organizations, and units of local
 1435 government whenever such services are more cost-efficient than
 1436 such services provided directly by the department, including
 1437 arrangements for provision of residential facilities.

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1438 (5) In order to improve the potential for utilization of
1439 more cost-effective, community-based residential facilities, the
1440 agency shall promote the statewide development of day
1441 habilitation services for clients who live with a direct service
1442 provider in a community-based residential facility and who do
1443 not require 24-hour-a-day care in a hospital or other health
1444 care institution, but who may, in the absence of day
1445 habilitation services, require admission to a developmental
1446 disabilities institution. Each day service facility shall
1447 provide a protective physical environment for clients, ensure
1448 that direct service providers meet minimum screening standards
1449 as required in s. 393.0655, make available to all day
1450 habilitation service participants at least one meal on each day
1451 of operation, provide facilities to enable participants to
1452 obtain needed rest while attending the program, as appropriate,
1453 and provide social and educational activities designed to
1454 stimulate interest and provide socialization skills.

1455 (6) To promote independence and productivity, the agency
1456 shall provide supports and services, within available resources,
1457 to assist clients enrolled in Medicaid waivers who choose to
1458 pursue gainful employment.

1459 (7) For the purpose of making needed community-based
1460 residential facilities available at the least possible cost to
1461 the state, the agency is authorized to lease privately owned
1462 residential facilities under long-term rental agreements, if
1463 such rental agreements are projected to be less costly to the
1464 state over the useful life of the facility than state purchase
1465 or state construction of such a facility.

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1466 (8) The agency may adopt rules providing definitions,
 1467 eligibility criteria, and procedures for the purchase of
 1468 services to ensure compliance with federal laws or regulations
 1469 ~~that apply to services~~ provided pursuant to this section.

1470 Section 19. Section 393.067, Florida Statutes, is amended
 1471 to read:

1472 393.067 Facility licensure of residential facilities and
 1473 ~~comprehensive transitional education programs.--~~

1474 (1) The agency shall provide through its licensing
 1475 authority and by rule license application procedures, a system
 1476 ~~of~~ provider qualifications, facility and client care standards,
 1477 requirements for client records, requirements for staff
 1478 qualifications and training eriteria for meeting standards, and
 1479 requirements for monitoring foster care for residential
 1480 facilities, group home facilities, residential habilitation
 1481 centers, and comprehensive transitional education programs that
 1482 serve agency clients.

1483 (2) The agency shall conduct annual inspections and
 1484 reviews of ~~residential facilities and comprehensive transitional~~
 1485 ~~education programs~~ licensed under this section annually.

1486 (3) An application for a license under this section must
 1487 ~~for a residential facility or a comprehensive transitional~~
 1488 ~~education program shall~~ be made to the agency on a form
 1489 furnished by it and shall be accompanied by the appropriate
 1490 license fee.

1491 (4) The application shall be under oath and shall contain
 1492 the following:

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1493 (a) The name and address of the applicant, if an applicant
 1494 is an individual; if the applicant is a firm, partnership, or
 1495 association, the name and address of each member thereof; if the
 1496 applicant is a corporation, its name and address and the name
 1497 and address of each director and each officer thereof; and the
 1498 name by which the facility or program is to be known.

1499 (b) The location of the facility or program for which a
 1500 license is sought.

1501 (c) The name of the person or persons under whose
 1502 management or supervision the facility or program will be
 1503 conducted.

1504 (d) The number and type of residents or clients for which
 1505 maintenance, care, education, or treatment is to be provided by
 1506 the facility or program.

1507 (e) The number and location of the component centers or
 1508 units which will compose the comprehensive transitional
 1509 education program.

1510 (f) A description of the types of services and treatment
 1511 to be provided by the facility or program.

1512 (g) Information relating to the number, experience, and
 1513 training of the employees of the facility or program.

1514 (h) Certification that the staff of the facility or
 1515 program will receive training to detect and prevent sexual abuse
 1516 of residents and clients.

1517 (i) Such other information as the agency determines is
 1518 necessary to carry out the provisions of this chapter.

1519 ~~(5) The applicant shall submit evidence which establishes~~
 1520 ~~the good moral character of the manager or supervisor of the~~

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1521 ~~facility or program and the direct service providers in the~~
1522 ~~facility or program and its component centers or units. A~~
1523 ~~license may be issued if all the screening materials have been~~
1524 ~~timely submitted; however, a license may not be issued or~~
1525 ~~renewed if any of the direct service providers have failed the~~
1526 ~~screening required by s. 393.0655.~~

1527 ~~(a)1. A licensed residential facility or comprehensive~~
1528 ~~transitional education program which applies for renewal of its~~
1529 ~~license shall submit to the agency a list of direct service~~
1530 ~~providers who have worked on a continuous basis at the applicant~~
1531 ~~facility or program since submitting fingerprints to the agency~~
1532 ~~or the Department of Children and Family Services, identifying~~
1533 ~~those direct service providers for whom a written assurance of~~
1534 ~~compliance was provided by the agency or department and~~
1535 ~~identifying those direct service providers who have recently~~
1536 ~~begun working at the facility or program and are awaiting the~~
1537 ~~results of the required fingerprint check along with the date of~~
1538 ~~the submission of those fingerprints for processing. The agency~~
1539 ~~shall by rule determine the frequency of requests to the~~
1540 ~~Department of Law Enforcement to run state criminal records~~
1541 ~~checks for such direct service providers except for those direct~~
1542 ~~service providers awaiting the results of initial fingerprint~~
1543 ~~checks for employment at the applicant facility or program. The~~
1544 ~~agency shall review the records of the direct service providers~~
1545 ~~at the applicant facility or program with respect to the crimes~~
1546 ~~specified in s. 393.0655 and shall notify the facility or~~
1547 ~~program of its findings. When disposition information is missing~~
1548 ~~on a criminal record, it is the responsibility of the person~~

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1549 ~~being screened, upon request of the agency, to obtain and supply~~
1550 ~~within 30 days the missing disposition information to the~~
1551 ~~agency. Failure to supply the missing information within 30 days~~
1552 ~~or to show reasonable efforts to obtain such information shall~~
1553 ~~result in automatic disqualification.~~

1554 ~~2. The applicant shall sign an affidavit under penalty of~~
1555 ~~perjury stating that all new direct service providers have been~~
1556 ~~fingerprinted and that the facility's or program's remaining~~
1557 ~~direct service providers have worked at the applicant facility~~
1558 ~~or program on a continuous basis since being initially screened~~
1559 ~~at that facility or program or have a written assurance of~~
1560 ~~compliance from the agency or department.~~

1561 ~~(5)(b)~~ As a prerequisite for issuance of an the initial or
1562 renewal license, the applicant, and any manager, supervisor, and
1563 staff member of the direct service provider of a facility or
1564 program licensed under this section, must have submitted to
1565 background screening as required under s. 393.0655. A license
1566 may not be issued or renewed if the applicant or any manager,
1567 supervisor, or staff member of the direct service provider has
1568 failed background screenings as required under s. 393.0655. The
1569 agency shall determine by rule the frequency of background
1570 screening. The applicant shall submit with each initial or
1571 renewal application a signed affidavit under penalty of perjury
1572 stating that the applicant and any manager, supervisor, or staff
1573 member of the direct service provider is in compliance with all
1574 requirements for background screening. ~~to a residential facility~~
1575 ~~or comprehensive transitional education program.~~

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1576 ~~1. The applicant shall submit to the agency a complete set~~
1577 ~~of fingerprints, taken by an authorized law enforcement agency~~
1578 ~~or an employee of the agency who is trained to take~~
1579 ~~fingerprints, for the manager, supervisor, or direct service~~
1580 ~~providers of the facility or program;~~

1581 ~~2. The agency shall submit the fingerprints to the~~
1582 ~~Department of Law Enforcement for state processing and for~~
1583 ~~federal processing by the Federal Bureau of Investigation; and~~

1584 ~~3. The agency shall review the record of the manager or~~
1585 ~~supervisor with respect to the crimes specified in s.~~
1586 ~~393.0655(1) and shall notify the applicant of its findings. When~~
1587 ~~disposition information is missing on a criminal record, it is~~
1588 ~~the responsibility of the manager or supervisor, upon request of~~
1589 ~~the agency, to obtain and supply within 30 days the missing~~
1590 ~~disposition information to the agency. Failure to supply the~~
1591 ~~missing information within 30 days or to show reasonable efforts~~
1592 ~~to obtain such information shall result in automatic~~
1593 ~~disqualification.~~

1594 ~~(c) The agency or a residential facility or comprehensive~~
1595 ~~transitional education program may not use the criminal records~~
1596 ~~or juvenile records of a person obtained under this subsection~~
1597 ~~for any purpose other than determining if that person meets the~~
1598 ~~minimum standards for good moral character for a manager or~~
1599 ~~supervisor of, or direct service provider in, such a facility or~~
1600 ~~program. The criminal records or juvenile records obtained by~~
1601 ~~the agency or a residential facility or comprehensive~~
1602 ~~transitional education program for determining the moral~~

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1603 ~~character of a manager, supervisor, or direct service provider~~
1604 ~~are exempt from s. 119.07(1).~~

1605 ~~(6) Each applicant for licensure as an intermediate care~~
1606 ~~facility for the developmentally disabled must comply with the~~
1607 ~~following requirements:~~

1608 ~~(a) Upon receipt of a completed, signed, and dated~~
1609 ~~application, the agency shall require background screening, in~~
1610 ~~accordance with the level 2 standards for screening set forth in~~
1611 ~~chapter 435, of the managing employee, or other similarly titled~~
1612 ~~individual who is responsible for the daily operation of the~~
1613 ~~facility, and of the financial officer, or other similarly~~
1614 ~~titled individual who is responsible for the financial operation~~
1615 ~~of the center, including billings for resident care and~~
1616 ~~services. The applicant must comply with the procedures for~~
1617 ~~level 2 background screening as set forth in chapter 435, as~~
1618 ~~well as the requirements of s. 435.03(3).~~

1619 ~~(b) The agency may require background screening of any~~
1620 ~~other individual who is an applicant if the agency has probable~~
1621 ~~cause to believe that he or she has been convicted of a crime or~~
1622 ~~has committed any other offense prohibited under the level 2~~
1623 ~~standards for screening set forth in chapter 435.~~

1624 ~~(c) Proof of compliance with the level 2 background~~
1625 ~~screening requirements of chapter 435 which has been submitted~~
1626 ~~within the previous 5 years in compliance with any other health~~
1627 ~~care licensure requirements of this state is acceptable in~~
1628 ~~fulfillment of the requirements of paragraph (a).~~

1629 ~~(d) A provisional license may be granted to an applicant~~
1630 ~~when each individual required by this section to undergo~~

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1631 ~~background screening has met the standards for the Department of~~
1632 ~~Law Enforcement background check, but the agency has not yet~~
1633 ~~received background screening results from the Federal Bureau of~~
1634 ~~Investigation, or a request for a disqualification exemption has~~
1635 ~~been submitted to the agency as set forth in chapter 435, but a~~
1636 ~~response has not yet been issued. A standard license may be~~
1637 ~~granted to the applicant upon the agency's receipt of a report~~
1638 ~~of the results of the Federal Bureau of Investigation background~~
1639 ~~screening for each individual required by this section to~~
1640 ~~undergo background screening which confirms that all standards~~
1641 ~~have been met, or upon the granting of a disqualification~~
1642 ~~exemption by the agency as set forth in chapter 435. Any other~~
1643 ~~person who is required to undergo level 2 background screening~~
1644 ~~may serve in his or her capacity pending the agency's receipt of~~
1645 ~~the report from the Federal Bureau of Investigation. However,~~
1646 ~~the person may not continue to serve if the report indicates any~~
1647 ~~violation of background screening standards and a~~
1648 ~~disqualification exemption has not been requested of and granted~~
1649 ~~by the agency as set forth in chapter 435.~~

1650 ~~(c) Each applicant must submit to the agency, with its~~
1651 ~~application, a description and explanation of any exclusions,~~
1652 ~~permanent suspensions, or terminations of the applicant from the~~
1653 ~~Medicare or Medicaid programs. Proof of compliance with the~~
1654 ~~requirements for disclosure of ownership and control interests~~
1655 ~~under the Medicaid or Medicare programs shall be accepted in~~
1656 ~~lieu of this submission.~~

1657 ~~(f) Each applicant must submit to the agency a description~~
1658 ~~and explanation of any conviction of an offense prohibited under~~

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1659 ~~the level 2 standards of chapter 435 by a member of the board of~~
1660 ~~directors of the applicant, its officers, or any individual~~
1661 ~~owning 5 percent or more of the applicant. This requirement does~~
1662 ~~not apply to a director of a not-for-profit corporation or~~
1663 ~~organization if the director serves solely in a voluntary~~
1664 ~~capacity for the corporation or organization, does not regularly~~
1665 ~~take part in the day to day operational decisions of the~~
1666 ~~corporation or organization, receives no remuneration for his or~~
1667 ~~her services on the corporation or organization's board of~~
1668 ~~directors, and has no financial interest and has no family~~
1669 ~~members with a financial interest in the corporation or~~
1670 ~~organization, provided that the director and the not-for-profit~~
1671 ~~corporation or organization include in the application a~~
1672 ~~statement affirming that the director's relationship to the~~
1673 ~~corporation satisfies the requirements of this paragraph.~~

1674 ~~(g) A license may not be granted to an applicant if the~~
1675 ~~applicant or managing employee has been found guilty of,~~
1676 ~~regardless of adjudication, or has entered a plea of nolo~~
1677 ~~contendere or guilty to, any offense prohibited under the level~~
1678 ~~2 standards for screening set forth in chapter 435, unless an~~
1679 ~~exemption from disqualification has been granted by the agency~~
1680 ~~as set forth in chapter 435.~~

1681 ~~(h) The agency may deny or revoke licensure if the~~
1682 ~~applicant:~~

1683 ~~1. Has falsely represented a material fact in the~~
1684 ~~application required by paragraph (c) or paragraph (f), or has~~
1685 ~~omitted any material fact from the application required by~~
1686 ~~paragraph (c) or paragraph (f); or~~

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1687 ~~2. Has had prior action taken against the applicant under~~
1688 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1689 ~~(i) An application for license renewal must contain the~~
1690 ~~information required under paragraphs (e) and (f).~~

1691 ~~(6)~~(7) The applicant shall furnish satisfactory proof of
1692 financial ability to operate and conduct the facility or program
1693 in accordance with the requirements of this chapter and adopted
1694 ~~all rules promulgated hereunder.~~

1695 ~~(7)~~(8) The agency shall adopt rules establishing minimum
1696 standards for ~~licensure of residential~~ facilities and
1697 ~~comprehensive transitional education~~ programs licensed under
1698 this section, including rules requiring facilities and programs
1699 to train staff to detect and prevent sexual abuse of residents
1700 and clients, minimum standards of quality and adequacy of client
1701 care, incident-reporting requirements, and uniform firesafety
1702 standards established by the State Fire Marshal which are
1703 appropriate to the size of the facility or of the component
1704 centers or units of the program.

1705 ~~(8)~~(9) The agency and the ~~Agency for Health Care~~
1706 ~~Administration~~, after consultation with the Department of
1707 Community Affairs, shall adopt rules for foster care residential
1708 facilities, group home facilities, and residential habilitation
1709 centers which establish ~~under the respective regulatory~~
1710 ~~jurisdiction of each establishing~~ minimum standards for the
1711 preparation and annual update of a comprehensive emergency
1712 management plan. At a minimum, the rules must provide for plan
1713 components that address emergency evacuation transportation;
1714 adequate sheltering arrangements; postdisaster activities,

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

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1715 including emergency power, food, and water; postdisaster
1716 transportation; supplies; staffing; emergency equipment;
1717 individual identification of residents and transfer of records;
1718 and responding to family inquiries. The comprehensive emergency
1719 management plan for all comprehensive transitional education
1720 programs and for homes serving individuals who have complex
1721 medical conditions is subject to review and approval by the
1722 local emergency management agency. During its review, the local
1723 emergency management agency shall ensure that the agency and the
1724 Department of Community Affairs ~~following agencies~~, at a
1725 minimum, are given the opportunity to review the plan: ~~the~~
1726 ~~Agency for Health Care Administration, the Agency for Persons~~
1727 ~~with Disabilities, and the Department of Community Affairs.~~
1728 Also, appropriate volunteer organizations must be given the
1729 opportunity to review the plan. The local emergency management
1730 agency shall complete its review within 60 days and either
1731 approve the plan or advise the facility of necessary revisions.

1732 (9) ~~(10)~~ The agency may conduct unannounced inspections to
1733 determine compliance by foster care ~~residential~~ facilities,
1734 group home facilities, residential habilitation centers, and
1735 comprehensive transitional education programs with the
1736 applicable provisions of this chapter and the rules adopted
1737 pursuant hereto, including the rules adopted for training staff
1738 of a facility or a program to detect and prevent sexual abuse of
1739 residents and clients. The facility or program shall make copies
1740 of inspection reports available to the public upon request.

1741 ~~(11) An alternative living center and an independent~~
1742 ~~living education center, as defined in s. 393.063, shall be~~

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1743 ~~subject to the provisions of s. 419.001, except that such~~
1744 ~~centers shall be exempt from the 1,000 foot radius requirement~~
1745 ~~of s. 419.001(2) if:~~

1746 ~~(a) Such centers are located on a site zoned in a manner~~
1747 ~~so that all the component centers of a comprehensive transition~~
1748 ~~education center may be located thereon; or~~

1749 ~~(b) There are no more than three such centers within said~~
1750 ~~radius of 1,000 feet.~~

1751 ~~(10)(12)~~ Each ~~residential~~ facility or ~~comprehensive~~
1752 ~~transitional education~~ program licensed under this section by
1753 ~~the agency~~ shall forward annually to the agency a true and
1754 accurate sworn statement of its costs of providing care to
1755 clients funded by the agency.

1756 ~~(11)(13)~~ The agency may audit the records of any
1757 ~~residential~~ facility or ~~comprehensive transitional education~~
1758 program that it has reason to believe may not be in full
1759 compliance with the provisions of this section; provided that,
1760 any financial audit of such facility or program shall be limited
1761 to the records of clients funded by the agency.

1762 ~~(12)(14)~~ The agency shall establish, for the purpose of
1763 control of licensure costs, a uniform management information
1764 system and a uniform reporting system with uniform definitions
1765 and reporting categories.

1766 ~~(13)(15)~~ Facilities and programs licensed pursuant to this
1767 section shall adhere to all rights specified in s. 393.13,
1768 including those enumerated in s. 393.13(4).

1769 ~~(14)(16)~~ An ~~No~~ unlicensed ~~residential~~ facility or
1770 ~~comprehensive transitional education~~ program may not ~~shall~~

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1771 receive state funds. A license for the operation of a facility
 1772 or program shall not be renewed if the licensee has any
 1773 outstanding fines assessed pursuant to this chapter wherein
 1774 final adjudication of such fines has been entered.

1775 (15)~~(17)~~ The agency is ~~shall~~ not ~~be~~ required to contract
 1776 with new facilities licensed after October 1, 1989, pursuant to
 1777 this chapter. Pursuant to chapter 287, the agency shall continue
 1778 to contract within available resources for residential services
 1779 with facilities licensed prior to October 1, 1989, if such
 1780 facilities comply with the provisions of this chapter and all
 1781 other applicable laws and regulations.

1782 Section 20. Section 393.0673, Florida Statutes, is amended
 1783 to read:

1784 393.0673 Denial, suspension, revocation of license;
 1785 moratorium on admissions; administrative fines; procedures.--

1786 (1) The agency may deny, revoke, or suspend a license or
 1787 impose an administrative fine, not to exceed \$1,000 per
 1788 violation per day, if the applicant or licensee:

1789 (a) Has falsely represented, or omitted a material fact in
 1790 its license application submitted under s. 393.067.

1791 (b) Has had prior action taken against it under the
 1792 Medicaid or Medicare program.

1793 (c) Has failed to comply with the applicable requirements
 1794 of this chapter or rules applicable to the applicant or licensee
 1795 for a violation of any provision of s. 393.0655 or s. 393.067 or
 1796 rules adopted pursuant thereto.

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1797 (2) All hearings shall be held within the county in which
 1798 the licensee or applicant operates or applies for a license to
 1799 operate a facility as defined herein.

1800 ~~(3)-(2)~~ The agency, as a part of any final order issued by
 1801 it under ~~the provisions of~~ this chapter, may impose such fine as
 1802 it deems proper, except that such fine may not exceed \$1,000 for
 1803 each violation. Each day a violation of this chapter occurs
 1804 constitutes a separate violation and is subject to a separate
 1805 fine, but in no event may the aggregate amount of any fine
 1806 exceed \$10,000. Fines paid by any facility licensee under the
 1807 provisions of this subsection shall be deposited in the Resident
 1808 Protection Trust Fund and expended as provided in s. 400.063.

1809 ~~(4)-(3)~~ The agency may issue an order immediately
 1810 suspending or revoking a license when it determines that any
 1811 condition in the facility presents a danger to the health,
 1812 safety, or welfare of the residents in the facility.

1813 ~~(5)-(4)~~ The agency may impose an immediate moratorium on
 1814 admissions to any facility when the department determines that
 1815 any condition in the facility presents a threat to the health,
 1816 safety, or welfare of the residents in the facility.

1817 (6) The agency shall establish by rule criteria for
 1818 evaluating the severity of violations and for determining the
 1819 amount of fines imposed.

1820 Section 21. Subsection (1) of section 393.0674, Florida
 1821 Statutes, is amended to read:

1822 393.0674 Penalties.--

1823 (1) It is a misdemeanor of the first degree, punishable as

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1824 provided in s. 775.082 or s. 775.083, for any person willfully,
1825 knowingly, or intentionally to:

1826 (a) Fail, by false statement, misrepresentation,
1827 impersonation, or other fraudulent means, to disclose in any
1828 application for voluntary or paid employment a material fact
1829 used in making a determination as to such person's
1830 qualifications to be a direct service provider;

1831 (b) Provide or attempt to provide supports or services
1832 with direct service providers who are not in compliance
1833 ~~noncompliance~~ with the background screening requirements ~~minimum~~
1834 ~~standards for good moral character as contained~~ in this chapter;
1835 or

1836 (c) Use information from the criminal records or central
1837 abuse hotline obtained under s. 393.0655, s. 393.066, or s.
1838 393.067 for any purpose other than screening that person for
1839 employment as specified in those sections or release such
1840 information to any other person for any purpose other than
1841 screening for employment as specified in those sections.

1842 Section 22. Subsection (3) of section 393.0675, Florida
1843 Statutes, is amended to read:

1844 393.0675 Injunctive proceedings authorized.--

1845 (3) The agency may institute proceedings for an injunction
1846 in a court of competent jurisdiction to terminate the operation
1847 of a provider of supports or services if such provider has
1848 willfully and knowingly refused to comply with the screening
1849 requirement for direct service providers or has refused to
1850 terminate direct service providers found not to be in compliance
1851 with such the requirements ~~for good moral character~~.

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1852 Section 23. Subsection (1) of section 393.0678, Florida
1853 Statutes, is amended to read:

1854 393.0678 Receivership proceedings.--

1855 (1) The agency may petition a court of competent
1856 jurisdiction for the appointment of a receiver for ~~an~~
1857 ~~intermediate care facility for the developmentally disabled,~~ a
1858 residential habilitation center, or a group home facility owned
1859 and operated by a corporation or partnership when any of the
1860 following conditions exist:

1861 (a) Any person is operating a facility without a license
1862 and refuses to make application for a license as required by s.
1863 393.067 ~~or, in the case of an intermediate care facility for the~~
1864 ~~developmentally disabled, as required by ss. 393.067 and~~
1865 ~~400.062.~~

1866 (b) The licensee is closing the facility or has informed
1867 the department that it intends to close the facility; and
1868 adequate arrangements have not been made for relocation of the
1869 residents within 7 days, exclusive of weekends and holidays, of
1870 the closing of the facility.

1871 (c) The agency determines that conditions exist in the
1872 facility which present an imminent danger to the health, safety,
1873 or welfare of the residents of the facility or which present a
1874 substantial probability that death or serious physical harm
1875 would result therefrom. Whenever possible, the agency shall
1876 facilitate the continued operation of the program.

1877 (d) The licensee cannot meet its financial obligations to
1878 provide food, shelter, care, and utilities. Evidence such as the
1879 issuance of bad checks or the accumulation of delinquent bills

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1880 | for such items as personnel salaries, food, drugs, or utilities
 1881 | constitutes prima facie evidence that the ownership of the
 1882 | facility lacks the financial ability to operate the home in
 1883 | accordance with the requirements of this chapter and all rules
 1884 | promulgated thereunder.

1885 | Section 24. Subsections (1), (2), (3), (5), and (7) of
 1886 | section 393.068, Florida Statutes, are amended to read:

1887 | 393.068 Family care program.--

1888 | (1) The family care program is established for the purpose
 1889 | of providing services and support to families and individuals
 1890 | with developmental disabilities in order to maintain the
 1891 | individual in the home environment and avoid costly out-of-home
 1892 | residential placement. Services and support available to
 1893 | families and individuals with developmental disabilities shall
 1894 | emphasize community living and self-determination and enable
 1895 | individuals with developmental disabilities to enjoy typical
 1896 | lifestyles. One way to accomplish this is to recognize that
 1897 | families are the greatest resource available to individuals who
 1898 | have developmental disabilities and must be supported in their
 1899 | role as primary care givers.

1900 | (2) Services and support authorized under the family care
 1901 | ~~this~~ program shall, to the extent of available resources,
 1902 | include the services listed under s. 393.066 and, in addition,
 1903 | shall include, but not be limited to:

- 1904 | (a) Attendant care.
- 1905 | (b) Barrier-free modifications to the home.
- 1906 | (c) Home visitation by agency workers.
- 1907 | (d) In-home subsidies.

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- 1908 (e) Low-interest loans.
- 1909 (f) Modifications for vehicles used to transport the
- 1910 individual with a developmental disability.
- 1911 (g) Facilitated communication.
- 1912 (h) Family counseling.
- 1913 (i) Equipment and supplies.
- 1914 (j) Self-advocacy training.
- 1915 (k) Roommate services.
- 1916 (l) Integrated community activities.
- 1917 (m) Emergency services.
- 1918 (n) Support coordination.
- 1919 ~~(o) Supported employment.~~

1920 (o)~~(p)~~ Other support services as identified by the family
1921 or individual.

1922 (3) When it is determined by the agency to be more cost-
1923 effective and in the best interest of the client to maintain
1924 such client in the home of a direct service provider, the parent
1925 or guardian of the client or, if competent, the client may
1926 enroll the client in the family care program. The direct service
1927 provider of a client enrolled in the family care program shall
1928 be reimbursed according to a rate schedule set by the agency,
1929 except that ~~in-home subsidies cited in paragraph (2)(d) shall~~
1930 be provided in accordance with ~~according to~~ s. 393.0695 and are
1931 ~~not subject to any other payment method or rate schedule~~
1932 ~~provided for in this section.~~

1933 (5) The agency may contract for the provision of any
1934 portion of the services required by the program, except for in-
1935 home subsidies ~~cited in paragraph (2)(d)~~, which shall be

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1936 | provided pursuant to s. 393.0695. ~~Otherwise, purchase of service~~
 1937 | ~~contracts shall be used~~ whenever the services so provided are
 1938 | more cost-efficient than those provided by the agency.

1939 | (7) To provide a range of personal care services for the
 1940 | client, the use of volunteers shall be maximized. The agency
 1941 | shall assure appropriate insurance coverage to protect
 1942 | volunteers from personal liability while acting within the scope
 1943 | of their volunteer assignments under the program.

1944 | Section 25. Subsection (3) of section 393.0695, Florida
 1945 | Statutes, is amended, and subsection (5) is added to that
 1946 | section, to read:

1947 | 393.0695 Provision of in-home subsidies.--

1948 | (3) In-home subsidies must be based on an individual
 1949 | determination of need and must not exceed maximum amounts set by
 1950 | the agency and reassessed by the agency quarterly ~~annually~~.

1951 | (5) The agency shall adopt rules to administer this
 1952 | section, including standards and procedures governing
 1953 | eligibility for services, selection of housing, selection of
 1954 | providers, and planning for services, and requirements for
 1955 | ongoing monitoring.

1956 | Section 26. Subsection (2) of section 393.075, Florida
 1957 | Statutes, is amended to read:

1958 | 393.075 General liability coverage.--

1959 | (2) The Division of Risk Management of the Department of
 1960 | Financial Services shall provide coverage through the agency to
 1961 | any person who owns or operates a foster care facility or group
 1962 | home facility solely for the agency, who cares for children
 1963 | placed by ~~developmental services staff of~~ the agency, and who is

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1964 licensed pursuant to s. 393.067 to provide such supervision and
 1965 care in his or her place of residence. The coverage shall be
 1966 provided from the general liability account of the State Risk
 1967 Management Trust Fund. The coverage is limited to general
 1968 liability claims arising from the provision of supervision and
 1969 care of children in a foster care facility or group home
 1970 facility pursuant to an agreement with the agency and pursuant
 1971 to guidelines established through policy, rule, or statute.
 1972 Coverage shall be subject to the limits provided in ss. 284.38
 1973 and 284.385, and the exclusions set forth therein, together with
 1974 other exclusions as may be set forth in the certificate of
 1975 coverage issued by the trust fund. A person covered under the
 1976 general liability account pursuant to this subsection shall
 1977 immediately notify the Division of Risk Management of the
 1978 Department of Financial Services of any potential or actual
 1979 claim.

1980 Section 27. Section 393.11, Florida Statutes, is amended
 1981 to read:

1982 393.11 Involuntary admission to residential services.--

1983 (1) JURISDICTION.--When a person who has been determined
 1984 eligible for services for mental retardation under this chapter
 1985 ~~is mentally retarded~~ and requires involuntary admission to
 1986 residential services provided by the agency, the circuit court
 1987 of the county in which the person resides shall have
 1988 jurisdiction to conduct a hearing and enter an order
 1989 involuntarily admitting the person in order that the person may
 1990 receive the care, treatment, habilitation, and rehabilitation
 1991 which the person needs. For the purpose of identifying mental

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1992 | retardation, diagnostic capability shall be established by the
 1993 | agency. The involuntary commitment of a person with mental
 1994 | retardation or autism who is charged with a felony offense shall
 1995 | be determined in accordance with s. 916.302. ~~Except as otherwise~~
 1996 | ~~specified, the proceedings under this section shall be governed~~
 1997 | ~~by the Florida Rules of Civil Procedure.~~

1998 | (2) PETITION.--

1999 | (a) A petition for involuntary admission to residential
 2000 | services may be executed by a petitioning commission. ~~For~~
 2001 | ~~proposed involuntary admission to residential services arising~~
 2002 | ~~out of chapter 916, the petition may be filed by a petitioning~~
 2003 | ~~commission, the agency, the state attorney of the circuit from~~
 2004 | ~~which the defendant was committed, or the defendant's attorney.~~

2005 | (b) The petitioning commission shall consist of three
 2006 | persons. One of these persons shall be a physician licensed and
 2007 | practicing under chapter 458 or chapter 459.

2008 | (c) The petition shall be verified and shall:

2009 | 1. State the name, age, and present address of the
 2010 | commissioners and their relationship to the person with mental
 2011 | retardation or autism;

2012 | 2. State the name, age, county of residence, and present
 2013 | address of the person with mental retardation or autism;

2014 | 3. Allege that the commission believes that the person
 2015 | needs involuntary residential services and specify the factual
 2016 | information on which the ~~such~~ belief is based;

2017 | 4. Allege that the person lacks sufficient capacity to
 2018 | give express and informed consent to a voluntary application for
 2019 | services and lacks the basic survival and self-care skills to

2020 provide for the person's well-being or is likely to physically
2021 injure others if allowed to remain at liberty; and

2022 5. State which residential setting is the least
2023 restrictive and most appropriate alternative and specify the
2024 factual information on which the ~~such~~ belief is based.

2025 (d) The petition shall be filed in the circuit court of
2026 the county in which the person with mental retardation or autism
2027 resides.

2028 (3) NOTICE.--

2029 (a) Notice of the filing of the petition shall be given to
2030 the individual and his or her legal guardian. The notice shall
2031 be given both verbally and in writing in the language of the
2032 client, or in other modes of communication of the client, and in
2033 English. Notice shall also be given to such other persons as the
2034 court may direct. The petition for involuntary admission to
2035 residential services shall be served with the notice.

2036 (b) Whenever a motion or petition has been filed pursuant
2037 to s. 916.303 to dismiss criminal charges against a defendant
2038 with retardation or autism, and a petition is filed to
2039 involuntarily admit the defendant to residential services under
2040 this section, the notice of the filing of the petition shall
2041 also be given to the defendant's attorney, ~~and to~~ the state
2042 attorney of the circuit from which the defendant was committed,
2043 and the agency.

2044 (c) The notice shall state that a hearing shall be set to
2045 inquire into the need of the person with mental retardation or
2046 autism for involuntary residential services. The notice shall
2047 also state the date of the hearing on the petition.

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2048 (d) The notice shall state that the individual with mental
2049 retardation or autism has the right to be represented by counsel
2050 of his or her own choice and that, if the person cannot afford
2051 an attorney, the court shall appoint one.

2052 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

2053 (a) Upon receiving the petition, the court shall
2054 immediately order the developmental services program of the
2055 agency to examine the person being considered for involuntary
2056 admission to residential services.

2057 (b) Following examination, the agency shall file ~~After the~~
2058 ~~developmental services program examines the person,~~ a written
2059 report ~~shall be filed~~ with the court not less than 10 working
2060 days before the date of the hearing. The report must ~~shall~~ be
2061 served on the petitioner, the person with mental retardation,
2062 and the person's attorney at the time the report is filed with
2063 the court.

2064 (c) The report must ~~shall~~ contain the findings of the
2065 agency's developmental services program evaluation, and any
2066 recommendations deemed appropriate, and a determination of
2067 whether the person is eligible for services under this chapter.

2068 (5) EXAMINING COMMITTEE.--

2069 (a) Upon receiving the petition, the court shall
2070 immediately appoint an examining committee to examine the person
2071 being considered for involuntary admission to residential
2072 services provided by ~~of the developmental services program of~~
2073 the agency.

2074 (b) The court shall appoint no fewer than three
2075 disinterested experts who have demonstrated to the court an

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2076 expertise in the diagnosis, evaluation, and treatment of persons
 2077 with mental retardation. The committee must ~~shall~~ include at
 2078 least one licensed and qualified physician, one licensed and
 2079 qualified psychologist, and one qualified professional with a
 2080 minimum of a masters degree in social work, special education,
 2081 or vocational rehabilitation counseling, to examine the person
 2082 and to testify at the hearing on the involuntary admission to
 2083 residential services.

2084 (c) Counsel for the person who is being considered for
 2085 involuntary admission to residential services and counsel for
 2086 the petition commission has ~~shall have~~ the right to challenge
 2087 the qualifications of those appointed to the examining
 2088 committee.

2089 (d) Members of the committee may ~~shall~~ not be employees of
 2090 the agency or be associated with each other in practice or in
 2091 employer-employee relationships. Members of the committee may
 2092 ~~shall~~ not have served as members of the petitioning commission.
 2093 Members of the committee may ~~shall~~ not be employees of the
 2094 members of the petitioning commission or be associated in
 2095 practice with members of the commission.

2096 (e) The committee shall prepare a written report for the
 2097 court. The report must ~~shall~~ explicitly document the extent that
 2098 the person meets the criteria for involuntary admission. The
 2099 report, and expert testimony, must ~~shall~~ include, but not be
 2100 limited to:

- 2101 1. The degree of the person's mental retardation and
 2102 whether, using diagnostic capabilities established by the
 2103 agency, the person is eligible for agency services;

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2104 2. Whether, because of the person's degree of mental
 2105 retardation, the person:
 2106 a. Lacks sufficient capacity to give express and informed
 2107 consent to a voluntary application for services pursuant to s.
 2108 393.065;
 2109 b. Lacks basic survival and self-care skills to such a
 2110 degree that close supervision and habilitation in a residential
 2111 setting is necessary and if not provided would result in a real
 2112 and present threat of substantial harm to the person's well-
 2113 being; or
 2114 c. Is likely to physically injure others if allowed to
 2115 remain at liberty.
 2116 3. The purpose to be served by residential care;
 2117 4. A recommendation on the type of residential placement
 2118 which would be the most appropriate and least restrictive for
 2119 the person; and
 2120 5. The appropriate care, habilitation, and treatment.
 2121 (f) The committee shall file the report with the court not
 2122 less than 10 working days before the date of the hearing. The
 2123 report shall be served on the petitioner, the person with mental
 2124 retardation, ~~and~~ the person's attorney at the time the report is
 2125 filed with the court, and the agency.
 2126 (g) Members of the examining committee shall receive a
 2127 reasonable fee to be determined by the court. The fees are to be
 2128 paid from the general revenue fund of the county in which the
 2129 person with mental retardation resided when the petition was
 2130 filed.

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2131 (h) The agency shall develop and prescribe by rule one or
2132 more standard forms to be used as a guide for members of the
2133 examining committee.

2134 (6) COUNSEL; GUARDIAN AD LITEM.--

2135 (a) The person with mental retardation shall be
2136 represented by counsel at all stages of the judicial proceeding.
2137 In the event the person is indigent and cannot afford counsel,
2138 the court shall appoint a public defender not less than 20
2139 working days before the scheduled hearing. The person's counsel
2140 shall have full access to the records of the service provider
2141 and the agency. In all cases, the attorney shall represent the
2142 rights and legal interests of the person with mental
2143 retardation, regardless of who may initiate the proceedings or
2144 pay the attorney's fee.

2145 (b) If the attorney, during the course of his or her
2146 representation, reasonably believes that the person with mental
2147 retardation cannot adequately act in his or her own interest,
2148 the attorney may seek the appointment of a guardian ad litem. A
2149 prior finding of incompetency is not required before a guardian
2150 ad litem is appointed pursuant to this section.

2151 (7) HEARING.--

2152 (a) The hearing for involuntary admission shall be
2153 conducted, and the order shall be entered, in the county in
2154 which the petition is filed ~~person is residing or be as~~
2155 ~~convenient to the person as may be consistent with orderly~~
2156 ~~procedure~~. The hearing shall be conducted in a physical setting
2157 not likely to be injurious to the person's condition.

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2158 (b) A hearing on the petition must ~~shall~~ be held as soon
 2159 as practicable after the petition is filed, but reasonable delay
 2160 for the purpose of investigation, discovery, or procuring
 2161 counsel or witnesses shall be granted.

2162 (c) The court may appoint a general or special magistrate
 2163 to preside. Except as otherwise specified, the magistrate's
 2164 proceeding shall be governed by the ~~rule 1.490~~, Florida Rules of
 2165 Civil Procedure.

2166 (d) The person with mental retardation shall be physically
 2167 present throughout the entire proceeding. If the person's
 2168 attorney believes that the person's presence at the hearing is
 2169 not in the person's best interest, the person's presence may be
 2170 waived once the court has seen the person and the hearing has
 2171 commenced.

2172 (e) The person has ~~shall have~~ the right to present
 2173 evidence and to cross-examine all witnesses and other evidence
 2174 alleging the appropriateness of the person's admission to
 2175 residential care. Other relevant and material evidence regarding
 2176 the appropriateness of the person's admission to residential
 2177 services; the most appropriate, least restrictive residential
 2178 placement; and the appropriate care, treatment, and habilitation
 2179 of the person, including written or oral reports, may be
 2180 introduced at the hearing by any interested person.

2181 (f) The petitioning commission may be represented by
 2182 counsel at the hearing. The petitioning commission shall have
 2183 the right to call witnesses, present evidence, cross-examine
 2184 witnesses, and present argument on behalf of the petitioning
 2185 commission.

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2186 (g) All evidence shall be presented according to chapter
2187 90. The burden of proof shall be on the party alleging the
2188 appropriateness of the person's admission to residential
2189 services. The burden of proof shall be by clear and convincing
2190 evidence.

2191 (h) All stages of each proceeding shall be
2192 stenographically reported.

2193 (8) ORDER.--

2194 (a) In all cases, the court shall issue written findings
2195 of fact and conclusions of law to support its decision. The
2196 order must ~~shall~~ state the basis for the ~~such~~ findings of fact.

2197 (b) An order of involuntary admission to residential
2198 services may ~~shall~~ not be entered unless the court finds that:

2199 1. The person is mentally retarded or autistic;

2200 2. Placement in a residential setting is the least
2201 restrictive and most appropriate alternative to meet the
2202 person's needs; and

2203 3. Because of the person's degree of mental retardation or
2204 autism, the person:

2205 a. Lacks sufficient capacity to give express and informed
2206 consent to a voluntary application for services pursuant to s.
2207 393.065 and lacks basic survival and self-care skills to such a
2208 degree that close supervision and habilitation in a residential
2209 setting is necessary and, if not provided, would result in a
2210 real and present threat of substantial harm to the person's
2211 well-being; or

2212 b. Is likely to physically injure others if allowed to
2213 remain at liberty.

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2214 (c) If the evidence presented to the court is not
 2215 sufficient to warrant involuntary admission to residential
 2216 services, but the court feels that residential services would be
 2217 beneficial, the court may recommend that the person seek
 2218 voluntary admission.

2219 (d) If an order of involuntary admission to residential
 2220 services provided by the ~~developmental services program of the~~
 2221 agency is entered by the court, a copy of the written order
 2222 shall be served upon the person, the person's counsel, the
 2223 agency, and the state attorney and the person's defense counsel,
 2224 if applicable. The order of involuntary admission sent to the
 2225 agency shall also be accompanied by a copy of the examining
 2226 committee's report and other reports contained in the court
 2227 file.

2228 (e) Upon receiving the order, the agency shall, within 45
 2229 days, provide the court with a copy of the person's family or
 2230 individual support plan and copies of all examinations and
 2231 evaluations, outlining the treatment and rehabilitative
 2232 programs. The agency shall document that the person has been
 2233 placed in the most appropriate, least restrictive and cost-
 2234 beneficial residential setting ~~facility~~. A copy of the family or
 2235 individual support plan and other examinations and evaluations
 2236 shall be served upon the person and the person's counsel at the
 2237 same time the documents are filed with the court.

2238 (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO
 2239 RESIDENTIAL SERVICES.--

2240 (a) ~~In no case shall~~ An order authorizing an admission to
 2241 residential care may not be considered an adjudication of mental

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2242 incompetency. A ~~No~~ person is not ~~shall be~~ presumed incompetent
 2243 solely by reason of the person's involuntary admission to
 2244 residential services. A ~~No~~ person may not ~~shall~~ be denied the
 2245 full exercise of all legal rights guaranteed to citizens of this
 2246 state and of the United States.

2247 (b) Any minor involuntarily admitted to residential
 2248 services shall, upon reaching majority, be given a hearing to
 2249 determine the continued appropriateness of his or her
 2250 involuntary admission.

2251 (10) COMPETENCY.--

2252 (a) The issue of competency shall be separate and distinct
 2253 from a determination of the appropriateness of involuntary
 2254 admission to residential services for a condition of mental
 2255 retardation.

2256 (b) The issue of the competency of a person with mental
 2257 retardation for purposes of assigning guardianship shall be
 2258 determined in a separate proceeding according to the procedures
 2259 and requirements of chapter 744 ~~and the Florida Probate Rules~~.
 2260 The issue of the competency of a person with mental retardation
 2261 or autism for purposes of determining whether the person is
 2262 competent to proceed in a criminal trial shall be determined in
 2263 accordance with chapter 916.

2264 (11) CONTINUING JURISDICTION.--The court which issues the
 2265 initial order for involuntary admission to residential services
 2266 under this section has ~~shall have~~ continuing jurisdiction to
 2267 enter further orders to ensure that the person is receiving
 2268 adequate care, treatment, habilitation, and rehabilitation,
 2269 including psychotropic medication and behavioral programming.

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2270 Upon request, the court may transfer the continuing jurisdiction
 2271 to the court where a client resides if it is different from
 2272 where the original involuntary admission order was issued. A ~~No~~
 2273 person may not be released from an order for involuntary
 2274 admission to residential services except by the order of the
 2275 court.

2276 (12) APPEAL.--

2277 (a) Any party to the proceeding who is affected by an
 2278 order of the court may appeal to the appropriate district court
 2279 of appeal within the time and in the manner prescribed by the
 2280 Florida Rules of Appellate Procedure.

2281 (b) The filing of an appeal by the person with mental
 2282 retardation shall stay admission of the person into residential
 2283 care. The stay shall remain in effect during the pendency of all
 2284 review proceedings in Florida courts until a mandate issues.

2285 (13) HABEAS CORPUS.--At any time and without notice, any
 2286 person involuntarily admitted into residential care ~~to the~~
 2287 ~~developmental services program of the agency,~~ or the person's
 2288 parent or legal guardian in his or her behalf, is entitled to
 2289 file a petition for a writ of habeas corpus to question the
 2290 cause, legality, and appropriateness of the person's involuntary
 2291 admission. Each person, or the person's parent or legal
 2292 guardian, shall receive specific written notice of the right to
 2293 petition for a writ of habeas corpus at the time of his or her
 2294 involuntary placement.

2295 Section 28. Section 393.122, Florida Statutes, is amended
 2296 to read:

2297 393.122 Applications for continued residential services.--

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2298 (1) If a client is discharged from residential services
2299 under the provisions of s. 393.115 ~~this section~~, application for
2300 needed services shall be encouraged.

2301 (2) ~~A~~ No client receiving services from a state agency may
2302 not ~~the department as of July 1, 1977,~~ shall be denied continued
2303 services due to any change in eligibility requirements by
2304 chapter 77-335, Laws of Florida.

2305 Section 29. Section 393.13, Florida Statutes, is amended
2306 to read:

2307 393.13 ~~Personal~~ Treatment of persons with developmental
2308 disabilities ~~who are developmentally disabled.~~--

2309 (1) SHORT TITLE.--This section ~~act~~ shall be known as "The
2310 Bill of Rights of Persons with Developmental Disabilities ~~who~~
2311 ~~are Developmentally Disabled.~~"

2312 (2) LEGISLATIVE INTENT.--

2313 (a) The Legislature finds and declares that the system of
2314 care provided to individuals with developmental disabilities ~~who~~
2315 ~~are developmentally disabled~~ must be designed to meet the needs
2316 of the clients as well as protect the integrity of their legal
2317 and human rights.

2318 (b) The Legislature further finds and declares that the
2319 design and delivery of treatment and services to persons with
2320 developmental disabilities ~~who are developmentally disabled~~
2321 should be directed by the principles of self-determination
2322 ~~normalization~~ and therefore should:

- 2323 1. Abate the use of large institutions.
- 2324 2. Continue the development of community-based services
- 2325 that ~~which~~ provide reasonable alternatives to

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2326 institutionalization in settings that are least restrictive to
 2327 the client and that provide opportunities for inclusion in the
 2328 community.

2329 3. Provide training and education that ~~to individuals who~~
 2330 ~~are developmentally disabled which~~ will maximize their potential
 2331 to lead independent and productive lives and that ~~which~~ will
 2332 afford opportunities for outward mobility from institutions.

2333 4. Reduce the use of sheltered workshops and other
 2334 noncompetitive employment day activities and promote
 2335 opportunities for those ~~gainful employment for persons with~~
 2336 ~~developmental disabilities~~ who choose to seek such employment.

2337 (c) It is the intent of the Legislature that duplicative
 2338 and unnecessary administrative procedures and practices shall be
 2339 eliminated, and areas of responsibility shall be clearly defined
 2340 and consolidated in order to economically utilize present
 2341 resources. Furthermore, personnel providing services should be
 2342 sufficiently qualified and experienced to meet the needs of the
 2343 clients, and they must be sufficient in number to provide
 2344 treatment in a manner which is beneficial to the clients.

2345 (d) It is the intent of the Legislature:

2346 1. To articulate the existing legal and human rights of
 2347 persons with developmental disabilities ~~who are developmentally~~
 2348 ~~disabled~~ so that they may be exercised and protected. Persons
 2349 with developmental disabilities shall have all the rights
 2350 enjoyed by citizens of the state and the United States.

2351 2. To provide a mechanism for the identification,
 2352 evaluation, and treatment of persons with developmental
 2353 disabilities.

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2354 3. To divert those individuals from institutional
2355 commitment who, by virtue of comprehensive assessment, can be
2356 placed in less costly, more effective community environments and
2357 programs.

2358 4. To fund improvements in the program in accordance with
2359 the availability of state resources and yearly priorities
2360 determined by the Legislature.

2361 5. To ensure that persons with developmental disabilities
2362 receive treatment and habilitation which fosters the
2363 developmental potential of the individual.

2364 6. To provide programs for the proper habilitation and
2365 treatment of persons with developmental disabilities which shall
2366 include, but not be limited to, comprehensive medical/dental
2367 care, education, recreation, specialized therapies, training,
2368 social services, transportation, guardianship, family care
2369 programs, day habilitation services, and habilitative and
2370 rehabilitative services suited to the needs of the individual
2371 regardless of age, degree of disability, or handicapping
2372 condition. It is the intent of the Legislature that no person
2373 with developmental disabilities shall be deprived of these
2374 enumerated services by reason of inability to pay.

2375 7. To fully effectuate the principles of self-
2376 determination ~~normalization principle~~ through the establishment
2377 of community services for persons with developmental
2378 disabilities as a viable and practical alternative to
2379 institutional care at each stage of individual life development
2380 and to promote opportunities for community inclusion. If care in

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2381 a residential facility becomes necessary, it shall be in the
2382 least restrictive setting.

2383 8. To minimize and achieve an ongoing reduction in the use
2384 of restraint and seclusion in facilities and programs serving
2385 persons with developmental disabilities.

2386 (e) It is the clear, unequivocal intent of this act to
2387 guarantee individual dignity, liberty, pursuit of happiness, and
2388 protection of the civil and legal rights of persons with
2389 developmental disabilities.

2390 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
2391 DISABILITIES.--The rights described in this subsection shall
2392 apply to all persons with developmental disabilities, whether or
2393 not such persons are clients of the agency.

2394 (a) Persons with developmental disabilities shall have a
2395 right to dignity, privacy, and humane care, including the right
2396 to be free from sexual abuse in residential facilities.

2397 (b) Persons with developmental disabilities shall have the
2398 right to religious freedom and practice. Nothing shall restrict
2399 or infringe on a person's right to religious preference and
2400 practice.

2401 (c) Persons with developmental disabilities shall receive
2402 services, within available sources, which protect the personal
2403 liberty of the individual and which are provided in the least
2404 restrictive conditions necessary to achieve the purpose of
2405 treatment.

2406 (d) Persons with developmental disabilities ~~who are~~
2407 ~~developmentally disabled~~ shall have a right to participate in an
2408 appropriate program of quality education and training services,

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2409 within available resources, regardless of chronological age or
 2410 degree of disability. Such persons may be provided with
 2411 instruction in sex education, marriage, and family planning.

2412 (e) Persons with developmental disabilities ~~who are~~
 2413 ~~developmentally disabled~~ shall have a right to social
 2414 interaction and to participate in community activities.

2415 (f) Persons with developmental disabilities ~~who are~~
 2416 ~~developmentally disabled~~ shall have a right to physical exercise
 2417 and recreational opportunities.

2418 (g) Persons with developmental disabilities ~~who are~~
 2419 ~~developmentally disabled~~ shall have a right to be free from
 2420 harm, including unnecessary physical, chemical, or mechanical
 2421 restraint, isolation, excessive medication, abuse, or neglect.

2422 (h) Persons with developmental disabilities ~~who are~~
 2423 ~~developmentally disabled~~ shall have a right to consent to or
 2424 refuse treatment, subject to the provisions of s. 393.12(2)(a)
 2425 or chapter 744.

2426 (i) No otherwise qualified person shall, by reason of
 2427 having a developmental disability, be excluded from
 2428 participation in, or be denied the benefits of, or be subject to
 2429 discrimination under, any program or activity which receives
 2430 public funds, and all prohibitions set forth under any other
 2431 statute shall be actionable under this statute.

2432 (j) No otherwise qualified person shall, by reason of
 2433 having a developmental disability, be denied the right to vote
 2434 in public elections.

2435 (4) CLIENT RIGHTS.--For purposes of this subsection, the
 2436 term "client," as defined in s. 393.063, shall also include any

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2437 person served in a facility licensed under ~~pursuant to~~ s.
2438 393.067.

2439 (a) Clients shall have an unrestricted right to
2440 communication:

2441 1. Each client is ~~shall be~~ allowed to receive, send, and
2442 mail sealed, unopened correspondence. A ~~No~~ client's incoming or
2443 outgoing correspondence may not ~~shall~~ be opened, delayed, held,
2444 or censored by the facility unless there is reason to believe
2445 that it contains items or substances which may be harmful to the
2446 client or others, in which case the chief administrator of the
2447 facility may direct reasonable examination of such mail and
2448 regulate the disposition of such items or substances.

2449 2. Clients in residential facilities shall be afforded
2450 reasonable opportunities for telephone communication, to make
2451 and receive confidential calls, unless there is reason to
2452 believe that the content of the telephone communication may be
2453 harmful to the client or others, in which case the chief
2454 administrator of the facility may direct reasonable observation
2455 and monitoring to the telephone communication.

2456 3. Clients ~~shall~~ have an unrestricted right to visitation
2457 subject to reasonable rules of the facility. However, ~~nothing in~~
2458 this provision may not ~~shall~~ be construed to permit infringement
2459 upon other clients' rights to privacy.

2460 (b) Each client has the right to the possession and use of
2461 his or her own clothing and personal effects, except in those
2462 specific instances where the use of some of these items as
2463 reinforcers is essential for training the client as part of an
2464 appropriately approved behavioral program. The chief

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2465 administrator of the facility may take temporary custody of such
 2466 effects when it is essential to do so for medical or safety
 2467 reasons. Custody of such personal effects shall be promptly
 2468 recorded in the client's record, and a receipt for such effects
 2469 shall be immediately given to the client, if competent, or the
 2470 client's parent or legal guardian.

2471 1. All money belonging to a client held by the agency
 2472 shall be held in compliance with s. 402.17(2).

2473 2. All interest on money received and held for the
 2474 personal use and benefit of a client shall be the property of
 2475 that client and may ~~shall~~ not accrue to the general welfare of
 2476 all clients or be used to defray the cost of residential care.
 2477 Interest so accrued shall be used or conserved for the personal
 2478 use or benefit of the individual client as provided in s.
 2479 402.17(2).

2480 3. Upon the discharge or death of a client, a final
 2481 accounting shall be made of all personal effects and money
 2482 belonging to the client held by the agency. All ~~such~~ personal
 2483 effects and money, including interest, shall be promptly turned
 2484 over to the client or his or her heirs.

2485 (c) Each client shall receive prompt and appropriate
 2486 medical treatment and care for physical and mental ailments and
 2487 for the prevention of any illness or disability. Medical
 2488 treatment shall be consistent with the accepted standards of
 2489 medical practice in the community.

2490 1. Medication shall be administered only at the written
 2491 order of a physician. Medication shall not be used as
 2492 punishment, for the convenience of staff, as a substitute for

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2493 implementation of an individual or family support plan or
2494 behavior-analysis services ~~behavior modification programming~~, or
2495 in unnecessary or excessive quantities.

2496 2. Daily notation of medication received by each client in
2497 a residential facility shall be kept in the client's record.

2498 3. Periodically, but no less frequently than every 6
2499 months, the drug regimen of each client in a residential
2500 facility shall be reviewed by the attending physician or other
2501 appropriate monitoring body, consistent with appropriate
2502 standards of medical practice. All prescriptions shall have a
2503 termination date.

2504 4. When pharmacy services are provided at any residential
2505 facility, such services shall be directed or supervised by a
2506 professionally competent pharmacist licensed according to the
2507 provisions of chapter 465.

2508 5. Pharmacy services shall be delivered in accordance with
2509 the provisions of chapter 465.

2510 6. Prior to instituting a plan of experimental medical
2511 treatment or carrying out any necessary surgical procedure,
2512 express and informed consent shall be obtained from the client,
2513 if competent, or the client's parent or legal guardian.
2514 Information upon which the client shall make necessary treatment
2515 and surgery decisions shall include, but not be limited to:

- 2516 a. The nature and consequences of such procedures.
- 2517 b. The risks, benefits, and purposes of such procedures.
- 2518 c. Alternate procedures available.

2519 7. When the parent or legal guardian of the client is
2520 unknown or unlocatable and the physician is unwilling to perform

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2521 surgery based solely on the client's consent, a court of
2522 competent jurisdiction shall hold a hearing to determine the
2523 appropriateness of the surgical procedure. The client shall be
2524 physically present, unless the client's medical condition
2525 precludes such presence, represented by counsel, and provided
2526 the right and opportunity to be confronted with, and to cross-
2527 examine, all witnesses alleging the appropriateness of such
2528 procedure. In such proceedings, the burden of proof by clear and
2529 convincing evidence shall be on the party alleging the
2530 appropriateness of such procedures. The express and informed
2531 consent of a person described in subparagraph 6. may be
2532 withdrawn at any time, with or without cause, prior to treatment
2533 or surgery.

2534 8. The absence of express and informed consent
2535 notwithstanding, a licensed and qualified physician may render
2536 emergency medical care or treatment to any client who has been
2537 injured or who is suffering from an acute illness, disease, or
2538 condition if, within a reasonable degree of medical certainty,
2539 delay in initiation of emergency medical care or treatment would
2540 endanger the health of the client.

2541 (d) Each client shall have access to individual storage
2542 space for his or her private use.

2543 (e) Each client shall be provided with appropriate
2544 physical exercise as prescribed in the client's individual or
2545 family support plan. Indoor and outdoor facilities and equipment
2546 for such physical exercise shall be provided.

2547 (f) Each client shall receive humane discipline.

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2548 (g) ~~A~~ No client may not ~~shall~~ be subjected to a treatment
2549 program to eliminate problematic ~~bizarre~~ or unusual behaviors
2550 without first being examined by a physician who in his or her
2551 best judgment determines that such behaviors are not organically
2552 caused.

2553 1. Treatment programs involving the use of noxious or
2554 painful stimuli are ~~shall be~~ prohibited.

2555 2. All alleged violations of this paragraph shall be
2556 reported immediately to the chief administrator ~~administrative~~
2557 ~~officer~~ of the facility and ~~or the district administrator,~~ the
2558 agency head, ~~and the Florida local advocacy council.~~ A thorough
2559 investigation of each incident shall be conducted and a written
2560 report of the finding and results of the ~~such~~ investigation
2561 shall be submitted to the chief administrator ~~administrative~~
2562 ~~officer~~ of the facility ~~or the district administrator~~ and ~~to~~ the
2563 agency head within 24 hours after ~~of~~ the occurrence or discovery
2564 of the incident.

2565 3. The agency shall adopt by rule a system for the
2566 oversight of behavioral programs. The ~~Such~~ system shall
2567 establish guidelines and procedures governing the design,
2568 approval, implementation, and monitoring of all behavioral
2569 programs involving clients. The system shall ensure statewide
2570 and local review by committees of professionals certified as
2571 behavior analysts pursuant to s. 393.17. No behavioral program
2572 shall be implemented unless reviewed according to the rules
2573 established by the agency under this section. ~~Nothing stated in~~
2574 ~~this section shall prohibit the review of programs by the~~
2575 ~~Florida statewide or local advocacy councils.~~

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2576 ~~(h) Each client engaged in work programs which require~~
2577 ~~compliance with federal wage and hour laws shall be provided~~
2578 ~~with minimum wage protection and fair compensation for labor in~~
2579 ~~accordance with the federal wage per hour regulations.~~

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

2591 ~~1. Mechanical supports used in normative situations to~~
2592 ~~achieve proper body position and balance shall not be considered~~
2593 ~~restraints, but shall be prescriptively designed and applied~~
2594 ~~under the supervision of a qualified professional with concern~~
2595 ~~for principles of good body alignment, circulation, and~~
2596 ~~allowance for change of position.~~

2597 ~~2. Totally enclosed cribs and barred enclosures shall be~~
2598 ~~considered restraints.~~

2599 ~~1.3.~~ Daily reports on the employment of restraint or
2600 seclusion ~~physical, chemical, or mechanical restraints~~ by those
2601 ~~specialists authorized in the use of such restraints~~ shall be
2602 made to the ~~appropriate chief~~ administrator of the facility or
2603 program licensed under this chapter, and a monthly compilation

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2604 ~~summary~~ of such reports shall be relayed to the agency's local
2605 area office ~~district administrator and the Florida local~~
2606 ~~advocacy council~~. The monthly reports shall summarize all such
2607 cases of restraints, the type used, the duration of usage, and
2608 the reasons therefor. The area offices ~~Districts~~ shall submit
2609 monthly summaries of these ~~districtwide quarterly~~ reports of
2610 ~~these summaries~~ to the agency's central office ~~state~~
2611 ~~Developmental Disabilities Program Office~~.

2612 2.4. The agency shall adopt by rule standards and
2613 procedures relating to the use of restraint and seclusion ~~post a~~
2614 ~~copy of the rules adopted under this section in each living unit~~
2615 ~~of residential facilities~~. Such rules must be consistent with
2616 recognized best practices; prohibit inherently dangerous
2617 restraint or seclusion procedures; establish limitations on the
2618 use and duration of restraint and seclusion; establish measures
2619 to ensure the safety of clients and staff during an incident of
2620 restraint or seclusion; establish procedures for staff to follow
2621 before, during, and after incidents of restraint or seclusion,
2622 including individualized plans for the use of restraints or
2623 seclusion in emergency situations; establish professional
2624 qualifications of and training for staff who may order or be
2625 engaged in the use of restraint or seclusion; establish
2626 requirements for facility data collection and reporting relating
2627 to the use of restraint and seclusion; and establish procedures
2628 relating to the documentation of the use of restraint or
2629 seclusion in the client's facility or program record. A copy of
2630 the rules adopted under this subparagraph ~~section~~ shall be given
2631 to the client, parent, guardian or guardian advocate, and all

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2632 staff members of ~~licensed~~ facilities and programs licensed under
2633 this chapter and made a part of all staff preservice and
2634 inservice training programs.

2635 ~~(i)-(j)1-~~ Each client shall have a central record. The
2636 central record shall be established by the agency at the time
2637 that an individual is determined eligible for services, shall be
2638 maintained by the client's support coordinator, and must contain
2639 information ~~include data~~ pertaining to admission, diagnosis and
2640 treatment history, present condition, and such other information
2641 as may be required ~~under rules of the agency~~. The central record
2642 is the property of the agency.

2643 ~~1.2-~~ Unless waived by the client, if competent, or the
2644 client's parent or legal guardian if the client is incompetent,
2645 the client's central record shall be confidential and exempt
2646 from the provisions of s. 119.07(1), and no part of it shall be
2647 released except:

2648 a. The record may be released to physicians, attorneys,
2649 and government agencies having need of the record to aid the
2650 client, as designated by the client, if competent, or the
2651 client's parent or legal guardian, if the client is incompetent.

2652 b. The record shall be produced in response to a subpoena
2653 or released to persons authorized by order of court, excluding
2654 matters privileged by other provisions of law.

2655 c. The record or any part thereof may be disclosed to a
2656 qualified researcher, a staff member of the facility where the
2657 client resides, or an employee of the agency when the
2658 administrator of the facility or the director of the agency
2659 deems it necessary for the treatment of the client, maintenance

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2660 of adequate records, compilation of treatment data, or
2661 evaluation of programs.

2662 d. Information from the records may be used for
2663 statistical and research purposes if the information is
2664 abstracted in such a way to protect the identity of individuals.

2665 ~~3. All central records for each client in residential~~
2666 ~~facilities shall be kept on uniform forms distributed by the~~
2667 ~~agency. The central record shall accurately summarize each~~
2668 ~~client's history and present condition.~~

2669 ~~2.4.~~ The client, if competent, or the client's parent or
2670 legal guardian if the client is incompetent, shall be supplied
2671 with a copy of the client's central record upon request.

2672 ~~(j)(*)~~ Each client residing in a residential facility who
2673 is eligible to vote in public elections according to the laws of
2674 the state has ~~shall have~~ the right to vote. Facilities operators
2675 shall arrange the means to exercise the client's right to vote.

2676 (5) LIABILITY FOR VIOLATIONS.--Any person who violates or
2677 abuses any rights or privileges of persons with developmental
2678 disabilities ~~who are developmentally disabled~~ provided by this
2679 chapter is act ~~shall be~~ liable for damages as determined by law.
2680 Any person who acts in good faith compliance with the provisions
2681 of this chapter is act ~~shall be~~ immune from civil or criminal
2682 liability for actions in connection with evaluation, admission,
2683 habilitative programming, education, treatment, or discharge of
2684 a client. However, this section does ~~shall~~ not relieve any
2685 person from liability if the ~~such~~ person is guilty of
2686 negligence, misfeasance, nonfeasance, or malfeasance.

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2687 (6) NOTICE OF RIGHTS.--Each person with developmental
 2688 disabilities, if competent, or parent or legal guardian of such
 2689 person if the person is incompetent, shall promptly receive from
 2690 the agency or the Department of Education a written copy of this
 2691 act. Each person with developmental disabilities able to
 2692 comprehend shall be promptly informed, in the language or other
 2693 mode of communication which such person understands, of the
 2694 above legal rights of persons with developmental disabilities.

2695 (7) RESIDENT GOVERNMENT.--Each residential facility
 2696 providing services to clients who are desirous and capable of
 2697 participating shall initiate and develop a program of resident
 2698 government to hear the views and represent the interests of all
 2699 clients served by the facility. The resident government shall be
 2700 composed of residents elected by other residents, staff advisers
 2701 skilled in the administration of community organizations, and,
 2702 at the option of the resident government, representatives of
 2703 advocacy groups for persons with developmental disabilities from
 2704 the community ~~a representative of the Florida local advocacy~~
 2705 ~~council. The resident government shall work closely with the~~
 2706 ~~Florida local advocacy council and the district administrator to~~
 2707 ~~promote the interests and welfare of all residents in the~~
 2708 ~~facility.~~

2709 Section 30. Subsections (1), (2), (3), (4), and (5) of
 2710 section 393.135, Florida Statutes, are amended to read:

2711 393.135 Sexual misconduct prohibited; reporting required;
 2712 penalties.--

2713 (1) As used in this section, the term:

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2714 (a) "Covered person" ~~"Employee"~~ includes any employee,
 2715 paid staff member, volunteer, or intern of the agency ~~or the~~
 2716 ~~department~~; any person under contract with the agency ~~or the~~
 2717 ~~department~~; and any person providing care or support to a client
 2718 on behalf of the agency ~~department~~ or its providers.

2719 (b) "Sexual activity" means:

2720 1. Fondling the genital area, groin, inner thighs,
 2721 buttocks, or breasts of a person.

2722 2. The oral, anal, or vaginal penetration by or union with
 2723 the sexual organ of another or the anal or vaginal penetration
 2724 of another by any other object.

2725 3. Intentionally touching in a lewd or lascivious manner
 2726 the breasts, genitals, the genital area, or buttocks, or the
 2727 clothing covering them, of a person, or forcing or enticing a
 2728 person to touch the perpetrator.

2729 4. Intentionally masturbating in the presence of another
 2730 person.

2731 5. Intentionally exposing the genitals in a lewd or
 2732 lascivious manner in the presence of another person.

2733 6. Intentionally committing any other sexual act that does
 2734 not involve actual physical or sexual contact with the victim,
 2735 including, but not limited to, sadomasochistic abuse, sexual
 2736 bestiality, or the simulation of any act involving sexual
 2737 activity in the presence of a victim.

2738 (c) "Sexual misconduct" means any sexual activity between
 2739 a covered person ~~an employee~~ and a client to whom a covered
 2740 person renders services, care, or support on behalf of the
 2741 agency or its providers, or between a covered person and another

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2742 client who lives in the same home as the client to whom a
 2743 covered person is rendering the services, care, or support,
 2744 regardless of the consent of the client. The term does not
 2745 include an act done for a bona fide medical purpose or an
 2746 internal search conducted in the lawful performance of duty by a
 2747 covered person ~~an employee.~~

2748 (2) A covered person ~~An employee~~ who engages in sexual
 2749 misconduct with an individual with a developmental disability
 2750 who:

2751 ~~(a) Is in the custody of the department;~~

2752 (a)(b) Resides in a residential facility, including any
 2753 comprehensive transitional education program, developmental
 2754 disabilities ~~services~~ institution, foster care facility, group
 2755 home facility, intermediate care facility for the
 2756 developmentally disabled, or residential habilitation center; or

2757 (b)(e) Is eligible to receive ~~Receives~~ services from the
 2758 agency under this chapter ~~a family care program,~~

2759
 2760 commits a felony of the second degree, punishable as provided in
 2761 s. 775.082, s. 775.083, or s. 775.084. A covered person ~~An~~
 2762 ~~employee~~ may be found guilty of violating this subsection
 2763 without having committed the crime of sexual battery.

2764 (3) The consent of the client to sexual activity is not a
 2765 defense to prosecution under this section.

2766 (4) This section does not apply to a covered person ~~an~~
 2767 ~~employee~~ who:

2768 ~~(a)~~ is legally married to the client, ~~or~~

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2769 ~~(b) Has no reason to believe that the person with whom the~~
2770 ~~employee engaged in sexual misconduct is a client receiving~~
2771 ~~services as described in subsection (2).~~

2772 (5) A covered person ~~An employee~~ who witnesses sexual
2773 misconduct, or who otherwise knows or has reasonable cause to
2774 suspect that a person has engaged in sexual misconduct, shall
2775 immediately report the incident to the ~~department's~~ central
2776 abuse hotline of the Department of Children and Family Services
2777 and to the appropriate local law enforcement agency. The covered
2778 person ~~Such employee~~ shall also prepare, date, and sign an
2779 independent report that specifically describes the nature of the
2780 sexual misconduct, the location and time of the incident, and
2781 the persons involved. The covered person ~~employee~~ shall deliver
2782 the report to the supervisor or program director, who is
2783 responsible for providing copies to the agency's local office
2784 and the agency's ~~department's~~ inspector general. ~~The inspector~~
2785 ~~general shall immediately conduct an appropriate administrative~~
2786 ~~investigation, and, if there is probable cause to believe that~~
2787 ~~sexual misconduct has occurred, the inspector general shall~~
2788 ~~notify the state attorney in the circuit in which the incident~~
2789 ~~occurred.~~

2790 Section 31. Section 393.15, Florida Statutes, is amended
2791 to read:

2792 393.15 Legislative intent; Community Resources Development
2793 Loan Program Trust Fund.--

2794 (1) The Legislature finds and declares that the
2795 development of community-based treatment facilities for persons
2796 with developmental disabilities ~~who are developmentally disabled~~

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2797 is desirable and recommended and should be encouraged and
 2798 fostered by the state. The Legislature further recognizes that
 2799 the development of such facilities is financially difficult for
 2800 private individuals, due to initial expenditures required to
 2801 adapt existing structures to the special needs of such persons
 2802 ~~who are developmentally disabled~~ who may be served in community-
 2803 based foster care, group home, ~~developmental training,~~ and
 2804 supported employment programs. Therefore, ~~it is the intent of~~
 2805 the Legislature intends that the agency ~~by this act to~~ develop
 2806 and administer a loan program ~~trust fund~~ to provide support and
 2807 encouragement in the establishment of community-based foster
 2808 care, group home, ~~developmental training,~~ and supported
 2809 employment programs for persons with developmental disabilities
 2810 ~~who are developmentally disabled.~~

2811 ~~(2) As used in this section, a foster care, group home,~~
 2812 ~~developmental training, or supported employment program may not~~
 2813 ~~be a for profit corporation, but may be a nonprofit corporation,~~
 2814 ~~partnership, or sole proprietorship.~~

2815 ~~(2)(3)~~ There is created a Community Resources Development
 2816 Loan Program in Trust Fund in the State Treasury to be used by
 2817 the agency for the purpose of granting loans to eligible
 2818 programs for the initial costs of development of the programs.
 2819 In order to be eligible for the program, a foster home, group
 2820 home, or supported employment program must:

- 2821 (a) Serve persons with developmental disabilities;
- 2822 (b) Be a nonprofit corporation, partnership, or sole
- 2823 proprietorship; and

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2824 (c) Be Loans shall be made only to those facilities which
 2825 are in compliance with the zoning regulations of the local
 2826 community.

2827 (3) Loans may be made to pay for the costs of development
 2828 and may include structural modification, the purchase of
 2829 equipment and fire and safety devices, preoperational staff
 2830 training, and the purchase of insurance. Such costs may shall
 2831 not include the actual construction of a facility and may not be
 2832 in lieu of payment for maintenance, client services, or care
 2833 provided.

2834 (4) The agency may grant to an eligible program a lump-sum
 2835 loan in one payment not to exceed the cost to the program of
 2836 providing 2 months' services, care, or maintenance to each
 2837 person with developmental disabilities who is developmentally
 2838 disabled to be placed in the program by the agency, or the
 2839 actual cost of firesafety renovations to a facility required by
 2840 the state, whichever is greater. Loans granted to programs shall
 2841 not be in lieu of payment for maintenance, services, or care
 2842 provided, but shall stand separate and distinct.

2843 (5) The agency shall adopt rules, as provided in chapter
 2844 120, to determine the criteria standards under which a program
 2845 shall be eligible to receive a loan as provided in this section
 2846 and the methodology eriteria for the equitable allocation of
 2847 loan trust funds when eligible applications exceed the funds
 2848 available.

2849 (6)-(5) Any loan granted by the agency under this section
 2850 shall be repaid by the program within 5 years and the amount
 2851 paid shall be deposited into the agency's Administrative Trust

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2852 Fund. Moneys repaid shall be used to fund new loans. A program
2853 that operates as a nonprofit corporation meeting the
2854 requirements of s. 501(c)(3) of the Internal Revenue Code, and
2855 that seeks forgiveness of its loan shall submit to the agency an
2856 annual a statement setting forth the service it has provided
2857 during the year together with such other information as the
2858 agency by rule shall require, and, upon approval of each such
2859 annual statement, the agency may ~~shall~~ forgive up to 20 percent
2860 of the principal of any such loan granted ~~after June 30, 1975.~~

2861 (7)(6) If any program that has received a loan under this
2862 section ceases to accept, or provide care, services, or
2863 maintenance to persons placed in the program by the department,
2864 or if such program files papers of bankruptcy, at that point in
2865 time the loan shall become an interest-bearing loan at the rate
2866 of 5 percent per annum on the entire amount of the initial loan
2867 which shall be repaid within a 1-year period from the date on
2868 which the program ceases to provide care, services, or
2869 maintenance, or files papers in bankruptcy, and the amount of
2870 the loan due plus interest shall constitute a lien in favor of
2871 the state against all real and personal property of the program.
2872 The lien shall be perfected by the appropriate officer of the
2873 agency by executing and acknowledging a statement of the name of
2874 the program and the amount due on the loan and a copy of the
2875 promissory note, which shall be recorded by the agency with the
2876 clerk of the circuit court in the county wherein the program is
2877 located. If the program has filed a petition for bankruptcy, the
2878 agency shall file and enforce the lien in the bankruptcy
2879 proceedings. Otherwise, the lien shall be enforced in the manner

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2880 provided in s. 85.011. All funds received by the agency from the
2881 enforcement of the lien shall be deposited in the agency's
2882 Administrative Community Resources Development Trust Fund and
2883 used to fund new loans.

2884 Section 32. Section 393.17, Florida Statutes, is amended
2885 to read:

2886 393.17 Behavioral programs; certification of behavior
2887 analysts.--

2888 (1) The agency may establish a certification process for
2889 behavior analysts in order to ensure that only qualified
2890 employees and service providers provide behavioral analysis
2891 services to clients. The procedures must be established by rule
2892 and must include criteria for scope of practice, qualifications
2893 for certification, including training and testing requirements,
2894 continuing education requirements for ongoing certification, and
2895 standards of performance. The procedures must also include
2896 decertification procedures that may be used to determine whether
2897 an individual continues to meet the qualifications for
2898 certification or the professional performance standards and, if
2899 not, the procedures necessary to decertify an employee or
2900 service provider.

2901 (2) The agency shall ~~may~~ recognize the certification of
2902 behavior analysts awarded by a nonprofit corporation that
2903 adheres to the national standards of boards that determine
2904 professional credentials and whose mission is to meet
2905 professional credentialing needs identified by behavior
2906 analysts, state governments, and consumers of behavior analysis
2907 services ~~and whose work has the support of the Association for~~

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2908 ~~Behavior Analysis International.~~ The certification procedure
 2909 recognized by the agency must undergo regular psychometric
 2910 review and validation, pursuant to a job analysis survey of the
 2911 profession and standards established by content experts in the
 2912 field.

2913 Section 33. Section 393.18, Florida Statutes, is created
 2914 to read:

2915 393.18 Comprehensive transitional education program.--A
 2916 comprehensive transition education program is a group of jointly
 2917 operating centers or units, the collective purpose of which is
 2918 to provide a sequential series of educational care, training,
 2919 treatment, habilitation, and rehabilitation services to persons
 2920 who have developmental disabilities and who have severe or
 2921 moderate maladaptive behaviors. However, this section does not
 2922 require such programs to provide services only to persons with
 2923 developmental disabilities. All such services shall be temporary
 2924 in nature and delivered in a structured residential setting,
 2925 having the primary goal of incorporating the principle of self-
 2926 determination in establishing permanent residence for persons
 2927 with maladaptive behaviors in facilities that are not associated
 2928 with the comprehensive transitional education program. The staff
 2929 shall include behavior analysts and teachers, as appropriate,
 2930 who shall be available to provide services in each component
 2931 center or unit of the program. A behavior analyst must be
 2932 certified pursuant to s. 393.17.

2933 (1) Comprehensive transitional education programs shall
 2934 include a minimum of two component centers or units, one of
 2935 which shall be an intensive treatment and educational center or

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2936 a transitional training and educational center, which provides
2937 services to persons with maladaptive behaviors in the following
2938 sequential order:

2939 (a) Intensive treatment and educational center.--This
2940 component is a self-contained residential unit providing
2941 intensive behavioral and educational programming for persons
2942 with severe maladaptive behaviors whose behaviors preclude
2943 placement in a less-restrictive environment due to the threat of
2944 danger or injury to themselves or others. Continuous-shift staff
2945 shall be required for this component.

2946 (b) Transitional training and educational center.--This
2947 component is a residential unit for persons with moderate
2948 maladaptive behaviors providing concentrated psychological and
2949 educational programming that emphasizes a transition toward a
2950 less-restrictive environment. Continuous-shift staff shall be
2951 required for this component.

2952 (c) Community transition residence.--This component is a
2953 residential center providing educational programs and any
2954 support services, training, and care that are needed to assist
2955 persons with maladaptive behaviors to avoid regression to more
2956 restrictive environments while preparing them for more
2957 independent living. Continuous-shift staff shall be required for
2958 this component.

2959 (d) Alternative living center.--This component is a
2960 residential unit providing an educational and family living
2961 environment for persons with maladaptive behaviors in a
2962 moderately unrestricted setting. Residential staff shall be
2963 required for this component.

2964 (e) Independent living education center.--This component
 2965 is a facility providing a family living environment for persons
 2966 with maladaptive behaviors in a largely unrestricted setting and
 2967 includes education and monitoring that is appropriate to support
 2968 the development of independent living skills.

2969 (2) Components of a comprehensive transitional education
 2970 program are subject to the license issued under s. 393.067 to a
 2971 comprehensive transitional education program and may be located
 2972 on a single site or multiple sites.

2973 (3) Comprehensive transitional education programs shall
 2974 develop individual education plans for each person with
 2975 maladaptive behaviors who receives services from the program.
 2976 Each individual education plan shall be developed in accordance
 2977 with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34
 2978 C.F.R. part 300.

2979 (4) The total number of persons with maladaptive behaviors
 2980 who are being provided with services in a comprehensive
 2981 transitional education program may not in any instance exceed
 2982 120 residents.

2983 (5) This section shall authorize licensure for
 2984 comprehensive transitional education programs which by July 1,
 2985 1989:

2986 (a) Were in actual operation; or

2987 (b) Owned a fee simple interest in real property for which
 2988 a county or city government has approved zoning allowing for the
 2989 placement of the facilities described in this subsection, and
 2990 have registered an intent with the agency to operate a
 2991 comprehensive transitional education program. However, nothing

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2992 shall prohibit the assignment by such a registrant to another
 2993 entity at a different site within the state, so long as there is
 2994 compliance with all criteria of this program and local zoning
 2995 requirements and provided that each residential facility within
 2996 the component centers or units of the program authorized under
 2997 this subparagraph does not exceed a capacity of 15 persons.

2998 Section 34. Section 393.23, Florida Statutes, is created
 2999 to read:

3000 393.23 Developmental disabilities institutions; trust
 3001 accounts.--All receipts from the operation of canteens, vending
 3002 machines, hobby shops, sheltered workshops, activity centers,
 3003 farming projects, and other like activities operated in a
 3004 developmental disabilities institution, and moneys donated to
 3005 the institution, must be deposited in a trust account in any
 3006 bank, credit union, or savings and loan association authorized
 3007 by the State Treasury as a qualified depositor to do business in
 3008 this state, if the moneys are available on demand.

3009 (1) Moneys in the trust account must be expended for the
 3010 benefit, education, and welfare of clients. However, if
 3011 specified, moneys that are donated to the institution must be
 3012 expended in accordance with the intentions of the donor. Trust
 3013 account money may not be used for the benefit of employees of
 3014 the agency, or to pay the wages of such employees. The welfare
 3015 of the clients includes the expenditure of funds for the
 3016 purchase of items for resale at canteens or vending machines,
 3017 and for the establishment of, maintenance of, and operation of
 3018 canteens, hobby shops, recreational or entertainment facilities,
 3019 sheltered workshops, activity centers, farming projects, or

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3020 other like facilities or programs established at the
3021 institutions for the benefit of clients.

3022 (2) The institution may invest, in the manner authorized
3023 by law for fiduciaries, any money in a trust account which is
3024 not necessary for immediate use. The interest earned and other
3025 increments derived from the investments of the money must be
3026 deposited into the trust account for the benefit of clients.

3027 (3) The accounting system of an institution must account
3028 separately for revenues and expenses for each activity. The
3029 institution shall reconcile the trust account to the
3030 institution's accounting system and check registers and to the
3031 accounting system of the Chief Financial Officer.

3032 (4) All sales taxes collected by the institution as a
3033 result of sales shall be deposited into the trust account and
3034 remitted to the Department of Revenue.

3035 (5) Funds shall be expended in accordance with
3036 requirements and guidelines established by the Chief Financial
3037 Officer.

3038 Section 35. Section 393.501, Florida Statutes, is amended
3039 to read:

3040 393.501 Rulemaking.--

3041 (1) The agency may ~~shall~~ adopt rules pursuant to ss.
3042 120.536(1) and 120.54 to carry out its statutory duties ~~the~~
3043 ~~provisions of this chapter.~~

3044 (2) Such rules shall address the number of facilities on a
3045 single lot ~~parcel~~ or on adjacent lots ~~parcels of land,~~ and in
3046 addition, ~~for ICF/MR, the rate and location of facility~~
3047 ~~development and level of care.~~ In adopting rules, an alternative

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3048 | living center and an independent living education center, as
 3049 | described in s. 393.18, shall be subject to the provisions of s.
 3050 | 419.001, except that such centers shall be exempt from the
 3051 | 1,000-foot-radius requirement of s. 419.001(2) if:

3052 | (a) The centers are located on a site zoned in a manner
 3053 | that permits all the components of a comprehensive transition
 3054 | education center to be located on the site; or

3055 | (b) There are no more than three such centers within a
 3056 | radius of 1,000 feet.

3057 | Section 36. Section 394.453, Florida Statutes, is amended
 3058 | to read:

3059 | 394.453 Legislative intent.--It is the intent of the
 3060 | Legislature to authorize and direct the Department of Children
 3061 | and Family Services to evaluate, research, plan, and recommend
 3062 | to the Governor and the Legislature programs designed to reduce
 3063 | the occurrence, severity, duration, and disabling aspects of
 3064 | mental, emotional, and behavioral disorders. It is the intent of
 3065 | the Legislature that treatment programs for such disorders shall
 3066 | include, but not be limited to, comprehensive health, social,
 3067 | educational, and rehabilitative services to persons requiring
 3068 | intensive short-term and continued treatment in order to
 3069 | encourage them to assume responsibility for their treatment and
 3070 | recovery. It is intended that such persons be provided with
 3071 | emergency service and temporary detention for evaluation when
 3072 | required; that they be admitted to treatment facilities on a
 3073 | voluntary basis when extended or continuing care is needed and
 3074 | unavailable in the community; that involuntary placement be
 3075 | provided only when expert evaluation determines that it is

3076 necessary; that any involuntary treatment or examination be
 3077 accomplished in a setting which is clinically appropriate and
 3078 most likely to facilitate the person's return to the community
 3079 as soon as possible; and that individual dignity and human
 3080 rights be guaranteed to all persons who are admitted to mental
 3081 health facilities or who are being held under s. 394.463. It is
 3082 the further intent of the Legislature that the least restrictive
 3083 means of intervention be employed based on the individual needs
 3084 of each person, within the scope of available services. It is
 3085 the policy of this state that the use of restraint and seclusion
 3086 on clients is justified only as an emergency safety measure to
 3087 be used in response to imminent danger to the client or others.
 3088 It is, therefore, the intent of the Legislature to achieve an
 3089 ongoing reduction in the use of restraint and seclusion in
 3090 programs and facilities serving persons with mental illness.

3091 Section 37. Present subsections (28) through (33) of
 3092 section 394.455, Florida Statutes, are redesignated as
 3093 subsections (30) through (35), respectively, and new subsections
 3094 (28) and (29) are added to that section, to read:

3095 394.455 Definitions.--As used in this part, unless the
 3096 context clearly requires otherwise, the term:

3097 (28) (a) "Restraint" means a physical device, method, or
 3098 drug used to control behavior. A physical restraint is any
 3099 manual method or physical or mechanical device, material, or
 3100 equipment attached or adjacent to the individual's body so that
 3101 he or she cannot easily remove the restraint and which restricts
 3102 freedom of movement or normal access to one's body.

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3103 (b) A drug used as a restraint is a medication used to
3104 control the person's behavior or to restrict his or her freedom
3105 of movement. Physically holding a person during a procedure to
3106 forcibly administer psychotropic medication is a physical
3107 restraint.

3108 (c) Restraint does not include physical devices, such as
3109 orthopedically prescribed appliances, surgical dressings and
3110 bandages, supportive body bands, or other physical holding when
3111 necessary for routine physical examinations and tests; or for
3112 purposes of orthopedic, surgical, or other similar medical
3113 treatment; when used to provide support for the achievement of
3114 functional body position or proper balance; or when used to
3115 protect a person from falling out of bed.

3116 (29) "Seclusion" means the physical segregation of a
3117 person in any fashion or involuntary isolation of a person in a
3118 room or area from which the person is prevented from leaving.
3119 The prevention may be by physical barrier or by a staff member
3120 who is acting in a manner, or who is physically situated, so as
3121 to prevent the person from leaving the room or area. For
3122 purposes of this chapter, the term does not mean isolation due
3123 to a person's medical condition or symptoms.

3124 Section 38. Paragraph (b) of subsection (5) of section
3125 394.457, Florida Statutes, is amended to read:

3126 394.457 Operation and administration.--

3127 (5) RULES.--

3128 (b) The department shall adopt rules necessary for the
3129 implementation and administration of the provisions of this
3130 part, and a program subject to the provisions of this part shall

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3131 not be permitted to operate unless rules designed to ensure the
3132 protection of the health, safety, and welfare of the patients
3133 treated through such program have been adopted. Rules adopted
3134 under this subsection must include provisions governing the use
3135 of restraint and seclusion which are consistent with recognized
3136 best practices and professional judgment; prohibit inherently
3137 dangerous restraint or seclusion procedures; establish
3138 limitations on the use and duration of restraint and seclusion;
3139 establish measures to ensure the safety of program participants
3140 and staff during an incident of restraint or seclusion;
3141 establish procedures for staff to follow before, during, and
3142 after incidents of restraint or seclusion; establish
3143 professional qualifications of and training for staff who may
3144 order or be engaged in the use of restraint or seclusion; and
3145 establish mandatory reporting, data collection, and data
3146 dissemination procedures and requirements. Rules adopted under
3147 this subsection must require that each instance of the use of
3148 restraint or seclusion be documented in the record of the
3149 patient.

3150 Section 39. Paragraph (g) is added to subsection (1) of
3151 section 394.879, Florida Statutes, to read:

3152 394.879 Rules; enforcement.--

3153 (1) The department, in consultation with the agency, shall
3154 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
3155 the provisions of this chapter, including, at a minimum, rules
3156 providing standards to ensure that:

3157 (g) The use of restraint and seclusion is consistent with
3158 recognized best practices and professional judgment; that

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3159 | inherently dangerous restraint or seclusion procedures are
 3160 | prohibited; that limitations are established on the use and
 3161 | duration of restraint and seclusion; that measures are
 3162 | established to ensure the safety of program participants and
 3163 | staff during an incident of restraint or seclusion; that
 3164 | procedures are created for staff to follow before, during, and
 3165 | after incidents of restraint or seclusion; that professional
 3166 | qualifications and training are established for staff who may
 3167 | order or be engaged in the use of restraint or seclusion; and
 3168 | that mandatory reporting, data collection, and data
 3169 | dissemination procedures and requirements are instituted. Rules
 3170 | adopted under this section must require that any instance of the
 3171 | use of restraint or seclusion shall be documented in the record
 3172 | of the client.

3173 | Section 40. Subsection (9) of section 397.405, Florida
 3174 | Statutes, is amended to read:

3175 | 397.405 Exemptions from licensure.--The following are
 3176 | exempt from the licensing provisions of this chapter:

3177 | (9) Facilities licensed under chapter 393 which s. 393.063
 3178 | ~~that~~, in addition to providing services to persons with
 3179 | developmental disabilities ~~who are developmentally disabled as~~
 3180 | ~~defined therein~~, also provide services to persons
 3181 | developmentally at risk as a consequence of exposure to alcohol
 3182 | or other legal or illegal drugs while in utero.

3183 |
 3184 | The exemptions from licensure in this section do not apply to
 3185 | any service provider that receives an appropriation, grant, or
 3186 | contract from the state to operate as a service provider as

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3187 defined in this chapter or to any substance abuse program
3188 regulated pursuant to s. 397.406. Furthermore, this chapter may
3189 not be construed to limit the practice of a physician licensed
3190 under chapter 458 or chapter 459, a psychologist licensed under
3191 chapter 490, or a psychotherapist licensed under chapter 491 who
3192 provides substance abuse treatment, so long as the physician,
3193 psychologist, or psychotherapist does not represent to the
3194 public that he or she is a licensed service provider and does
3195 not provide services to clients pursuant to part V of this
3196 chapter. Failure to comply with any requirement necessary to
3197 maintain an exempt status under this section is a misdemeanor of
3198 the first degree, punishable as provided in s. 775.082 or s.
3199 775.083.

3200 Section 41. Subsection (13) of section 400.419, Florida
3201 Statutes, is amended to read:

3202 400.419 Violations; imposition of administrative fines;
3203 grounds.--

3204 (13) The agency shall develop and disseminate an annual
3205 list of all facilities sanctioned or fined \$5,000 or more for
3206 violations of state standards, the number and class of
3207 violations involved, the penalties imposed, and the current
3208 status of cases. The list shall be disseminated, at no charge,
3209 to the Department of Elderly Affairs, the Department of Health,
3210 the Department of Children and Family Services, the Agency for
3211 Persons with Disabilities, the area agencies on aging, the
3212 Florida Statewide Advocacy Council, and the state and local
3213 ombudsman councils. The Department of Children and Family
3214 Services shall disseminate the list to service providers under

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

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3215 | contract to the department who are responsible for referring
 3216 | persons to a facility for residency. The agency may charge a fee
 3217 | commensurate with the cost of printing and postage to other
 3218 | interested parties requesting a copy of this list.

3219 | Section 42. Section 400.960, Florida Statutes, is amended
 3220 | to read:

3221 | 400.960 Definitions.--As used in this part, the term:

3222 | (1) "Active treatment" means the provision of services by
 3223 | an interdisciplinary team which are necessary to maximize a
 3224 | client's individual independence or prevent regression or loss
 3225 | of functional status.

3226 | (2) "Agency" means the Agency for Health Care
 3227 | Administration.

3228 | (3) "Autism" has the same meaning as in s. 393.063. ~~means~~
 3229 | ~~a pervasive, neurologically based developmental disability of~~
 3230 | ~~extended duration which causes severe learning, communication,~~
 3231 | ~~and behavior disorders with age of onset during infancy or~~
 3232 | ~~childhood. Individuals with autism exhibit impairment in~~
 3233 | ~~reciprocal social interaction, impairment in verbal and~~
 3234 | ~~nonverbal communication and imaginative ability, and a markedly~~
 3235 | ~~restricted repertoire of activities and interests.~~

3236 | (4) "Cerebral palsy" has the same meaning as in s.
 3237 | 393.063. ~~means a group of disabling symptoms of extended~~
 3238 | ~~duration which results from damage to the developing brain~~
 3239 | ~~occurring before, during, or after birth and resulting in the~~
 3240 | ~~loss or impairment of control over voluntary muscles. The term~~
 3241 | ~~does not include those symptoms or impairments resulting solely~~
 3242 | ~~from a stroke.~~

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3243 (5) "Client" means any person determined by the Agency for
3244 Persons with Disabilities ~~department~~ to be eligible for
3245 developmental services.

3246 ~~(6) "Client advocate" means a friend or relative of the~~
3247 ~~client, or of the client's immediate family, who advocates for~~
3248 ~~the best interests of the client in any proceedings under this~~
3249 ~~part in which the client or his or her family has the right or~~
3250 ~~duty to participate.~~

3251 ~~(7) "Department" means the Department of Children and~~
3252 ~~Family Services.~~

3253 (6)(8) "Developmental disability" has the same meaning as
3254 in s. 393.063 ~~means a disorder or syndrome that is attributable~~
3255 ~~to retardation, cerebral palsy, autism, spina bifida, or Prader-~~
3256 ~~Willi syndrome and that constitutes a substantial handicap that~~
3257 ~~can reasonably be expected to continue indefinitely.~~

3258 (7)(9) "Direct service provider" means a person 18 years
3259 of age or older who has direct contact with individuals with
3260 developmental disabilities and who is unrelated to the
3261 individuals with developmental disabilities.

3262 ~~(10) "Epilepsy" means a chronic brain disorder of various~~
3263 ~~causes which is characterized by recurrent seizures due to~~
3264 ~~excessive discharge of cerebral neurons. When found concurrently~~
3265 ~~with retardation, autism, or cerebral palsy, epilepsy is~~
3266 ~~considered a secondary disability for which the client is~~
3267 ~~eligible to receive services to ameliorate this condition~~
3268 ~~according to the provisions of this part.~~

3269 ~~(11) "Guardian advocate" means a person appointed by the~~
3270 ~~circuit court to represent a person with developmental~~

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3271 ~~disabilities in any proceedings brought pursuant to s. 393.12,~~
 3272 ~~and is distinct from a guardian advocate for mentally ill~~
 3273 ~~persons under chapter 394.~~

3274 (8) (12) "Intermediate care facility for the
 3275 developmentally disabled" means a residential facility licensed
 3276 and certified in accordance with state law, and certified by the
 3277 Federal Government, pursuant to the Social Security Act, as a
 3278 provider of Medicaid services to persons with developmental
 3279 disabilities ~~who are developmentally disabled.~~

3280 (9) (13) "Prader-Willi syndrome" has the same meaning as in
 3281 s. 393.063. ~~means an inherited condition typified by neonatal~~
 3282 ~~hypotonia with failure to thrive, hyperphagia, or an excessive~~
 3283 ~~drive to eat which leads to obesity, usually at 18 to 36 months~~
 3284 ~~of age, mild to moderate retardation, hypogonadism, short~~
 3285 ~~stature, mild facial dysmorphism, and a characteristic~~
 3286 ~~neurobehavior.~~

3287 (10) (a) "Restraint" means a physical device, method, or
 3288 drug used to control behavior. A physical restraint is any
 3289 manual method or physical or mechanical device, material, or
 3290 equipment attached or adjacent to the individual's body so that
 3291 he or she cannot easily remove the restraint and which restricts
 3292 freedom of movement or normal access to one's body.

3293 (b) A drug used as a restraint is a medication used to
 3294 control the person's behavior or to restrict his or her freedom
 3295 of movement. Physically holding a person during a procedure to
 3296 forcibly administer psychotropic medication is a physical
 3297 restraint.

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3298 (c) Restraint does not include physical devices, such as
3299 orthopedically prescribed appliances, surgical dressings and
3300 bandages, supportive body bands, or other physical holding when
3301 necessary for routine physical examinations and tests; for
3302 purposes of orthopedic, surgical, or other similar medical
3303 treatment; when used to provide support for the achievement of
3304 functional body position or proper balance; or when used to
3305 protect a person from falling out of bed.

3306 ~~(11)(14)~~ "Retardation" has the same meaning as in s.
3307 393.063. means significantly subaverage general intellectual
3308 functioning existing concurrently with deficits in adaptive
3309 behavior and manifested during the period from conception to age
3310 18. "Significantly subaverage general intellectual functioning,"
3311 for the purpose of this definition, means performance that is
3312 two or more standard deviations from the mean score on a
3313 standardized intelligence test specified in rules of the
3314 department. "Deficits in adaptive behavior," for the purpose of
3315 this definition, means deficits in the effectiveness or degree
3316 with which an individual meets the standards of personal
3317 independence and social responsibility expected of his or her
3318 age, cultural group, and community.

3319 (12) "Seclusion" means the physical segregation of a
3320 person in any fashion or the involuntary isolation of a person
3321 in a room or area from which the person is prevented from
3322 leaving. The prevention may be by physical barrier or by a staff
3323 member who is acting in a manner, or who is physically situated,
3324 so as to prevent the person from leaving the room or area. For

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3325 | purposes of this part, the term does not mean isolation due to a
 3326 | person's medical condition or symptoms.

3327 | (13)-(15) "Spina bifida" has the same meaning as in s.
 3328 | 393.063 means a medical diagnosis of spina bifida cystica or
 3329 | myelomeningocele.

3330 | Section 43. Subsection (12) is added to section 400.962,
 3331 | Florida Statutes, to read:

3332 | 400.962 License required; license application.--

3333 | (12) The applicant must agree to provide or arrange for
 3334 | active treatment services by an interdisciplinary team to
 3335 | maximize individual independence or prevent regression or loss
 3336 | of functional status. Standards for active treatment shall be
 3337 | adopted by the Agency for Health Care Administration by rule
 3338 | pursuant to ss. 120.536(1) and 120.54. Active treatment services
 3339 | shall be provided in accordance with the individual support plan
 3340 | and shall be reimbursed as part of the per diem rate as paid
 3341 | under the Medicaid program.

3342 | Section 44. Subsection (2) of section 400.967, Florida
 3343 | Statutes, is amended to read:

3344 | 400.967 Rules and classification of deficiencies.--

3345 | (2) Pursuant to the intention of the Legislature, the
 3346 | agency, in consultation with the Agency for Persons with
 3347 | Disabilities ~~Department of Children and Family Services~~ and the
 3348 | Department of Elderly Affairs, shall adopt and enforce rules to
 3349 | administer this part, which shall include reasonable and fair
 3350 | criteria governing:

3351 | (a) The location and construction of the facility;
 3352 | including fire and life safety, plumbing, heating, cooling,

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3353 | lighting, ventilation, and other housing conditions that will
3354 | ensure the health, safety, and comfort of residents. The agency
3355 | shall establish standards for facilities and equipment to
3356 | increase the extent to which new facilities and a new wing or
3357 | floor added to an existing facility after July 1, 2000, are
3358 | structurally capable of serving as shelters only for residents,
3359 | staff, and families of residents and staff, and equipped to be
3360 | self-supporting during and immediately following disasters. The
3361 | Agency for Health Care Administration shall work with facilities
3362 | licensed under this part and report to the Governor and the
3363 | Legislature by April 1, 2000, its recommendations for cost-
3364 | effective renovation standards to be applied to existing
3365 | facilities. In making such rules, the agency shall be guided by
3366 | criteria recommended by nationally recognized, reputable
3367 | professional groups and associations having knowledge concerning
3368 | such subject matters. The agency shall update or revise such
3369 | criteria as the need arises. All facilities must comply with
3370 | those lifesafety code requirements and building code standards
3371 | applicable at the time of approval of their construction plans.
3372 | The agency may require alterations to a building if it
3373 | determines that an existing condition constitutes a distinct
3374 | hazard to life, health, or safety. The agency shall adopt fair
3375 | and reasonable rules setting forth conditions under which
3376 | existing facilities undergoing additions, alterations,
3377 | conversions, renovations, or repairs are required to comply with
3378 | the most recent updated or revised standards.

3379 | (b) The number and qualifications of all personnel,
3380 | including management, medical nursing, and other personnel,

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3381 | having responsibility for any part of the care given to
3382 | residents.

3383 | (c) All sanitary conditions within the facility and its
3384 | surroundings, including water supply, sewage disposal, food
3385 | handling, and general hygiene, which will ensure the health and
3386 | comfort of residents.

3387 | (d) The equipment essential to the health and welfare of
3388 | the residents.

3389 | (e) A uniform accounting system.

3390 | (f) The care, treatment, and maintenance of residents and
3391 | measurement of the quality and adequacy thereof.

3392 | (g) The preparation and annual update of a comprehensive
3393 | emergency management plan. The agency shall adopt rules
3394 | establishing minimum criteria for the plan after consultation
3395 | with the Department of Community Affairs. At a minimum, the
3396 | rules must provide for plan components that address emergency
3397 | evacuation transportation; adequate sheltering arrangements;
3398 | postdisaster activities, including emergency power, food, and
3399 | water; postdisaster transportation; supplies; staffing;
3400 | emergency equipment; individual identification of residents and
3401 | transfer of records; and responding to family inquiries. The
3402 | comprehensive emergency management plan is subject to review and
3403 | approval by the local emergency management agency. During its
3404 | review, the local emergency management agency shall ensure that
3405 | the following agencies, at a minimum, are given the opportunity
3406 | to review the plan: the Department of Elderly Affairs, the
3407 | Agency for Persons with Disabilities ~~Department of Children and~~
3408 | ~~Family Services~~, the Agency for Health Care Administration, and

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3409 the Department of Community Affairs. Also, appropriate volunteer
3410 organizations must be given the opportunity to review the plan.
3411 The local emergency management agency shall complete its review
3412 within 60 days and either approve the plan or advise the
3413 facility of necessary revisions.

3414 (h) The posting of licenses. Each licensee shall post its
3415 license in a prominent place that is in clear and unobstructed
3416 public view at or near the place where residents are being
3417 admitted to the facility.

3418 (i) The use of restraint and seclusion. Such rules must be
3419 consistent with recognized best practices; prohibit inherently
3420 dangerous restraint or seclusion procedures; establish
3421 limitations on the use and duration of restraint and seclusion;
3422 establish measures to ensure the safety of clients and staff
3423 during an incident of restraint or seclusion; establish
3424 procedures for staff to follow before, during, and after
3425 incidents of restraint or seclusion, including individualized
3426 plans for the use of restraints or seclusion in emergency
3427 situations; establish professional qualifications of and
3428 training for staff who may order or be engaged in the use of
3429 restraint or seclusion; establish requirements for facility data
3430 collection and reporting relating to the use of restraint and
3431 seclusion; and establish procedures relating to the
3432 documentation of the use of restraint or seclusion in the
3433 client's facility or program record.

3434 Section 45. Section 402.115, Florida Statutes, is amended
3435 to read:

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3436 402.115 Sharing confidential or exempt
 3437 information.--Notwithstanding any other provision of law to the
 3438 contrary, the Department of Health, ~~and~~ the Department of
 3439 Children and Family Services, and the Agency for Persons with
 3440 Disabilities may share confidential information or information
 3441 exempt from disclosure under chapter 119 on any individual who
 3442 is or has been the subject of a program within the jurisdiction
 3443 of each agency. Information so exchanged remains confidential or
 3444 exempt as provided by law.

3445 Section 46. Section 402.17, Florida Statutes, is amended
 3446 to read:

3447 402.17 Claims for care and maintenance; trust
 3448 property.--The Department of Children and Family Services and
 3449 the Agency for Persons with Disabilities shall protect the
 3450 financial interest of the state with respect to claims that
 3451 ~~which~~ the state may have for the care and maintenance of clients
 3452 of the department or agency. The department or agency shall, as
 3453 trustee, hold in trust and administer money ~~of clients~~ and
 3454 property designated for the personal benefit of clients. The
 3455 department or agency shall act as trustee of clients' money and
 3456 property entrusted to it in accordance with the usual fiduciary
 3457 standards applicable generally to trustees, and shall act to
 3458 protect both the short-term and long-term interests of the
 3459 clients for whose benefit it is holding such money and property.

3460 (1) CLAIMS FOR CARE AND MAINTENANCE.--

3461 (a) The department or agency shall perform the following
 3462 acts:

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- 3463 | 1. Receive and supervise the collection of sums due the
3464 | state.
- 3465 | 2. Bring any court action necessary to collect any claim
3466 | the state may have against any client, former client, guardian
3467 | of any client or former client, executor or administrator of the
3468 | client's estate, or any person against whom any client or former
3469 | client may have a claim.
- 3470 | 3. Obtain a copy of any inventory or appraisal of the
3471 | client's property filed with any court.
- 3472 | 4. Obtain from the department's Economic Self-Sufficiency
3473 | Services Program Office a financial status report on any client
3474 | or former client, including the ability of third parties
3475 | responsible for such client to pay all or part of the cost of
3476 | the client's care and maintenance.
- 3477 | 5. Petition the court for appointment of a guardian or
3478 | administrator for an otherwise unrepresented client or former
3479 | client should the financial status report or other information
3480 | indicate the need for such action. The cost of any such action
3481 | shall be charged against the assets or estate of the client.
- 3482 | 6. Represent the interest of the state in any litigation
3483 | in which a client or former client is a party.
- 3484 | 7. File claims with any person, firm, or corporation or
3485 | with any federal, state, county, district, or municipal agency
3486 | on behalf of an unrepresented client.
- 3487 | 8. Represent the state in the settlement of the estates of
3488 | deceased clients or in the settlement of estates in which a
3489 | client or a former client against whom the state may have a
3490 | claim has a financial interest.

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3491 9. Establish procedures by rule for the use of amounts
3492 held in trust for the client to pay for the cost of care and
3493 maintenance, if such amounts would otherwise cause the client to
3494 become ineligible for services which are in the client's best
3495 interests.

3496 (b) The department or agency ~~of Children and Family~~
3497 ~~Services~~ may charge off accounts if it certifies that the
3498 accounts are uncollectible after diligent efforts have been made
3499 to collect them. If the department certifies an account to the
3500 Department of Financial Services, setting forth the
3501 circumstances upon which it predicates the uncollectibility, and
3502 if, pursuant to s. 17.04, the Department of Financial Services
3503 concurs, the account shall be charged off.

3504 (2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE OR
3505 BENEFIT OF ANY CLIENT.--The department or agency shall perform
3506 the following acts:

3507 (a) Accept and administer in trust, as a trustee having a
3508 fiduciary responsibility to a client ~~of the department~~, any
3509 money or other property received for personal use or benefit of
3510 that client. In the case of children in the legal custody of the
3511 department, following the termination of the parental rights ~~as~~
3512 ~~to that client~~, until the child ~~such client~~ leaves the legal
3513 custody of the department due to ~~the client's~~ adoption or
3514 attaining ~~because the client attains~~ the age of 18 or, in the
3515 case of children who are otherwise in the custody of the
3516 department, the court having jurisdiction over such child ~~client~~
3517 shall have jurisdiction, upon application of the department or
3518 other interested party, to review or approve any extraordinary

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3519 | action of the department acting as trustee as to the child's
3520 | ~~client's~~ money or other property. When directed by a court of
3521 | competent jurisdiction, the department may further hold money or
3522 | property of a child ~~person under the age of 18~~ who has been in
3523 | the care, custody, or control of the department and who is the
3524 | subject of a court proceeding during the pendency of that
3525 | proceeding.

3526 | (b) Deposit the money in banks qualified as state
3527 | depositories, or in any bank, credit union, or savings and loan
3528 | association authorized to do business in this state, provided
3529 | moneys so deposited or held by such institutions are fully
3530 | insured by a federal depository or share insurance program, or
3531 | an approved state depository or share insurance program, and are
3532 | available on demand.

3533 | (c) Withdraw the money and use it to meet current needs of
3534 | clients. For purposes of this paragraph, "current needs"
3535 | includes payment of fees assessed under s. 402.33. The amount of
3536 | money withdrawn ~~by the department to meet current needs of a~~
3537 | ~~client~~ shall take into account the need of the department or
3538 | agency, as the trustee of a client's money and property, to
3539 | provide for the long-term needs of a client, including, but not
3540 | limited to, ensuring that ~~to provide for the need of~~ a client
3541 | under the age of 18 will ~~to~~ have sufficient financial resources
3542 | available to be able to function as an adult upon reaching the
3543 | age of 18, meeting ~~or to meet~~ the special needs of a client who
3544 | has a disability and whose special needs cannot otherwise be met
3545 | by any form of public assistance or family resources, or
3546 | maintaining ~~to maintain~~ the client's eligibility for public

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3547 assistance, including medical assistance, under state or federal
3548 law.

3549 (d) As trustee, invest in the manner authorized by law for
3550 fiduciaries money not used for current needs of clients. Such
3551 investments may include, but shall not be limited to,
3552 investments in savings share accounts of any credit union
3553 chartered under the laws of the United States and doing business
3554 in this state, and savings share accounts of any credit union
3555 chartered under the laws of this state, provided the credit
3556 union is insured under the federal share insurance program or an
3557 approved state share insurance program.

3558 (3) DEPOSIT OF FUNDS RECEIVED.--Funds received by the
3559 Department of Children and Family Services in accordance with s.
3560 402.33 shall be deposited into a trust fund for the operation of
3561 the department.

3562 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the death
3563 of any client affected by the provisions of this section, any
3564 unclaimed money held in trust by the department, the agency, or
3565 by the Chief Financial Officer for the child ~~him or her~~ shall be
3566 applied first to the payment of any unpaid claim of the state
3567 against the client, and any balance remaining unclaimed for a
3568 period of 1 year shall escheat to the state as unclaimed funds
3569 held by fiduciaries.

3570 (5) LEGAL REPRESENTATION.--To the extent that the budget
3571 will permit, the Department of Legal Affairs shall furnish the
3572 legal services to carry out the provisions of this section. Upon
3573 the request of the department or agency ~~of Children and Family~~
3574 ~~Services~~, the various state and county attorneys shall assist in

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3575 litigation within their jurisdiction. The ~~Such~~ department or
 3576 agency may retain legal counsel for necessary legal services
 3577 which cannot be furnished by the Department of Legal Affairs and
 3578 the various state and county attorneys.

3579 (6) DEPOSIT OR INVESTMENT OF FUNDS OF CLIENTS.--

3580 (a) The department or agency ~~of Children and Family~~
 3581 ~~Services~~ may deposit any funds of clients in its possession in
 3582 any bank in the state or may invest or reinvest such funds in
 3583 bonds or obligations of the United States for the payment of
 3584 which the full faith and credit of the United States is pledged.
 3585 For purposes of deposit only, the funds of any client may be
 3586 mingled with the funds of any other clients.

3587 (b) The interest or increment accruing on such funds shall
 3588 be the property of the clients and shall be used or conserved
 3589 for the personal use or benefit of the ~~individual~~ client, in
 3590 accordance with the department's or agency's fiduciary
 3591 responsibility as a trustee for the money and property of the
 3592 client ~~held by the department~~. Such interest shall not accrue to
 3593 the general welfare of all clients. Whenever any proposed action
 3594 of the department or agency, acting in its own interest, may
 3595 conflict with the department's or agency's ~~obligation as a~~
 3596 ~~trustee with a~~ fiduciary responsibility to the client, the
 3597 department or agency shall promptly present the matter to a
 3598 court of competent jurisdiction for the court's determination as
 3599 to what action the department or agency may take. The department
 3600 or agency shall establish ~~rules governing~~ reasonable fees by
 3601 rule for the cost of administering such accounts and for
 3602 establishing the minimum balance eligible to earn interest.

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3603 (7) DISPOSITION OF MONEY AND PROPERTY OF CLIENTS UPON
3604 ATTAINING AGE 18 OR DISCHARGE FROM CARE, CUSTODY, CONTROL, OR
3605 SERVICES OF THE DEPARTMENT.--

3606 (a) Whenever a client of the department for whom the
3607 department is holding money or property as a trustee attains the
3608 age of 18, and thereby will no longer be in the legal custody of
3609 the department, the department shall promptly disburse such
3610 money and property ~~of the client the department has held as a~~
3611 ~~trustee~~ to that client, or as that client directs, as soon as
3612 practicable ~~once the client attains the age of 18.~~

3613 (b) Whenever a client of the department over the age of 18
3614 for whom the department is holding money or property as a
3615 trustee no longer requires the care, custody, control, or
3616 services of the department, the department shall promptly
3617 disburse such money and property ~~of the client the department~~
3618 ~~has held as a trustee~~ to that client, or as that client or a
3619 court directs, as soon as practicable.

3620 (c) When a client under the age of 18 who has been in the
3621 legal custody, care, or control of the department and for whom
3622 the department is holding money or property as a trustee attains
3623 the age of 18 and has a physical or mental disability, or is
3624 otherwise incapacitated or incompetent to handle that client's
3625 own financial affairs, the department shall apply for a court
3626 order from a court of competent jurisdiction to establish a
3627 trust on behalf of that client. Where there is no willing
3628 relative of the client acceptable to the court available to
3629 serve as trustee of such proposed trust, the court may enter an
3630 order authorizing the department to serve as trustee of a

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3631 separate trust under such terms and conditions as the court
3632 determines appropriate to the circumstances.

3633 (d) When a client under the age of 18 who has been in the
3634 legal custody, care, or control of the department and for whom
3635 the department is holding money or property as a trustee leaves
3636 the care, custody, and control of the department due to adoption
3637 or placement of the client with a relative, or as otherwise
3638 directed by a court of competent jurisdiction, the department
3639 shall notify that court of the existence of the money and
3640 property ~~in the possession of the department~~ either prior to, or
3641 promptly after, receiving knowledge of the change of custody,
3642 care, or control. The department shall apply for an order from
3643 the court exercising jurisdiction over the client to direct the
3644 disposition of the money and property belonging to that client.
3645 The court order may establish a trust in which the money and
3646 property of the client will be deposited, appoint a guardian of
3647 a property as to the money or property of the client, or direct
3648 the creation of a Uniform Transfers Gifts to Minors Act account
3649 on behalf of that client, ~~as the court finds appropriate and~~
3650 under the terms and conditions the court determines appropriate
3651 to the circumstances.

3652 Section 47. Section 402.181, Florida Statutes, is amended
3653 to read:

3654 402.181 State Institutions Claims Program.--

3655 (1) There is created a State Institutions Claims Program,
3656 for the purpose of making restitution for property damages and
3657 direct medical expenses for injuries caused by shelter children
3658 or foster children, or escapees, inmates, or patients of state

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3659 | institutions under the Department of Children and Family
 3660 | Services, the Department of Health, the Department of Juvenile
 3661 | Justice, ~~or~~ the Department of Corrections, or the Agency for
 3662 | Persons with Disabilities.

3663 | (2) Claims for restitution may be filed with the
 3664 | Department of Legal Affairs at its office in accordance with
 3665 | regulations prescribed by the Department of Legal Affairs. The
 3666 | Department of Legal Affairs shall have full power and authority
 3667 | to hear, investigate, and determine all questions in respect to
 3668 | such claims and is authorized, within the limits of current
 3669 | appropriations, to pay individual claims up to \$1,000 or, with
 3670 | respect to children in foster care and their families,
 3671 | individual claims up to \$1,500. Claims in excess of these
 3672 | amounts shall continue to require legislative approval.

3673 | (3) (a) The Department of Legal Affairs shall make or cause
 3674 | to be made such investigations as it considers necessary in
 3675 | respect to such claims. Hearings shall be held in accordance
 3676 | with chapter 120.

3677 | (b) The Department of Legal Affairs shall work with the
 3678 | Department of Children and Family Services, the Department of
 3679 | Health, the Department of Juvenile Justice, ~~and~~ the Department
 3680 | of Corrections, and the Agency for Persons with Disabilities to
 3681 | streamline the process of investigations, hearings, and
 3682 | determinations with respect to claims under this section, to
 3683 | ensure that eligible claimants receive restitution within a
 3684 | reasonable time.

3685 | Section 48. Section 402.20, Florida Statutes, is amended
 3686 | to read:

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3687 402.20 County contracts authorized for services and
 3688 facilities for in mental health and developmental disabilities
 3689 ~~retardation areas.~~--The boards of county commissioners are
 3690 authorized to provide monetary grants and facilities, and to
 3691 enter into renewable contracts, for services and facilities, for
 3692 a period not to exceed 2 years, with public and private
 3693 hospitals, clinics, and laboratories; other state agencies,
 3694 departments, or divisions; the state colleges and universities;
 3695 the community colleges; private colleges and universities;
 3696 counties; municipalities; towns; townships; and any other
 3697 governmental unit or nonprofit organization which provides
 3698 needed facilities for persons with mental illness or
 3699 developmental disabilities ~~the mentally ill or retarded~~. These
 3700 services are hereby declared to be for a public and county
 3701 purpose. The county commissioners may make periodic inspections
 3702 to assure that the services or facilities provided under this
 3703 chapter meet the standards of the Department of Children and
 3704 Family Services and the Agency for Persons with Disabilities.

3705 Section 49. Section 402.22, Florida Statutes, is amended
 3706 to read:

3707 402.22 Education program for students who reside in
 3708 residential care facilities operated by the Department of
 3709 Children and Family Services or the Agency for Persons with
 3710 Disabilities.--

3711 (1) (a) The Legislature recognizes that the Department of
 3712 Children and Family Services and the Agency for Persons with
 3713 Disabilities have under their ~~has under its~~ residential care
 3714 students with critical problems of physical impairment,

3715 | emotional disturbance, mental impairment, and learning
3716 | impairment.

3717 | (b) The Legislature recognizes the vital role of education
3718 | in the rehabilitation of such students. It is the intent of the
3719 | Legislature that all such students benefit from educational
3720 | services and receive such services.

3721 | (c) It is the intent of the Legislature that educational
3722 | services be coordinated with appropriate and existing diagnostic
3723 | and evaluative, social, followup, and other therapeutic services
3724 | of the department and agency ~~of Children and Family Services~~ so
3725 | that the effect of the total rehabilitation process is
3726 | maximized.

3727 | (d) It is the intent of the Legislature that, as
3728 | educational programs for students in residential care facilities
3729 | are implemented by the district school board, educational
3730 | personnel in the ~~Department of Children and Family Services~~
3731 | residential care facilities who meet the qualifications for
3732 | employees of the district school board be employed by the
3733 | district school board.

3734 | (2) District school boards shall establish educational
3735 | programs for all students ages 5 through 18 under the
3736 | residential care of the Department of Children and Family
3737 | Services and the Agency for Persons with Disabilities, and may
3738 | provide for students below age 3 as provided for in s.
3739 | 1003.21(1)(e). Funding of such programs shall be pursuant to s.
3740 | 1011.62.

3741 | (3) Notwithstanding any provisions of chapters 39, 393,
3742 | 394, and 397 to the contrary, the services of the Department of

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3743 | Children and Family Services and the Agency for Persons with
 3744 | Disabilities and those of the Department of Education and
 3745 | district school boards shall be mutually supportive and
 3746 | complementary of each other. The education programs provided by
 3747 | the district school board shall meet the standards prescribed by
 3748 | the State Board of Education and the district school board.
 3749 | Decisions regarding the design and delivery of department or
 3750 | agency ~~of Children and Family Services~~ treatment or habilitative
 3751 | services shall be made by interdisciplinary teams of
 3752 | professional and paraprofessional staff of which appropriate
 3753 | district school system administrative and instructional
 3754 | personnel shall be invited to be participating members. The
 3755 | requirements for maintenance of confidentiality as prescribed in
 3756 | chapters 39, 393, 394, and 397 shall be applied to information
 3757 | used by such interdisciplinary teams, and such information shall
 3758 | be exempt from the provisions of ss. 119.07(1) and 286.011.

3759 | (4) Students age 18 and under who are under the
 3760 | residential care of the Department of Children and Family
 3761 | Services or the Agency for Persons with Disabilities and who
 3762 | receive an education program shall be calculated as full-time
 3763 | equivalent student membership in the appropriate cost factor as
 3764 | provided for in s. 1011.62(1)(c). Residential care facilities ~~of~~
 3765 | ~~the Department of Children and Family Services~~ shall include,
 3766 | but not be limited to, developmental disabilities ~~services~~
 3767 | institutions and state mental health facilities. All students
 3768 | shall receive their education program from the district school
 3769 | system, and funding shall be allocated through the Florida
 3770 | Education Finance Program for the district school system.

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3771 (5) Instructional and special educational services that
 3772 ~~which~~ are provided to ~~mental health and retardation~~ clients with
 3773 mental illness or developmental disabilities of the department's
 3774 or agency's in the Department of Children and Family Services
 3775 residential care facilities by local school districts shall not
 3776 be less than 180 days or 900 hours; however, the 900 hours may
 3777 be distributed over a 12-month period, unless otherwise stated
 3778 in rules developed by the State Board of Education, with the
 3779 concurrence of the department or agency and adopted ~~of Children~~
 3780 ~~and Family Services promulgated~~ pursuant to subsection (6).

3781 (6) The State Board of Education, ~~and~~ the Department of
 3782 Children and Family Services, and the Agency for Persons with
 3783 Disabilities may adopt ~~shall have the authority to promulgate~~
 3784 rules to which shall assist in the orderly transfer of the
 3785 instruction of students from department or agency ~~Department of~~
 3786 ~~Children and Family Services~~ residential care facilities to the
 3787 district school system or to the public education agency and
 3788 which shall assist in implementing the specific intent as stated
 3789 in this act.

3790 (7) Notwithstanding the provisions of s. 1001.42(4)(n),
 3791 the educational program at the Marianna Sunland Center in
 3792 Jackson County shall be operated by the Department of Education,
 3793 either directly or through grants or contractual agreements with
 3794 other public educational agencies. The annual state allocation
 3795 to any such agency shall be computed pursuant to s. 1011.62(1),
 3796 (2), and (5) and allocated in the amount that would have been
 3797 provided the local school district in which the residential
 3798 facility is located.

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3799 Section 50. Paragraph (c) of subsection (1) and subsection
3800 (2) of section 402.33, Florida Statutes, are amended to read:

3801 402.33 Department authority to charge fees for services
3802 provided.--

3803 (1) As used in this section, the term:

3804 (c) "Department" means the Department of Children and
3805 Family Services, ~~and the Department of Health, and the Agency~~
3806 for Persons with Disabilities.

3807 (2) The department, in accordance with rules established
3808 by it, shall either charge, assess, or collect, or cause to be
3809 charged, assessed, or collected, fees for any service it
3810 provides to its clients either directly or through its agencies
3811 or contractors, except for:

3812 (a) Diagnosis and evaluation procedures necessary to
3813 determine the client's eligibility and need for services
3814 provided by the department;

3815 (b) Customary and routine information and referral
3816 services;

3817 (c) Educational services provided in lieu of public
3818 education;

3819 (d) Specific services exempted by law from fee assessment;

3820 (e) Emergency shelter or emergency detention care and
3821 custody prior to a detention hearing under chapter 39;

3822 (f) Specific classes or types of services provided in
3823 programs funded by grants, donations, or contracts that prohibit
3824 charging fees;

3825 (g) Developmental disability services provided under
3826 chapter 393 to any person who is determined to be eligible for

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3827 | such services ~~by the department~~ and whose earned income falls
 3828 | below the federal Health and Human Services Poverty Guidelines,
 3829 | unless such fees are collected from third-party benefits and
 3830 | benefit payments; or

3831 | (h) Any type of service for which the department
 3832 | determines that the net estimated revenue from such fees after
 3833 | deducting any loss of funds from federal grants occasioned by
 3834 | such fees will be less than the estimated cost to charge and
 3835 | collect such fees.

3836 |
 3837 | Fees, other than third-party benefits and benefit payments, may
 3838 | not be charged for services provided to indigents whose only
 3839 | sources of income are from state and federal aid. In addition,
 3840 | fees may not be charged parents of a minor client for services
 3841 | requested by the minor without parental consent or for services
 3842 | provided a minor client who has been permanently committed to
 3843 | the care and custody of the department with parental rights
 3844 | permanently severed. However, lack of parental consent does not
 3845 | preclude the charging of fees established under chapter 39. ~~The~~
 3846 | ~~department may not require~~ A client who is receiving wages that
 3847 | ~~which~~ are below the minimum wage under the federal Fair Labor
 3848 | Standards Act may not be required to pay fees from such wages.
 3849 | Voluntary payments for services must be encouraged.

3850 | Section 51. Paragraphs (r) and (s) of subsection (3) of
 3851 | section 408.036, Florida Statutes, are amended to read:

3852 | 408.036 Projects subject to review; exemptions.--

3853 | (3) EXEMPTIONS.--Upon request, the following projects are
 3854 | subject to exemption from the provisions of subsection (1):

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3855 (r) For beds in state mental health treatment facilities
 3856 operated under s. 394.455 (32) ~~(30)~~ and state mental health
 3857 forensic facilities operated under s. 916.106(8).

3858 (s) For beds in state developmental disabilities ~~services~~
 3859 institutions as defined in s. 393.063.

3860 Section 52. Paragraphs (a), (j), and (k) of subsection (4)
 3861 of section 409.221, Florida Statutes, are amended to read:

3862 409.221 Consumer-directed care program.--

3863 (4) CONSUMER-DIRECTED CARE.--

3864 (a) Program established.--The Agency for Health Care
 3865 Administration shall establish the consumer-directed care
 3866 program which shall be based on the principles of consumer
 3867 choice and control. The agency shall implement the program upon
 3868 federal approval. The agency shall establish interagency
 3869 cooperative agreements with and shall work with the Departments
 3870 of Elderly Affairs, Health, and Children and Family Services and
 3871 the Agency for Persons with Disabilities to implement and
 3872 administer the program. The program shall allow enrolled persons
 3873 to choose the providers of services and to direct the delivery
 3874 of services, to best meet their long-term care needs. The
 3875 program must operate within the funds appropriated by the
 3876 Legislature.

3877 (j) Rules; federal waivers.--In order to implement this
 3878 section:

3879 1. The agency and the Departments of Elderly Affairs,
 3880 Health, and Children and Family Services and the Agency for
 3881 Persons with Disabilities are authorized to adopt and enforce
 3882 rules.

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3883 2. The agency shall take all necessary action to ensure
3884 state compliance with federal regulations. The agency shall
3885 apply for any necessary federal waivers or waiver amendments
3886 needed to implement the program.

3887 (k) Reviews and reports.--The agency and the Departments
3888 of Elderly Affairs, Health, and Children and Family Services and
3889 the Agency for Persons with Disabilities shall each, on an
3890 ongoing basis, review and assess the implementation of the
3891 consumer-directed care program. By January 15 of each year, the
3892 agency shall submit a written report to the Legislature that
3893 includes each department's review of the program and contains
3894 recommendations for improvements to the program.

3895 Section 53. Paragraph (a) of subsection (2) and subsection
3896 (8) of section 409.908, Florida Statutes, are amended to read:

3897 409.908 Reimbursement of Medicaid providers.--Subject to
3898 specific appropriations, the agency shall reimburse Medicaid
3899 providers, in accordance with state and federal law, according
3900 to methodologies set forth in the rules of the agency and in
3901 policy manuals and handbooks incorporated by reference therein.
3902 These methodologies may include fee schedules, reimbursement
3903 methods based on cost reporting, negotiated fees, competitive
3904 bidding pursuant to s. 287.057, and other mechanisms the agency
3905 considers efficient and effective for purchasing services or
3906 goods on behalf of recipients. If a provider is reimbursed based
3907 on cost reporting and submits a cost report late and that cost
3908 report would have been used to set a lower reimbursement rate
3909 for a rate semester, then the provider's rate for that semester
3910 shall be retroactively calculated using the new cost report, and

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3911 full payment at the recalculated rate shall be effected
 3912 retroactively. Medicare-granted extensions for filing cost
 3913 reports, if applicable, shall also apply to Medicaid cost
 3914 reports. Payment for Medicaid compensable services made on
 3915 behalf of Medicaid eligible persons is subject to the
 3916 availability of moneys and any limitations or directions
 3917 provided for in the General Appropriations Act or chapter 216.
 3918 Further, nothing in this section shall be construed to prevent
 3919 or limit the agency from adjusting fees, reimbursement rates,
 3920 lengths of stay, number of visits, or number of services, or
 3921 making any other adjustments necessary to comply with the
 3922 availability of moneys and any limitations or directions
 3923 provided for in the General Appropriations Act, provided the
 3924 adjustment is consistent with legislative intent.

3925 (2) (a) 1. Reimbursement to nursing homes licensed under
 3926 part II of chapter 400 and state-owned-and-operated intermediate
 3927 care facilities for the developmentally disabled licensed under
 3928 part XI of chapter 400 ~~chapter 393~~ must be made prospectively.

3929 2. Unless otherwise limited or directed in the General
 3930 Appropriations Act, reimbursement to hospitals licensed under
 3931 part I of chapter 395 for the provision of swing-bed nursing
 3932 home services must be made on the basis of the average statewide
 3933 nursing home payment, and reimbursement to a hospital licensed
 3934 under part I of chapter 395 for the provision of skilled nursing
 3935 services must be made on the basis of the average nursing home
 3936 payment for those services in the county in which the hospital
 3937 is located. When a hospital is located in a county that does not
 3938 have any community nursing homes, reimbursement shall ~~must~~ be

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3939 | determined by averaging the nursing home payments, in counties
 3940 | that surround the county in which the hospital is located.
 3941 | Reimbursement to hospitals, including Medicaid payment of
 3942 | Medicare copayments, for skilled nursing services shall be
 3943 | limited to 30 days, unless a prior authorization has been
 3944 | obtained from the agency. Medicaid reimbursement may be extended
 3945 | by the agency beyond 30 days, and approval must be based upon
 3946 | verification by the patient's physician that the patient
 3947 | requires short-term rehabilitative and recuperative services
 3948 | only, in which case an extension of no more than 15 days may be
 3949 | approved. Reimbursement to a hospital licensed under part I of
 3950 | chapter 395 for the temporary provision of skilled nursing
 3951 | services to nursing home residents who have been displaced as
 3952 | the result of a natural disaster or other emergency may not
 3953 | exceed the average county nursing home payment for those
 3954 | services in the county in which the hospital is located and is
 3955 | limited to the period of time which the agency considers
 3956 | necessary for continued placement of the nursing home residents
 3957 | in the hospital.

3958 | (8) A provider of home-based or community-based services
 3959 | rendered pursuant to a federally approved waiver shall be
 3960 | reimbursed based on an established or negotiated rate for each
 3961 | service. These rates shall be established according to an
 3962 | analysis of the expenditure history and prospective budget
 3963 | developed by each contract provider participating in the waiver
 3964 | program, or under any other methodology adopted by the agency
 3965 | and approved by the Federal Government in accordance with the
 3966 | waiver. ~~Effective July 1, 1996,~~ Privately owned and operated

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3967 community-based residential facilities which meet agency
 3968 requirements and which formerly received Medicaid reimbursement
 3969 for the optional intermediate care facility for the mentally
 3970 retarded service may participate in the developmental services
 3971 waiver as part of a home-and-community-based continuum of care
 3972 for Medicaid recipients who receive waiver services.

3973 Section 54. Subsection (3) of section 409.9127, Florida
 3974 Statutes, is amended to read:

3975 409.9127 Preauthorization and concurrent utilization
 3976 review; conflict-of-interest standards.--

3977 (3) The agency shall help the Agency for Persons with
 3978 Disabilities ~~Department of Children and Family Services~~ meet the
 3979 requirements of s. 393.065(4). Only admissions approved pursuant
 3980 to such assessments are eligible for reimbursement under this
 3981 chapter.

3982 Section 55. Paragraph (c) of subsection (2) and subsection
 3983 (5) of section 411.224, Florida Statutes, are amended to read:

3984 411.224 Family support planning process.--The Legislature
 3985 establishes a family support planning process to be used by the
 3986 Department of Children and Family Services as the service
 3987 planning process for targeted individuals, children, and
 3988 families under its purview.

3989 (2) To the extent possible within existing resources, the
 3990 following populations must be included in the family support
 3991 planning process:

3992 (c) Children from age 3 ~~birth~~ through age 5 who are served
 3993 by the Agency for Persons with Disabilities ~~Developmental~~

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3994 ~~Disabilities Program Office of the Department of Children and~~
3995 ~~Family Services.~~

3996 (5) There must be only a single-family support plan to
3997 address the problems of the various family members unless the
3998 family requests that an individual family support plan be
3999 developed for different members of that family. The family
4000 support plan must replace individual habilitation plans for
4001 children from 3 ~~birth~~ through 5 years old who are served by the
4002 Agency for Persons with Disabilities Developmental Disabilities
4003 ~~Program Office of the Department of Children and Family~~
4004 ~~Services. To the extent possible, the family support plan must~~
4005 ~~replace other case planning forms used by the Department of~~
4006 ~~Children and Family Services.~~

4007 Section 56. Subsection (4) of section 411.232, Florida
4008 Statutes, is amended to read:

4009 411.232 Children's Early Investment Program.--

4010 (4) RULES FOR IMPLEMENTATION.--The Department of Health
4011 ~~and Rehabilitative Services~~ shall adopt rules necessary to
4012 implement this section.

4013 Section 57. Subsection (8) of section 415.102, Florida
4014 Statutes, is amended to read:

4015 415.102 Definitions of terms used in ss. 415.101-
4016 415.113.--As used in ss. 415.101-415.113, the term:

4017 (8) "Facility" means any location providing day or
4018 residential care or treatment for vulnerable adults. The term
4019 "facility" may include, but is not limited to, any hospital,
4020 state institution, nursing home, assisted living facility, adult
4021 family-care home, adult day care center, residential facility

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4022 | licensed under chapter 393, adult day training center, ~~group~~
 4023 | ~~home~~, or mental health treatment center.

4024 | Section 58. Section 415.1035, Florida Statutes, is amended
 4025 | to read:

4026 | 415.1035 Facility's duty to inform residents of their
 4027 | right to report abusive, neglectful, or exploitive
 4028 | practices.--The department shall work cooperatively with the
 4029 | Agency for Health Care Administration, the Agency for Persons
 4030 | with Disabilities, and the Department of Elderly Affairs to
 4031 | ensure that every facility that serves vulnerable adults informs
 4032 | residents of their right to report abusive, neglectful, or
 4033 | exploitive practices. Each facility must establish appropriate
 4034 | policies and procedures to facilitate such reporting.

4035 | Section 59. Subsections (1) and (10) of section 415.1055,
 4036 | Florida Statutes, are amended to read:

4037 | 415.1055 Notification to administrative entities.--

4038 | (1) Upon receipt of a report that alleges that an employee
 4039 | or agent of the department, the Agency for Persons with
 4040 | Disabilities, or the Department of Elderly Affairs, acting in an
 4041 | official capacity, has committed an act of abuse, neglect, or
 4042 | exploitation, the department shall notify the state attorney in
 4043 | whose circuit the abuse, neglect, or exploitation occurred. This
 4044 | notification may be oral or written.

4045 | (10) When a report has been received and the department
 4046 | has reason to believe that a vulnerable adult resident of a
 4047 | facility licensed by the Agency for Health Care Administration
 4048 | or the Agency for Persons with Disabilities has been the victim
 4049 | of abuse, neglect, or exploitation, the department shall provide

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4050 a copy of its investigation to the appropriate agency. If the
 4051 investigation determines that a health professional licensed or
 4052 certified under the Department of Health may have abused,
 4053 neglected, or exploited a vulnerable adult, the department shall
 4054 also provide a copy to the Department of Health.

4055 Section 60. Paragraphs (a) and (h) of subsection (3) of
 4056 section 415.107, Florida Statutes, are amended to read:

4057 415.107 Confidentiality of reports and records.--

4058 (3) Access to all records, excluding the name of the
 4059 reporter which shall be released only as provided in subsection
 4060 (6), shall be granted only to the following persons, officials,
 4061 and agencies:

4062 (a) Employees or agents of the department, the Agency for
 4063 Persons with Disabilities, ~~of~~ the Agency for Health Care
 4064 Administration, or ~~of~~ the Department of Elderly Affairs who are
 4065 responsible for carrying out protective investigations, ongoing
 4066 protective services, or licensure or approval of nursing homes,
 4067 assisted living facilities, adult day care centers, adult
 4068 family-care homes, home care for the elderly, hospices,
 4069 residential facilities licensed under chapter 393, or other
 4070 facilities used for the placement of vulnerable adults.

4071 (h) Any appropriate official of the department, the Agency
 4072 for Persons with Disabilities, ~~of~~ the Agency for Health Care
 4073 Administration, or ~~of~~ the Department of Elderly Affairs who is
 4074 responsible for:

4075 1. Administration or supervision of the programs for the
 4076 prevention, investigation, or treatment of abuse, neglect, or

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4077 exploitation of vulnerable adults when carrying out an official
4078 function; or

4079 2. Taking appropriate administrative action concerning an
4080 employee alleged to have perpetrated abuse, neglect, or
4081 exploitation of a vulnerable adult in an institution.

4082 Section 61. Paragraph (a) of subsection (3) of section
4083 435.03, Florida Statutes, is amended to read:

4084 435.03 Level 1 screening standards.--

4085 (3) Standards must also ensure that the person:

4086 (a) For employees and employers licensed or registered
4087 pursuant to chapter 400, and for employees and employers of
4088 developmental disabilities ~~services~~ institutions as defined in
4089 s. 393.063, intermediate care facilities for the developmentally
4090 disabled as defined in s. 400.960 ~~s. 393.063~~, and mental health
4091 treatment facilities as defined in s. 394.455, meets the
4092 requirements of this chapter.

4093 Section 62. Paragraph (a) of subsection (2) of section
4094 490.014, Florida Statutes, is amended to read:

4095 490.014 Exemptions.--

4096 (2) No person shall be required to be licensed or
4097 provisionally licensed under this chapter who:

4098 (a) Is a salaried employee of a government agency;
4099 developmental disability facility or ~~services~~ program, mental
4100 health, alcohol, or drug abuse facility operating under ~~pursuant~~
4101 ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child
4102 care program, subsidized child care case management program, or
4103 child care resource and referral program operating pursuant to
4104 chapter 402; child-placing or child-caring agency licensed

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4105 | pursuant to chapter 409; domestic violence center certified
 4106 | pursuant to chapter 39; accredited academic institution; or
 4107 | research institution, if such employee is performing duties for
 4108 | which he or she was trained and hired solely within the confines
 4109 | of such agency, facility, or institution, so long as the
 4110 | employee is not held out to the public as a psychologist
 4111 | pursuant to s. 490.012(1)(a).

4112 | Section 63. Paragraph (a) of subsection (4) of section
 4113 | 491.014, Florida Statutes, is amended to read:

4114 | 491.014 Exemptions.--

4115 | (4) No person shall be required to be licensed,
 4116 | provisionally licensed, registered, or certified under this
 4117 | chapter who:

4118 | (a) Is a salaried employee of a government agency;
 4119 | developmental disability facility or services program, mental
 4120 | health, alcohol, or drug abuse facility operating under ~~pursuant~~
 4121 | ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child
 4122 | care program, subsidized child care case management program, or
 4123 | child care resource and referral program operating pursuant to
 4124 | chapter 402; child-placing or child-caring agency licensed
 4125 | pursuant to chapter 409; domestic violence center certified
 4126 | pursuant to chapter 39; accredited academic institution; or
 4127 | research institution, if such employee is performing duties for
 4128 | which he or she was trained and hired solely within the confines
 4129 | of such agency, facility, or institution, so long as the
 4130 | employee is not held out to the public as a clinical social
 4131 | worker, mental health counselor, or marriage and family
 4132 | therapist.

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4133 Section 64. Section 944.602, Florida Statutes, is amended
4134 to read:

4135 944.602 Agency notification ~~of Department of Children and~~
4136 ~~Family Services~~ before release of mentally retarded
4137 inmates.--Before the release by parole, release by reason of
4138 gain-time allowances provided for in s. 944.291, or expiration
4139 of sentence of any inmate who has been diagnosed as mentally
4140 retarded as defined in s. 393.063, the Department of Corrections
4141 shall notify the Agency for Persons with Disabilities ~~Department~~
4142 ~~of Children and Family Services~~ in order that sufficient time be
4143 allowed to notify the inmate or the inmate's representative, in
4144 writing, at least 7 days prior to the inmate's release, of
4145 available community services.

4146 Section 65. Subsections (2) and (3) of section 945.025,
4147 Florida Statutes, are amended to read:

4148 945.025 Jurisdiction of department.--

4149 (2) In establishing, operating, and utilizing these
4150 facilities, the department shall attempt, whenever possible, to
4151 avoid the placement of nondangerous offenders who have potential
4152 for rehabilitation with repeat offenders or dangerous offenders.
4153 Medical, mental, and psychological problems shall be diagnosed
4154 and treated whenever possible. The Department of Children and
4155 Family Services and the Agency for Persons with Disabilities
4156 shall cooperate to ensure the delivery of services to persons
4157 under the custody or supervision of the department. When it is
4158 the intent of the department to transfer a mentally ill or
4159 retarded prisoner to the Department of Children and Family
4160 Services or the Agency for Persons with Disabilities, an

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4161 involuntary commitment hearing shall be held according to the
4162 provisions of chapter 393 or chapter 394.

4163 (3) There shall be other correctional facilities,
4164 including detention facilities of varying levels of security,
4165 work-release facilities, and community correctional facilities,
4166 halfway houses, and other approved community residential and
4167 nonresidential facilities and programs; however, no adult
4168 correctional facility may be established by changing the use and
4169 purpose of any mental health facility or mental health
4170 institution under the jurisdiction of any state agency or
4171 department without authorization in the General Appropriation
4172 Act or other approval by the Legislature. ~~Any facility the~~
4173 ~~purpose and use of which was changed subsequent to January 1,~~
4174 ~~1975, shall be returned to its original use and purpose by July~~
4175 ~~1, 1977. However, the G. Pierce Wood Memorial Hospital located~~
4176 ~~at Arcadia, DeSoto County, may not be converted into a~~
4177 ~~correctional facility as long as such hospital is in use as a~~
4178 ~~state mental health hospital.~~ Any community residential facility
4179 may be deemed a part of the state correctional system for
4180 purposes of maintaining custody of offenders, and for this
4181 purpose the department may contract for and purchase the
4182 services of such facilities.

4183 Section 66. Section 947.185, Florida Statutes, is amended
4184 to read:

4185 947.185 Application for mental retardation services as
4186 condition of parole.--The Parole Commission may require as a
4187 condition of parole that any inmate who has been diagnosed as
4188 mentally retarded as defined in s. 393.063 shall, upon release,

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4189 | apply for ~~retardation~~ services from the Agency for Persons with
4190 | Disabilities ~~Department of Children and Family Services.~~

4191 | Section 67. Subsection (1) of section 985.224, Florida
4192 | Statutes, is amended to read:

4193 | 985.224 Medical, psychiatric, psychological, substance
4194 | abuse, and educational examination and treatment.--

4195 | (1) After a detention petition or a petition for
4196 | delinquency has been filed, the court may order the child named
4197 | in the petition to be examined by a physician. The court may
4198 | also order the child to be evaluated by a psychiatrist or a
4199 | psychologist, by a district school board educational needs
4200 | assessment team, or, if a developmental disability is suspected
4201 | or alleged, by a ~~the~~ developmental disabilities diagnostic and
4202 | evaluation team with ~~of~~ the Agency for Persons with Disabilities
4203 | ~~Department of Children and Family Services.~~ If it is necessary
4204 | to place a child in a residential facility for such evaluation,
4205 | the criteria and procedures established in chapter 393, chapter
4206 | 394, or chapter 397, whichever is applicable, shall be used.

4207 | Section 68. Section 1003.58, Florida Statutes, is amended
4208 | to read:

4209 | 1003.58 Students in residential care facilities.--Each
4210 | district school board shall provide educational programs
4211 | according to rules of the State Board of Education to students
4212 | who reside in residential care facilities operated by the
4213 | Department of Children and Family Services or the Agency for
4214 | Persons with Disabilities.

4215 | (1) The district school board shall not be charged any
4216 | rent, maintenance, utilities, or overhead on such facilities.

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4217 Maintenance, repairs, and remodeling of existing facilities
 4218 shall be provided by the Department of Children and Family
 4219 Services or the Agency for Persons with Disabilities, as
 4220 appropriate.

4221 (2) If additional facilities are required, the district
 4222 school board and the Department of Children and Family Services
 4223 or the Agency for Persons with Disabilities, as appropriate,
 4224 shall agree on the appropriate site based on the instructional
 4225 needs of the students. When the most appropriate site for
 4226 instruction is on district school board property, a special
 4227 capital outlay request shall be made by the commissioner in
 4228 accordance with s. 1013.60. When the most appropriate site is on
 4229 state property, state capital outlay funds shall be requested by
 4230 the department or agency in accordance with chapter 216 of
 4231 ~~Children and Family Services as provided by s. 216.043 and shall~~
 4232 ~~be submitted as specified by s. 216.023.~~ Any instructional
 4233 facility to be built on state property shall have educational
 4234 specifications jointly developed by the school district and the
 4235 department or agency of Children and Family Services and
 4236 approved by the Department of Education. The size of space and
 4237 occupant design capacity criteria as provided by state board
 4238 rules shall be used for remodeling or new construction whether
 4239 facilities are provided on state property or district school
 4240 board property. The planning of such additional facilities shall
 4241 incorporate current state Department of Children and Family
 4242 ~~Services~~ deinstitutionalization goals and plans.

4243 (3) The district school board shall have full and complete
 4244 authority in the matter of the assignment and placement of such

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4245 | students in educational programs. The parent of an exceptional
4246 | student shall have the same due process rights as are provided
4247 | under s. 1003.57(5).

4248 | (4) The district school board shall have a written
4249 | agreement with the Department of Children and Family Services
4250 | and the Agency for Persons with Disabilities outlining the
4251 | respective duties and responsibilities of each party.

4252 |
4253 | Notwithstanding the provisions herein, the educational program
4254 | at the Marianna Sunland Center in Jackson County shall be
4255 | operated by the Department of Education, either directly or
4256 | through grants or contractual agreements with other public or
4257 | duly accredited educational agencies approved by the Department
4258 | of Education.

4259 | Section 69. Paragraph (c) of subsection (3) of section
4260 | 17.61, Florida Statutes, is amended to read:

4261 | 17.61 Chief Financial Officer; powers and duties in the
4262 | investment of certain funds.--

4263 | (3)

4264 | (c) Except as provided in this paragraph and except for
4265 | moneys described in paragraph (d), the following agencies shall
4266 | not invest trust fund moneys as provided in this section, but
4267 | shall retain such moneys in their respective trust funds for
4268 | investment, with interest appropriated to the General Revenue
4269 | Fund, pursuant to s. 17.57:

4270 | 1. The Agency for Health Care Administration, except for
4271 | the Tobacco Settlement Trust Fund.

4272 | 2. The Agency for Persons with Disabilities, except for:

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- 4273 | a. The Federal Grants Trust Fund.
- 4274 | b. The Tobacco Settlement Trust Fund.
- 4275 | ~~3.2.~~ The Department of Children and Family Services,
- 4276 | except for:
- 4277 | a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.
- 4278 | b. The Community Resources Development Trust Fund.
- 4279 | c. The Refugee Assistance Trust Fund.
- 4280 | d. The Social Services Block Grant Trust Fund.
- 4281 | e. The Tobacco Settlement Trust Fund.
- 4282 | f. The Working Capital Trust Fund.
- 4283 | ~~4.3.~~ The Department of Community Affairs, only for the
- 4284 | Operating Trust Fund.
- 4285 | ~~5.4.~~ The Department of Corrections.
- 4286 | ~~6.5.~~ The Department of Elderly Affairs, except for:
- 4287 | a. The Federal Grants Trust Fund.
- 4288 | b. The Tobacco Settlement Trust Fund.
- 4289 | ~~7.6.~~ The Department of Health, except for:
- 4290 | a. The Federal Grants Trust Fund.
- 4291 | b. The Grants and Donations Trust Fund.
- 4292 | c. The Maternal and Child Health Block Grant Trust Fund.
- 4293 | d. The Tobacco Settlement Trust Fund.
- 4294 | ~~8.7.~~ The Department of Highway Safety and Motor Vehicles,
- 4295 | only for:
- 4296 | a. The DUI Programs Coordination Trust Fund.
- 4297 | b. The Security Deposits Trust Fund.
- 4298 | ~~9.8.~~ The Department of Juvenile Justice.
- 4299 | ~~10.9.~~ The Department of Law Enforcement.
- 4300 | ~~11.10.~~ The Department of Legal Affairs.

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4301 ~~12.11.~~ The Department of State, only for:
 4302 a. The Grants and Donations Trust Fund.
 4303 b. The Records Management Trust Fund.
 4304 ~~13.12.~~ The Executive Office of the Governor, only for:
 4305 a. The Economic Development Transportation Trust Fund.
 4306 b. The Economic Development Trust Fund.
 4307 ~~14.13.~~ The Florida Public Service Commission, only for the
 4308 Florida Public Service Regulatory Trust Fund.
 4309 ~~15.14.~~ The Justice Administrative Commission.
 4310 ~~16.15.~~ The state courts system.
 4311 Section 70. Paragraph (b) of subsection (5) of section
 4312 400.464, Florida Statutes, is amended to read:
 4313 400.464 Home health agencies to be licensed; expiration of
 4314 license; exemptions; unlawful acts; penalties.--
 4315 (5) The following are exempt from the licensure
 4316 requirements of this part:
 4317 (b) Home health services provided by a state agency,
 4318 either directly or through a contractor with:
 4319 1. The Department of Elderly Affairs.
 4320 2. The Department of Health, a community health center, or
 4321 a rural health network that furnishes home visits for the
 4322 purpose of providing environmental assessments, case management,
 4323 health education, personal care services, family planning, or
 4324 followup treatment, or for the purpose of monitoring and
 4325 tracking disease.
 4326 3. Services provided to persons with ~~who have~~
 4327 developmental disabilities, as defined in s. 393.063.

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4328 4. Companion and sitter organizations that were registered
 4329 under s. 400.509(1) on January 1, 1999, and were authorized to
 4330 provide personal services ~~under s. 393.063(33)~~ under a
 4331 developmental services provider certificate on January 1, 1999,
 4332 may continue to provide such services to past, present, and
 4333 future clients of the organization who need such services,
 4334 notwithstanding the provisions of this act.

4335 5. The Department of Children and Family Services.

4336 Section 71. Subsection (7) of section 744.704, Florida
 4337 Statutes, is amended to read:

4338 744.704 Powers and duties.--

4339 (7) A public guardian shall not commit a ward to a mental
 4340 health treatment facility, as defined in s. 394.455 (32) ~~(30)~~,
 4341 without an involuntary placement proceeding as provided by law.

4342 Section 72. Subsection (4) of section 984.22, Florida
 4343 Statutes, is amended to read:

4344 984.22 Powers of disposition.--

4345 (4) All payments of fees made to the department under
 4346 ~~pursuant to~~ this chapter, or child support payments made to the
 4347 department pursuant to subsection (3), shall be deposited in the
 4348 General Revenue Fund. ~~In cases in which the child is placed in~~
 4349 ~~foster care with the Department of Children and Family Services,~~
 4350 ~~such child support payments shall be deposited in the Community~~
 4351 ~~Resources Development Trust Fund.~~

4352 Section 73. This act shall take effect July 1, 2006.