

CHAMBER ACTION

---

1 The Health & Families Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

HB 1503 CS

2006  
CS

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

Page 2 of 161

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

hb1503-03-c3

HB 1503 CS

2006  
CS

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

Page 3 of 161

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

hb1503-03-c3

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

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

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

164 to the Agency for Persons with Disabilities; amending s.  
 165 400.960, F.S.; revising definitions for purposes of part  
 166 XI of ch. 400, F.S., relating to nursing homes and related  
 167 facilities; amending 400.962, F.S.; requiring an applicant  
 168 for a license to operate an intermediate care facility to  
 169 agree to provide or arrange for active treatment services;  
 170 providing rulemaking authority; amending s. 400.967, F.S.,  
 171 relating to rules and classification of deficiencies;  
 172 conforming provisions to the transfer of duties from the  
 173 Department of Children and Family Services to the Agency  
 174 for Persons with Disabilities; requiring that rules be  
 175 adopted for the use of restraint and seclusion; amending  
 176 ss. 402.115, 402.17, 402.181, 402.20, 402.22, and 402.33,  
 177 F.S.; including the Agency for Persons with Disabilities  
 178 within provisions governing the sharing of information,  
 179 claims for the care and maintenance of facility residents,  
 180 county contracts for services for persons with  
 181 developmental disabilities, education programs for  
 182 students who reside in state facilities, and fees for  
 183 services; conforming provisions to changes made by the  
 184 act; correcting a cross-reference; amending s. 408.036,  
 185 F.S., relating to projects that are exempt from obtaining  
 186 a certificate of need; conforming terminology; amending s.  
 187 409.221, F.S., relating to the consumer directed care  
 188 program; conforming provisions to changes made by the act;  
 189 amending ss. 409.908 and 409.9127, F.S., relating to the  
 190 Medicaid program; conforming a cross-reference; deleting  
 191 obsolete provisions; amending ss. 411.224 and 411.232,

HB 1503 CS

2006  
CS

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

Page 8 of 161

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

hb1503-03-c3



HB 1503 CS

2006  
CS

220 conforming provisions to changes made by the act; amending  
 221 s. 744.704, F.S.; correcting a cross-reference; amending  
 222 s. 984.22, F.S.; removing a provision that specifies fines  
 223 be deposited into the Community Resources Development  
 224 Trust Fund; providing for access to and use of electronic  
 225 and information technology by state employees and members  
 226 of the public with disabilities; requiring state agencies  
 227 to procure certain technology resources and to make such  
 228 resources available to certain individuals; providing  
 229 exceptions from compliance requirements; requiring the  
 230 Department of Management Service to adopt rules; providing  
 231 an effective date.

232

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

234

235 Section 1. Section 20.197, Florida Statutes, is amended to  
 236 read:

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

246 (1) The director of the agency shall be the agency head  
 247 for all purposes and shall be appointed by the Governor, subject

248 | to confirmation by the Senate, and shall serve at the pleasure  
 249 | of the Governor. The director shall administer the affairs of  
 250 | the agency ~~and establish administrative units as needed~~ and may,  
 251 | within available resources, employ assistants, professional  
 252 | staff, and other employees as necessary to discharge the powers  
 253 | and duties of the agency.

254 | (2) The agency shall include a Division of Budget and  
 255 | Planning and a Division of Operations. In addition, and in  
 256 | accordance with s. 20.04, the director of the agency may  
 257 | recommend establishing additional divisions, bureaus, sections,  
 258 | and subsections of the agency in order to promote efficient and  
 259 | effective operation of the agency.

260 | (3)~~(2)~~ The agency is ~~shall be~~ responsible for providing  
 261 | ~~the provision of~~ all services provided to persons with  
 262 | developmental disabilities under ~~pursuant to~~ chapter 393,  
 263 | including the operation of all state institutional programs and  
 264 | the programmatic management of Medicaid waivers established to  
 265 | provide services to persons with developmental disabilities.

266 | (4)~~(3)~~ The agency shall engage in such other  
 267 | administrative activities as are deemed necessary to effectively  
 268 | and efficiently address the needs of the agency's clients.

269 | (5)~~(4)~~ The agency shall enter into an interagency  
 270 | agreement that delineates the responsibilities of the Agency for  
 271 | Health Care Administration for the following:

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

HB 1503 CS

2006  
CS

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

277 (c) The implementation of utilization management measures,  
278 including the prior authorization of services plans and the  
279 streamlining and consolidation of waivers services, to ensure  
280 the cost-effective provision of needed Medicaid services and to  
281 maximize the number of persons with access to such services.

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

286 Section 2. Paragraph (b) of subsection (7) of section  
287 39.001, Florida Statutes, is amended to read:

288 39.001 Purposes and intent; personnel standards and  
289 screening.--

290 (7) PLAN FOR COMPREHENSIVE APPROACH.--

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

293 1. The department shall establish an interprogram task  
294 force comprised of the Program Director for Family Safety, or a  
295 designee, a representative from the Child Care Services Program  
296 Office, a representative from the Family Safety Program Office,  
297 a representative from the Mental Health Program Office, a  
298 representative from the Substance Abuse Program Office, a  
299 representative from the Agency for Persons with Disabilities  
300 ~~Developmental Disabilities Program Office~~, and a representative  
301 from the Division of Children's Medical Services Network  
302 ~~Prevention and Intervention~~ of the Department of Health.

HB 1503 CS

2006  
CS

303 Representatives of the Department of Law Enforcement and of the  
304 Department of Education shall serve as ex officio members of the  
305 interprogram task force. The interprogram task force shall be  
306 responsible for:

307       a. Developing a plan of action for better coordination and  
308 integration of the goals, activities, and funding pertaining to  
309 the prevention of child abuse, abandonment, and neglect  
310 conducted by the department in order to maximize staff and  
311 resources at the state level. The plan of action shall be  
312 included in the state plan.

313       b. Providing a basic format to be utilized by the  
314 districts in the preparation of local plans of action in order  
315 to provide for uniformity in the district plans and to provide  
316 for greater ease in compiling information for the state plan.

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

319       d. Examining the local plans to determine if all the  
320 requirements of the local plans have been met and, if they have  
321 not, informing the districts of the deficiencies and requesting  
322 the additional information needed.

323       e. Preparing the state plan for submission to the  
324 Legislature and the Governor. Such preparation shall include the  
325 collapsing of information obtained from the local plans, the  
326 cooperative plans with the Department of Education, and the plan  
327 of action for coordination and integration of departmental  
328 activities into one comprehensive plan. The comprehensive plan  
329 shall include a section reflecting general conditions and needs,  
330 an analysis of variations based on population or geographic

HB 1503 CS

2006  
CS

331 areas, identified problems, and recommendations for change. In  
332 essence, the plan shall provide an analysis and summary of each  
333 element of the local plans to provide a statewide perspective.  
334 The plan shall also include each separate local plan of action.

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

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

346 3. The department, the Department of Law Enforcement, and  
347 the Department of Health shall work together in developing ways  
348 to inform and instruct appropriate local law enforcement  
349 personnel in the detection of 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.

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

HB 1503 CS

2006  
CS

359           5. The department, the Department of Education, and the  
360 Department of Health shall work together on the enhancement or  
361 adaptation of curriculum materials to assist instructional  
362 personnel in providing instruction through a multidisciplinary  
363 approach on the identification, intervention, and prevention of  
364 child abuse, abandonment, and neglect. The curriculum materials  
365 shall be geared toward a sequential program of instruction at  
366 the four progressional levels, K-3, 4-6, 7-9, and 10-12.  
367 Strategies for encouraging all school districts to utilize the  
368 curriculum are to be included in the comprehensive state plan  
369 for the prevention of child abuse, abandonment, and neglect.

370           6. Each district of the department shall develop a plan  
371 for its specific geographical area. The plan developed at the  
372 district level shall be submitted to the interprogram task force  
373 for utilization in preparing the state plan. The district local  
374 plan of action shall be prepared with the involvement and  
375 assistance of the local agencies and organizations listed in  
376 paragraph (a), as well as representatives from those  
377 departmental district offices participating in the treatment and  
378 prevention of child abuse, abandonment, and neglect. In order to  
379 accomplish this, the district administrator in each district  
380 shall establish a task force on the prevention of child abuse,  
381 abandonment, and neglect. The district administrator shall  
382 appoint the members of the task force in accordance with the  
383 membership requirements of this section. In addition, the  
384 district administrator shall ensure that each subdistrict is  
385 represented on the task force; and, if the district does not  
386 have subdistricts, the district administrator shall ensure that

HB 1503 CS

2006  
CS

387 both urban and rural areas are represented on the task force.  
388 The task force shall develop a written statement clearly  
389 identifying its operating procedures, purpose, overall  
390 responsibilities, and method of meeting responsibilities. The  
391 district plan of action to be prepared by the task force shall  
392 include, but shall not be limited to:

393 a. Documentation of the magnitude of the problems of child  
394 abuse, including sexual abuse, physical abuse, and emotional  
395 abuse, and child abandonment and neglect in its geographical  
396 area.

397 b. A description of programs currently serving abused,  
398 abandoned, and neglected children and their families and a  
399 description of programs for the prevention of child abuse,  
400 abandonment, and neglect, including information on the impact,  
401 cost-effectiveness, and sources of funding of such programs.

402 c. A continuum of programs and services necessary for a  
403 comprehensive approach to the prevention of all types of child  
404 abuse, abandonment, and neglect as well as a brief description  
405 of such programs and services.

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

409 e. A plan for steps to be taken in meeting identified  
410 needs, including the coordination and integration of services to  
411 avoid unnecessary duplication and cost, and for alternative  
412 funding strategies for meeting needs through the reallocation of  
413 existing resources, utilization of volunteers, contracting with

HB 1503 CS

2006  
CS

414 | local universities for services, and local government or private  
415 | agency funding.

416 |       f. A description of barriers to the accomplishment of a  
417 | comprehensive approach to the prevention of child abuse,  
418 | abandonment, and neglect.

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

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

423 |       39.202 Confidentiality of reports and records in cases of  
424 | child abuse or neglect.--

425 |       (2) Except as provided in subsection (4), access to such  
426 | records, excluding the name of the reporter which shall be  
427 | released only as provided in subsection (5), shall be granted  
428 | only to the following persons, officials, and agencies:

429 |       (a) Employees, authorized agents, or contract providers of  
430 | the department, the Department of Health, the Agency for Persons  
431 | with Disabilities, or county agencies responsible for carrying  
432 | out:

- 433 |       1. Child or adult protective investigations;  
434 |       2. Ongoing child or adult protective services;  
435 |       3. Healthy Start services; or  
436 |       4. Licensure or approval of adoptive homes, foster homes,  
437 | ~~or~~ child care facilities, facilities licensed under chapter 393,  
438 | or family day care homes or informal child care providers who  
439 | receive subsidized child care funding, or other homes used to  
440 | provide for the care and welfare of children.



HB 1503 CS

2006  
CS

441           5. Services for victims of domestic violence when provided  
442 by certified domestic violence centers working at the  
443 department's request as case consultants or with shared clients.  
444

445 Also, employees or agents of the Department of Juvenile Justice  
446 responsible for the provision of services to children, pursuant  
447 to chapters 984 and 985.

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

450           1. Administration or supervision of the department's  
451 program for the prevention, investigation, or treatment of child  
452 abuse, abandonment, or neglect, or abuse, neglect, or  
453 exploitation of a vulnerable adult, when carrying out his or her  
454 official function;

455           2. Taking appropriate administrative action concerning an  
456 employee of the department or the agency who is alleged to have  
457 perpetrated child abuse, abandonment, or neglect, or abuse,  
458 neglect, or exploitation of a vulnerable adult; or

459           3. Employing and continuing employment of personnel of the  
460 department or the agency.

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

463           39.407 Medical, psychiatric, and psychological examination  
464 and treatment of child; physical or mental examination of parent  
465 or person requesting custody of child.--

466           (5) A judge may order a child in an out-of-home placement  
467 to be treated by a licensed health care professional based on  
468 evidence that the child should receive treatment. The judge may

HB 1503 CS

2006  
CS

469 | also order such child to receive mental health or developmental  
 470 | disabilities services from a psychiatrist, psychologist, or  
 471 | other appropriate service provider. Except as provided in  
 472 | subsection (6), if it is necessary to place the child in a  
 473 | residential facility for such services, the procedures and  
 474 | criteria established in s. 394.467 ~~or chapter 393~~ shall be used,  
 475 | ~~whichever is applicable~~. A child may be provided ~~developmental~~  
 476 | ~~disabilities~~ or mental health services in emergency situations,  
 477 | pursuant to the procedures and criteria contained in s.  
 478 | 394.463(1) ~~or chapter 393, whichever is applicable~~. Nothing in  
 479 | this section confers jurisdiction on the court with regard to  
 480 | determining eligibility or ordering services under chapter 393.

481 | Section 5. Section 287.155, Florida Statutes, is amended  
 482 | to read:

483 | 287.155 Motor vehicles; purchase by Division of  
 484 | Universities, Department of Children and Family Services, Agency  
 485 | for Persons with Disabilities, Department of Health, Department  
 486 | of Juvenile Justice, and Department of Corrections.--

487 | (1) The Division of Universities of the Department of  
 488 | Education, the Department of Children and Family Services, the  
 489 | Agency for Persons with Disabilities, the Department of Health,  
 490 | the Department of Juvenile Justice, and the Department of  
 491 | Corrections may ~~are hereby authorized~~, subject to the approval  
 492 | of the Department of Management Services, ~~to~~ purchase  
 493 | automobiles, trucks, tractors, and other automotive equipment  
 494 | for the use of institutions under the management of the Division  
 495 | of Universities, the Department of Children and Family Services,  
 496 | the Agency for Persons with Disabilities, the Department of

HB 1503 CS

2006  
CS

497 Health, and the Department of Corrections, and for the use of  
498 residential facilities managed or contracted by the Department  
499 of Juvenile Justice.

500 (2) The Department of Corrections shall, prior to  
501 purchasing motor vehicles, seek to procure the motor vehicles  
502 from those vehicles renovated pursuant to correctional work  
503 programs of the Department of Corrections, and for the use of  
504 residential facilities managed or contracted by the Department  
505 of Juvenile Justice.

506 (3) The Department of Health is authorized, subject to the  
507 approval of the Department of Management Services, to purchase  
508 automobiles, trucks, and other automotive equipment for use by  
509 county health departments.

510 Section 6. Paragraph (a) of subsection (3) of section  
511 381.0072, Florida Statutes, is amended to read:

512 381.0072 Food service protection.--It shall be the duty of  
513 the Department of Health to adopt and enforce sanitation rules  
514 consistent with law to ensure the protection of the public from  
515 food-borne illness. These rules shall provide the standards and  
516 requirements for the storage, preparation, serving, or display  
517 of food in food service establishments as defined in this  
518 section and which are not permitted or licensed under chapter  
519 500 or chapter 509.

520 (3) LICENSES REQUIRED.--

521 (a) Licenses; annual renewals.--Each food service  
522 establishment regulated under this section shall obtain a  
523 license from the department annually. Food service establishment  
524 licenses shall expire annually and are ~~shall~~ not ~~be~~ transferable

HB 1503 CS

2006  
CS

525 | from one place or individual to another. However, those  
 526 | facilities licensed by the department's Office of Licensure and  
 527 | Certification, the Child Care Services Program Office, or the  
 528 | Agency for Persons with Developmental Disabilities Program  
 529 | ~~Office~~ are exempt from this subsection. It shall be a  
 530 | misdemeanor of the second degree, punishable as provided in s.  
 531 | 381.0061, s. 775.082, or s. 775.083, for such an establishment  
 532 | to operate without this license. The department may refuse a  
 533 | license, or a renewal thereof, to any establishment that is not  
 534 | constructed or maintained in accordance with law and with the  
 535 | rules of the department. Annual application for renewal is shall  
 536 | not ~~be~~ required.

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

539 | 383.14 Screening for metabolic disorders, other hereditary  
 540 | and congenital disorders, and environmental risk factors.--

541 | (5) ADVISORY COUNCIL.--There is established a Genetics and  
 542 | Newborn Screening Advisory Council made up of 15 members  
 543 | appointed by the Secretary of Health. The council shall be  
 544 | composed of two consumer members, three practicing  
 545 | pediatricians, at least one of whom must be a pediatric  
 546 | hematologist, one representative from each of the four medical  
 547 | schools in the state, the Secretary of Health or his or her  
 548 | designee, one representative from the Department of Health  
 549 | representing Children's Medical Services, one representative  
 550 | from the Florida Hospital Association, one individual with  
 551 | experience in newborn screening programs, one individual  
 552 | representing audiologists, and one representative from the

HB 1503 CS

2006  
CS

553 Agency for Persons with Disabilities ~~Developmental Disabilities~~  
554 ~~Program Office of the Department of Children and Family~~  
555 ~~Services~~. All appointments shall be for a term of 4 years. The  
556 chairperson of the council shall be elected from the membership  
557 of the council and shall serve for a period of 2 years. The  
558 council shall meet at least semiannually or upon the call of the  
559 chairperson. The council may establish ad hoc or temporary  
560 technical advisory groups to assist the council with specific  
561 topics which come before the council. Council members shall  
562 serve without pay. Pursuant to the provisions of s. 112.061, the  
563 council members are entitled to be reimbursed for per diem and  
564 travel expenses. It is the purpose of the council to advise the  
565 department about:

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

568 (b) Procedures for collection and transmission of  
569 specimens and recording of results.

570 (c) Methods whereby screening programs and genetics  
571 services for children now provided or proposed to be offered in  
572 the state may be more effectively evaluated, coordinated, and  
573 consolidated.

574 Section 8. Section 393.061, Florida Statutes, is repealed.

575 Section 9. Section 393.062, Florida Statutes, is amended  
576 to read:

577 393.062 Legislative findings and declaration of  
578 intent.--The Legislature finds and declares that existing state  
579 programs for the treatment of individuals with developmental  
580 disabilities ~~who are developmentally disabled~~, which often

HB 1503 CS

2006  
CS

581 unnecessarily place clients in institutions, are unreasonably  
582 costly, are ineffective in bringing the individual client to his  
583 or her maximum potential, and are in fact debilitating to many a  
584 ~~great majority of~~ clients. A redirection in state treatment  
585 programs for individuals with developmental disabilities ~~who are~~  
586 ~~developmentally disabled~~ is necessary if any significant  
587 amelioration of the problems faced by such individuals is ever  
588 to take place. Such redirection should place primary emphasis on  
589 programs that ~~have the potential to~~ prevent or reduce the  
590 severity of developmental disabilities. Further, the Legislature  
591 ~~declares that~~ greatest priority shall be given to the  
592 development and implementation of community-based ~~residential~~  
593 ~~placements, services that, and treatment programs for~~  
594 ~~individuals who are developmentally disabled which~~ will enable  
595 ~~such~~ individuals with developmental disabilities to achieve  
596 their greatest potential for independent and productive living,  
597 ~~which will~~ enable them to live in their own homes or in  
598 residences located in their own communities, and ~~which will~~  
599 permit them to be diverted or removed from unnecessary  
600 institutional placements. This goal ~~The Legislature finds that~~  
601 ~~the eligibility criteria for intermediate care facilities for~~  
602 ~~the developmentally disabled which are specified in the Medicaid~~  
603 ~~state plan in effect on the effective date of this act are~~  
604 ~~essential to the system of residential services. The Legislature~~  
605 ~~declares that the goal of this act, to improve the quality of~~  
606 ~~life of all developmentally disabled persons by the development~~  
607 ~~and implementation of community-based residential placements,~~  
608 ~~services, and treatment,~~ cannot be met without ensuring the

Page 22 of 161

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

hb1503-03-c3

HB 1503 CS

2006  
CS

609 availability of community residential opportunities ~~for~~  
 610 ~~developmentally disabled persons~~ in the residential areas of  
 611 this state. The Legislature, therefore, declares that all  
 612 persons with developmental disabilities who live in licensed  
 613 community homes shall have a family living environment  
 614 comparable to other Floridians and. ~~The Legislature intends~~ that  
 615 such residences shall be considered and treated as a functional  
 616 equivalent of a family unit and not as an institution, business,  
 617 or boarding home. The Legislature further declares that, in  
 618 developing community-based programs and services for individuals  
 619 with developmental disabilities ~~who are developmentally~~  
 620 ~~disabled~~, private businesses, not-for-profit corporations, units  
 621 of local government, and other organizations capable of  
 622 providing needed services to clients in a cost-efficient manner  
 623 shall be given preference in lieu of operation of programs  
 624 directly by state agencies. Finally, it is the intent of the  
 625 Legislature that all caretakers unrelated to individuals with  
 626 developmental disabilities receiving care shall be of good moral  
 627 character.

628 Section 10. Section 393.063, Florida Statutes, is amended  
 629 to read:

630 393.063 Definitions.--For the purposes of this chapter,  
 631 the term:

632 (1) "Agency" means the Agency for Persons with  
 633 Disabilities.

634 (2) "Adult day training" means training services which  
 635 take place in a nonresidential setting, separate from the home  
 636 or facility in which the client resides, are intended to support

HB 1503 CS

2006  
CS

637 the participation of clients in daily, meaningful, and valued  
638 routines of the community, and may include work-like settings  
639 that do not meet the definition of supported employment.

640 (3)~~(2)~~ "Autism" means a pervasive, neurologically based  
641 developmental disability of extended duration which causes  
642 severe learning, communication, and behavior disorders with age  
643 of onset during infancy or childhood. Individuals with autism  
644 exhibit impairment in reciprocal social interaction, impairment  
645 in verbal and nonverbal communication and imaginative ability,  
646 and a markedly restricted repertoire of activities and  
647 interests.

648 (4)~~(3)~~ "Cerebral palsy" means a group of disabling  
649 symptoms of extended duration which results from damage to the  
650 developing brain that may occur before, during, or after birth  
651 and that results in the loss or impairment of control over  
652 voluntary muscles. For the purposes of this definition, cerebral  
653 palsy does not include those symptoms or impairments resulting  
654 solely from a stroke.

655 (5)~~(4)~~ "Client" means any person determined eligible by  
656 the agency for services under this chapter.

657 (6)~~(5)~~ "Client advocate" means a friend or relative of the  
658 client, or of the client's immediate family, who advocates for  
659 the best interests of the client in any proceedings under this  
660 chapter in which the client or his or her family has the right  
661 or duty to participate.

662 (7)~~(6)~~ "Comprehensive assessment" means the process used  
663 to determine eligibility for services under this chapter.



664           ~~(8)(7)~~ "Comprehensive transitional education program"  
665 means the program established in s. 393.18. ~~a group of jointly~~  
666 ~~operating centers or units, the collective purpose of which is~~  
667 ~~to provide a sequential series of educational care, training,~~  
668 ~~treatment, habilitation, and rehabilitation services to persons~~  
669 ~~who have developmental disabilities and who have severe or~~  
670 ~~moderate maladaptive behaviors. However, nothing in this~~  
671 ~~subsection shall require such programs to provide services only~~  
672 ~~to persons with developmental disabilities. All such services~~  
673 ~~shall be temporary in nature and delivered in a structured~~  
674 ~~residential setting with the primary goal of incorporating the~~  
675 ~~normalization principle to establish permanent residence for~~  
676 ~~persons with maladaptive behaviors in facilities not associated~~  
677 ~~with the comprehensive transitional education program. The staff~~  
678 ~~shall include psychologists and teachers who shall be available~~  
679 ~~to provide services in each component center or unit of the~~  
680 ~~program. The psychologists shall be individuals who are licensed~~  
681 ~~in this state and certified as behavior analysts in this state,~~  
682 ~~or individuals who are certified as behavior analysts pursuant~~  
683 ~~to s. 393.17.~~

684           ~~(a)~~ ~~Comprehensive transitional education programs shall~~  
685 ~~include a minimum of two component centers or units, one of~~  
686 ~~which shall be either an intensive treatment and educational~~  
687 ~~center or a transitional training and educational center, which~~  
688 ~~provide services to persons with maladaptive behaviors in the~~  
689 ~~following sequential order:~~

690           ~~1. Intensive treatment and educational center. This~~  
691 ~~component is a self-contained residential unit providing~~

692 ~~intensive psychological and educational programming for persons~~  
693 ~~with severe maladaptive behaviors, whose behaviors preclude~~  
694 ~~placement in a less restrictive environment due to the threat of~~  
695 ~~danger or injury to themselves or others.~~

696 ~~2. Transitional training and educational center. This~~  
697 ~~component is a residential unit for persons with moderate~~  
698 ~~maladaptive behaviors, providing concentrated psychological and~~  
699 ~~educational programming emphasizing a transition toward a less~~  
700 ~~restrictive environment.~~

701 ~~3. Community transition residence. This component is a~~  
702 ~~residential center providing educational programs and such~~  
703 ~~support services, training, and care as are needed to assist~~  
704 ~~persons with maladaptive behaviors to avoid regression to more~~  
705 ~~restrictive environments while preparing them for more~~  
706 ~~independent living. Continuous shift staff shall be required for~~  
707 ~~this component.~~

708 ~~4. Alternative living center. This component is a~~  
709 ~~residential unit providing an educational and family living~~  
710 ~~environment for persons with maladaptive behaviors, in a~~  
711 ~~moderately unrestricted setting. Residential staff shall be~~  
712 ~~required for this component.~~

713 ~~5. Independent living education center. This component is~~  
714 ~~a facility providing a family living environment for persons~~  
715 ~~with maladaptive behaviors, in a largely unrestricted setting~~  
716 ~~which includes education and monitoring appropriate to support~~  
717 ~~the development of independent living skills.~~

718 ~~(b) Centers or units that are components of a~~  
719 ~~comprehensive transitional education program are subject to the~~

HB 1503 CS

2006  
CS

720 ~~license issued to the comprehensive transitional education~~  
721 ~~program and may be located on either single or multiple sites.~~

722 ~~(c) Comprehensive transitional education programs shall~~  
723 ~~develop individual education plans for each person with~~  
724 ~~maladaptive behaviors who receives services therein. Such~~  
725 ~~individual education plans shall be developed in accordance with~~  
726 ~~the criteria specified in 20 U.S.C. ss. 401 et seq., and 34~~  
727 ~~C.F.R. part 300.~~

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

731 ~~(e) This subsection shall authorize licensure for~~  
732 ~~comprehensive transitional education programs which by July 1,~~  
733 ~~1989:~~

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

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

749 ~~(9) "Day habilitation service" means assistance with the~~  
750 ~~acquisition, retention, or improvement in self-help,~~  
751 ~~socialization, and adaptive skills which takes place in a~~  
752 ~~nonresidential setting, separate from the home or facility in~~  
753 ~~which the individual resides. Day habilitation services shall~~  
754 ~~focus on enabling the individual to attain or maintain his or~~  
755 ~~her maximum functional level and shall be coordinated with any~~  
756 ~~physical, occupational, or speech therapies listed in the plan~~  
757 ~~of care.~~

758 (9) ~~(10)~~ "Developmental disability" means a disorder or  
759 syndrome that is attributable to retardation, cerebral palsy,  
760 autism, spina bifida, or Prader-Willi syndrome; that manifests  
761 before the age of 18; and that constitutes a substantial  
762 handicap that can reasonably be expected to continue  
763 indefinitely.

764 (10) ~~(11)~~ "Developmental disabilities institution" means a  
765 state-owned and state-operated facility, formerly known as a  
766 "Sunland Center," providing for the care, habilitation, and  
767 rehabilitation of clients with developmental disabilities.

768 (11) ~~(12)~~ "Direct service provider," ~~also known as~~  
769 ~~"caregiver" in chapters 39 and 415 or "caretaker" in provisions~~  
770 ~~relating to employment security checks,~~ means a person 18 years  
771 of age or older who has direct face-to-face contact with a  
772 client while providing services to the client ~~individuals with~~  
773 ~~developmental disabilities,~~ or has access to a client's living

HB 1503 CS

2006  
CS

774 areas or to a client's funds or personal property, ~~and is not a~~  
775 ~~relative of such individuals.~~

776 (12) ~~(13)~~ "Domicile" means the place where a client legally  
777 resides, which place is his or her permanent home. Domicile may  
778 be established as provided in s. 222.17. Domicile may not be  
779 established in Florida by a minor who has no parent domiciled in  
780 Florida, or by a minor who has no legal guardian domiciled in  
781 Florida, or by any alien not classified as a resident alien.

782 ~~(14) "Enclave" means a work station in public or private~~  
783 ~~business or industry where a small group of persons with~~  
784 ~~developmental disabilities is employed and receives training and~~  
785 ~~support services or follow-along services among nonhandicapped~~  
786 ~~workers.~~

787 ~~(15) "Epilepsy" means a chronic brain disorder of various~~  
788 ~~causes which is characterized by recurrent seizures due to~~  
789 ~~excessive discharge of cerebral neurons. When found concurrently~~  
790 ~~with retardation, autism, or cerebral palsy, epilepsy is~~  
791 ~~considered a secondary disability for which the client is~~  
792 ~~eligible to receive services to ameliorate this condition~~  
793 ~~pursuant to this chapter.~~

794 (13) ~~(16)~~ "Express and informed consent" means consent  
795 voluntarily given in writing with sufficient knowledge and  
796 comprehension of the subject matter ~~involved~~ to enable the  
797 person giving consent to make a knowing ~~an understanding and~~  
798 ~~enlightened~~ decision without any element of force, fraud,  
799 deceit, duress, or other form of constraint or coercion.

800 (14) ~~(17)~~ "Family care program" means the program  
801 established in s. 393.068.

802 ~~(18) "Follow along services" means those support services~~  
803 ~~provided to persons with developmental disabilities in all~~  
804 ~~supported employment programs and may include, but are not~~  
805 ~~limited to, family support, assistance in meeting transportation~~  
806 ~~and medical needs, employer intervention, performance~~  
807 ~~evaluation, advocacy, replacement, retraining or promotional~~  
808 ~~assistance, or other similar support services.~~

809 (15)~~(19)~~ "Foster care facility" means a residential  
810 facility licensed under this chapter which provides a family  
811 living environment including supervision and care necessary to  
812 meet the physical, emotional, and social needs of its residents.  
813 The capacity of such a facility may ~~shall~~ not be more than three  
814 residents.

815 (16)~~(20)~~ "Group home facility" means a residential  
816 facility licensed under this chapter which provides a family  
817 living environment including supervision and care necessary to  
818 meet the physical, emotional, and social needs of its residents.  
819 The capacity of such a facility shall be at least 4 but not more  
820 than 15 residents. ~~For the purposes of this chapter, group home~~  
821 ~~facilities shall not be considered commercial enterprises.~~

822 (17)~~(21)~~ "Guardian advocate" means a person appointed by a  
823 written order of the court to represent a person with  
824 developmental disabilities under s. 393.12.

825 (18)~~(22)~~ "Habilitation" means the process by which a  
826 client is assisted to acquire and maintain those life skills  
827 which enable the client to cope more effectively with the  
828 demands of his or her condition and environment and to raise the  
829 level of his or her physical, mental, and social efficiency. It

HB 1503 CS

2006  
CS

830 includes, but is not limited to, programs of formal structured  
831 education and treatment.

832 ~~(19)-(23)~~ "High-risk child" means, for the purposes of this  
833 chapter, a child from 3 ~~birth~~ to 5 years of age with one or more  
834 of the following characteristics:

835 (a) A developmental delay in cognition, language, or  
836 physical development.

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

840 (c) A child with a parent or guardian with developmental  
841 disabilities who requires assistance in meeting the child's  
842 developmental needs.

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

845 ~~(20)-(24)~~ "Intermediate care facility for the  
846 developmentally disabled" or "ICF/DD" means a residential  
847 facility licensed and certified pursuant to part XI of chapter  
848 400.

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

852 ~~(21)-(26)~~ "Medical/dental services" means medically  
853 necessary ~~these~~ services which are provided or ordered for a  
854 client by a person licensed under ~~pursuant to the provisions of~~  
855 chapter 458, chapter 459, or chapter 466. Such services may  
856 include, but are not limited to, prescription drugs, specialized  
857 therapies, nursing supervision, hospitalization, dietary

Page 31 of 161

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

hb1503-03-c3

HB 1503 CS

2006  
CS

858 services, prosthetic devices, surgery, specialized equipment and  
859 supplies, adaptive equipment, and other services as required to  
860 prevent or alleviate a medical or dental condition.

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

864 ~~(28) "Normalization principle" means the principle of~~  
865 ~~letting the client obtain an existence as close to the normal as~~  
866 ~~possible, making available to the client patterns and conditions~~  
867 ~~of everyday life which are as close as possible to the norm and~~  
868 ~~patterns of the mainstream of society.~~

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

883 ~~(23)(30) "Prader-Willi syndrome" means an inherited~~  
884 ~~condition typified by neonatal hypotonia with failure to thrive,~~  
885 ~~hyperphagia or an excessive drive to eat which leads to obesity~~



HB 1503 CS

2006  
CS

886 usually at 18 to 36 months of age, mild to moderate mental  
887 retardation, hypogonadism, short stature, mild facial  
888 dysmorphism, and a characteristic neurobehavior.

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

893 (24)~~(32)~~ "Relative" means an individual who is connected  
894 by affinity or consanguinity to the client and who is 18 years  
895 of age or older more.

896 (25)~~(33)~~ "Resident" means any person with developmental  
897 disabilities ~~who is developmentally disabled~~ residing at a  
898 residential facility ~~in the state~~, whether or not such person is  
899 a client of the agency.

900 (26)~~(34)~~ "Residential facility" means a facility providing  
901 room and board and personal care for persons with developmental  
902 disabilities.

903 (27)~~(35)~~ "Residential habilitation" means supervision and  
904 training assistance ~~provided with the~~ acquisition, retention, or  
905 improvement in skills related to activities of daily living,  
906 such as personal hygiene skills ~~grooming and cleanliness,~~  
907 homemaking skills ~~bedmaking and household chores, eating and the~~  
908 ~~preparation of food~~, and the social and adaptive skills  
909 necessary to enable the individual to reside in the community a  
910 ~~noninstitutional~~ setting.

911 (28)~~(36)~~ "Residential habilitation center" means a  
912 community residential facility licensed under this chapter which  
913 ~~that~~ provides residential habilitation services. The capacity of

HB 1503 CS

2006  
CS

914 such a facility shall not be fewer than nine residents. After  
 915 October 1, 1989, ~~no~~ new residential habilitation centers may not  
 916 ~~shall~~ be licensed and the licensed capacity ~~shall not be~~  
 917 ~~increased~~ for any existing residential habilitation center may  
 918 not be increased.

919 ~~(29)(37)~~ "Respite service" means appropriate, short-term,  
 920 temporary care that is provided to a person with developmental  
 921 disabilities to meet the planned or emergency needs of the  
 922 person or the family or other direct service provider.

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

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

930 (b) A drug used as a restraint is a medication used to  
 931 control the person's behavior or to restrict his or her freedom  
 932 of movement and is not a standard treatment for the person's  
 933 medical or psychiatric condition. Physically holding a person  
 934 during a procedure to forcibly administer psychotropic  
 935 medication is a physical restraint.

936 (c) Restraint does not include physical devices, such as  
 937 orthopedically prescribed appliances, surgical dressings and  
 938 bandages, supportive body bands, or other physical holding when  
 939 necessary for routine physical examinations and tests; for  
 940 purposes of orthopedic, surgical, or other similar medical  
 941 treatment; when used to provide support for the achievement of

HB 1503 CS

2006  
CS

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

944 ~~(31)-(38)~~ "Retardation" means significantly subaverage  
945 general intellectual functioning existing concurrently with  
946 deficits in adaptive behavior ~~and manifested during the period~~  
947 ~~from conception to age 18.~~ "Significantly subaverage general  
948 intellectual functioning," for the purpose of this definition,  
949 means performance which is two or more standard deviations from  
950 the mean score on a standardized intelligence test specified in  
951 the rules of the agency. "Adaptive behavior," for the purpose of  
952 this definition, means the effectiveness or degree with which an  
953 individual meets the standards of personal independence and  
954 social responsibility expected of his or her age, cultural  
955 group, and community.

956 (32) "Seclusion" means the involuntary isolation of a  
957 person in a room or area from which the person is prevented from  
958 leaving. The prevention may be by physical barrier or by a staff  
959 member who is acting in a manner, or who is physically situated,  
960 so as to prevent the person from leaving the room or area. For  
961 the purposes of this chapter, the term does not mean isolation  
962 due to the medical condition or symptoms of the person.

963 (33) "Self-determination" means an individual's freedom to  
964 exercise the same rights as all other citizens, authority to  
965 exercise control over funds needed for one's own support,  
966 including prioritizing these funds when necessary,  
967 responsibility for the wise use of public funds, and self  
968 advocacy to speak and advocate for oneself in order to gain

969 | independence and ensure that individuals with a developmental  
 970 | disability are treated equally.

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

976 | (34)~~(40)~~ "Specialized therapies" means those treatments or  
 977 | activities prescribed by and provided by an appropriately  
 978 | trained, licensed, or certified professional or staff person and  
 979 | may include, but are not limited to, physical therapy, speech  
 980 | therapy, respiratory therapy, occupational therapy, behavior  
 981 | therapy, physical management services, and related specialized  
 982 | equipment and supplies.

983 | (35)~~(41)~~ "Spina bifida" means, for purposes of this  
 984 | chapter, a person with a medical diagnosis of spina bifida  
 985 | cystica or myelomeningocele.

986 | (36)~~(42)~~ "Support coordinator" means a person who is  
 987 | designated by the agency to assist individuals and families in  
 988 | identifying their capacities, needs, and resources, as well as  
 989 | finding and gaining access to necessary supports and services;  
 990 | coordinating the delivery of supports and services; advocating  
 991 | on behalf of the individual and family; maintaining relevant  
 992 | records; and monitoring and evaluating the delivery of supports  
 993 | and services to determine the extent to which they meet the  
 994 | needs and expectations identified by the individual, family, and  
 995 | others who participated in the development of the support plan.

HB 1503 CS

2006  
CS

996       ~~(43) "Supported employee" means a person who requires and~~  
997 ~~receives supported employment services in order to maintain~~  
998 ~~community-based employment.~~

999       (37)~~(44)~~ "Supported employment" means employment located  
1000 or provided in a normal employment setting which provides at  
1001 least 20 hours employment per week in an integrated work  
1002 setting, with earnings paid on a commensurate wage basis, and  
1003 for which continued support is needed for job maintenance.

1004       (38)~~(45)~~ "Supported living" means a category of  
1005 individually determined services designed and coordinated in  
1006 such a manner as to provide assistance to adult clients who  
1007 require ongoing supports to live as independently as possible in  
1008 their own homes, to be integrated into the community, and to  
1009 participate in community life to the fullest extent possible.

1010       (39)~~(46)~~ "Training" means a planned approach to assisting  
1011 a client to attain or maintain his or her maximum potential and  
1012 includes services ranging from sensory stimulation to  
1013 instruction in skills for independent living and employment.

1014       (40)~~(47)~~ "Treatment" means the prevention, amelioration,  
1015 or cure of a client's physical and mental disabilities or  
1016 illnesses.

1017       Section 11. Subsections (1), (2), and (4) of section  
1018 393.064, Florida Statutes, are amended to read:

1019       393.064 Prevention.--

1020       (1) The agency shall give priority to the development,  
1021 planning, and implementation of programs which have the  
1022 potential to prevent, correct, cure, or reduce the severity of  
1023 developmental disabilities. The agency shall direct an

HB 1503 CS

2006  
CS

1024 interagency and interprogram effort for the continued  
 1025 development of a prevention plan and program. The agency shall  
 1026 identify, through demonstration projects, through program  
 1027 evaluation, and through monitoring of programs and projects  
 1028 conducted outside of the agency, any medical, social, economic,  
 1029 or educational methods, techniques, or procedures that have the  
 1030 potential to effectively ameliorate, correct, or cure  
 1031 developmental disabilities. The agency ~~program~~ shall determine  
 1032 the costs and benefits that would be associated with such  
 1033 prevention efforts and shall implement, or recommend the  
 1034 implementation of, those methods, techniques, or procedures  
 1035 which are found likely to be cost-beneficial.

1036 (2) Prevention services provided by the agency shall  
 1037 ~~developmental services program~~ include services to high-risk and  
 1038 ~~developmentally disabled~~ children from 3 ~~birth~~ to 5 years of  
 1039 age, and their families, to meet the intent of chapter 411.  
 1040 Except for services for children from birth to age 3 years which  
 1041 ~~Such services shall include individual evaluations or~~  
 1042 ~~assessments necessary to diagnose a developmental disability or~~  
 1043 ~~high risk condition and to determine appropriate individual~~  
 1044 ~~family and support services, unless evaluations or assessments~~  
 1045 are the responsibility of the Division of Children's Medical  
 1046 Services in the Department of Health ~~Prevention and Intervention~~  
 1047 ~~for children ages birth to 3 years eligible for services under~~  
 1048 ~~this chapter~~ or part H of the Individuals with Disabilities  
 1049 Education Act, such services ~~and~~ may include:

1050 (a) Individual evaluations or assessments necessary to  
 1051 diagnose a developmental disability or high-risk condition and

HB 1503 CS

2006  
CS

1052 to determine appropriate, individual family and support  
1053 services.

1054 (b)(a) Early intervention services, including  
1055 developmental training and specialized therapies. ~~Early~~  
1056 ~~intervention services, which are the responsibility of the~~  
1057 ~~Division of Children's Medical Services Prevention and~~  
1058 ~~Intervention for children ages birth to 3 years who are eligible~~  
1059 ~~for services under this chapter or under part H of the~~  
1060 ~~Individuals with Disabilities Education Act, shall not be~~  
1061 ~~provided through the developmental services program unless~~  
1062 ~~funding is specifically appropriated to the developmental~~  
1063 ~~services program for this purpose.~~

1064 (c)(b) Support services, such as respite care, parent  
1065 education and training, parent-to-parent counseling, homemaker  
1066 services, and other services which allow families to maintain  
1067 and provide quality care to children in their homes. ~~The~~  
1068 ~~Division of Children's Medical Services Prevention and~~  
1069 ~~Intervention is responsible for the provision of services to~~  
1070 ~~children from birth to 3 years who are eligible for services~~  
1071 ~~under this chapter.~~

1072 (4) There is created at the developmental disabilities  
1073 ~~services~~ institution in Gainesville a research and education  
1074 unit. Such unit shall be named the Raymond C. Philips Research  
1075 and Education Unit. The functions of such unit shall include:

1076 (a) Research into the etiology of developmental  
1077 disabilities.

1078 (b) Ensuring that new knowledge is rapidly disseminated  
1079 throughout ~~the developmental services program of the agency.~~

HB 1503 CS

2006  
CS

1080 (c) Diagnosis of unusual conditions and syndromes  
1081 associated with developmental disabilities in clients identified  
1082 throughout ~~the~~ developmental disabilities ~~services~~ programs.

1083 (d) Evaluation of families of clients with developmental  
1084 disabilities of genetic origin in order to provide them with  
1085 genetic counseling aimed at preventing the recurrence of the  
1086 disorder in other family members.

1087 (e) Ensuring that health professionals in the  
1088 developmental disabilities ~~services~~ institution at Gainesville  
1089 have access to information systems that will allow them to  
1090 remain updated on newer knowledge and maintain their  
1091 postgraduate education standards.

1092 (f) Enhancing staff training for professionals throughout  
1093 the agency in the areas of genetics and developmental  
1094 disabilities.

1095 Section 12. Section 393.0641, Florida Statutes, is amended  
1096 to read:

1097 393.0641 Program for the prevention and treatment of  
1098 severe self-injurious behavior.--

1099 (1) Contingent upon specific appropriations, there is  
1100 created a diagnostic, treatment, training, and research program  
1101 for clients exhibiting severe self-injurious behavior. As used  
1102 in this section, the term "severe self-injurious behavior" means  
1103 any chronic behavior that results in injury to the person's own  
1104 body, including, but not limited to, self-hitting, head banging,  
1105 self-biting, scratching, and the ingestion of harmful or  
1106 potentially harmful nutritive or nonnutritive substances.

1107 (2) The ~~This~~ program shall:



HB 1503 CS

2006  
CS

1108 (a) Serve as a resource center for information, training,  
1109 and program development.

1110 (b) Research the diagnosis and treatment of severe self-  
1111 injurious behavior, and related disorders, and develop methods  
1112 of prevention and treatment of self-injurious behavior.

1113 (c) Identify individuals in critical need.

1114 (d) Develop treatment programs which are meaningful to  
1115 individuals with developmental disabilities, in critical need,  
1116 while safeguarding and respecting the legal and human rights of  
1117 the individuals.

1118 (e) Disseminate research findings on the prevention and  
1119 treatment of severe self-injurious behavior.

1120 (f) Collect data on the type, severity, incidence, and  
1121 demographics of individuals with severe self-injurious behavior,  
1122 and disseminate the data.

1123 (3)~~(2)~~ The ~~This~~ program shall adhere to the provisions of  
1124 s. 393.13.

1125 (4)~~(3)~~ The agency may contract for the provision of any  
1126 portion or all of the services required by the program.

1127 (5)~~(4)~~ The agency may ~~has the authority to~~ license this  
1128 program and ~~shall~~ adopt rules to administer ~~implement~~ the  
1129 program.

1130 Section 13. Subsections (1) and (4) of section 393.065,  
1131 Florida Statutes, are amended, and subsections (5) and (6) are  
1132 added to that section, to read:

1133 393.065 Application and eligibility determination.--

1134 (1) Application for services shall be made in writing to  
1135 the agency, in the service area ~~district~~ in which the applicant

HB 1503 CS

2006  
CS

1136 | resides. The agency ~~Employees of the agency's developmental~~  
1137 | ~~services program~~ shall review each applicant for eligibility  
1138 | within 45 days after the date the application is signed for  
1139 | children under 6 years of age and within 60 days after the date  
1140 | the application is signed for all other applicants. When  
1141 | necessary to definitively identify individual conditions or  
1142 | needs, the agency shall provide a comprehensive assessment. Only  
1143 | applicants ~~individuals~~ whose domicile is in Florida are eligible  
1144 | for services. Information accumulated by other agencies,  
1145 | including professional reports and collateral data, shall be  
1146 | considered in this process when available.

1147 |       (4) The agency shall assess the level of need and medical  
1148 | necessity for prospective residents of intermediate-care  
1149 | facilities for the developmentally disabled ~~after October 1,~~  
1150 | ~~1999~~. The agency may enter into an agreement with the Department  
1151 | of Elderly Affairs for its Comprehensive Assessment and Review  
1152 | for Long-Term-Care Services (CARES) program to conduct  
1153 | assessments to determine the level of need and medical necessity  
1154 | for long-term-care services under this chapter. To the extent  
1155 | permissible under federal law, the assessments shall ~~must~~ be  
1156 | funded under Title XIX of the Social Security Act.

1157 |       (5) With the exception of clients deemed to be in crisis  
1158 | whom the agency shall serve as described in rule, the agency  
1159 | shall place at the top of its wait list for waiver services  
1160 | those children on the wait list who are from the child welfare  
1161 | system with an open case in the Department of Children and  
1162 | Family Services' statewide automated child welfare information  
1163 | system.

HB 1503 CS

2006  
CS

1164           (6) The agency may adopt rules specifying application  
 1165 procedures and eligibility criteria as needed to administer this  
 1166 section.

1167           Section 14. Section 393.0651, Florida Statutes, is amended  
 1168 to read:

1169           393.0651 Family or individual support plan.--The agency  
 1170 shall provide directly or contract for the development of a an  
 1171 ~~appropriate~~ family support plan for children ages 3 ~~birth~~ to 18  
 1172 years of age and an individual support plan for each client. ~~The~~  
 1173 ~~parent or guardian of~~ The client ~~or~~, if competent, the client's  
 1174 parent or guardian ~~client~~, or, when appropriate, the client  
 1175 advocate, shall be consulted in the development of the plan and  
 1176 shall receive a copy of the plan. Each plan must ~~shall~~ include  
 1177 the most appropriate, least restrictive, and most cost-  
 1178 beneficial environment for accomplishment of the objectives for  
 1179 client progress and a specification of all services authorized.  
 1180 The plan must ~~shall~~ include provisions for the most appropriate  
 1181 level of care for the client. Within the specification of needs  
 1182 and services for each client, when residential care is  
 1183 necessary, the agency shall move toward placement of clients in  
 1184 residential facilities based within the client's community. The  
 1185 ultimate goal of each plan, whenever possible, shall be to  
 1186 enable the client to live a dignified life in the least  
 1187 restrictive setting, be that in the home or in the community.  
 1188 For children under 6 years of age, the family support plan shall  
 1189 be developed within the 45-day application period as specified  
 1190 in s. 393.065(1); for all applicants 6 years of age or older,

HB 1503 CS

2006  
CS

1191 the family or individual support plan shall be developed within  
1192 the 60-day period as specified in that subsection.

1193 (1) The agency shall develop and specify by rule the core  
1194 components of support plans ~~to be used by each district.~~

1195 (2)~~(a)~~ The family or individual support plan shall be  
1196 integrated with the individual education plan (IEP) for all  
1197 clients who are public school students entitled to a free  
1198 appropriate public education under the Individuals with  
1199 Disabilities Education Act, I.D.E.A., as amended. The family or  
1200 individual support plan and IEP shall be implemented to maximize  
1201 the attainment of educational and habilitation goals.

1202 (a) If the IEP for a student enrolled in a public school  
1203 program indicates placement in a public or private residential  
1204 program is necessary to provide special education and related  
1205 services to a client, the local education agency shall provide  
1206 for the costs of that service in accordance with the  
1207 requirements of the Individuals with Disabilities Education Act,  
1208 I.D.E.A., as amended. This shall not preclude local education  
1209 agencies and the agency from sharing the residential service  
1210 costs of students who are clients and require residential  
1211 placement. ~~Under no circumstances shall clients entitled to a  
1212 public education or their parents be assessed a fee by the  
1213 agency under s. 402.33 for placement in a residential program.~~

1214 (b) For clients who are entering or exiting the school  
1215 system, an interdepartmental staffing team composed of  
1216 representatives of the agency and the local school system shall  
1217 develop a written transitional living and training plan with the

HB 1503 CS

2006  
CS

1218 participation of the client or with the parent or guardian of  
1219 the client, or the client advocate, as appropriate.

1220 (3) Each family or individual support plan shall be  
1221 facilitated through case management designed solely to advance  
1222 the individual needs of the client.

1223 (4) In the development of the family or individual support  
1224 plan, a client advocate may be appointed by the support planning  
1225 team for a client who is a minor or for a client who is not  
1226 capable of express and informed consent when:

1227 (a) The parent or guardian cannot be identified;

1228 (b) The whereabouts of the parent or guardian cannot be  
1229 discovered; or

1230 (c) The state is the only legal representative of the  
1231 client.

1232

1233 Such appointment shall not be construed to extend the powers of  
1234 the client advocate to include any of those powers delegated by  
1235 law to a legal guardian.

1236 (5) The agency shall place a client in the most  
1237 appropriate and least restrictive, and cost-beneficial,  
1238 residential facility according to his or her individual support  
1239 ~~habilitation~~ plan. ~~The parent or guardian of~~ The client ~~or~~, if  
1240 competent, the client's parent or guardian ~~client~~, or, when  
1241 appropriate, the client advocate, and the administrator of the  
1242 ~~residential~~ facility to which placement is proposed shall be  
1243 consulted in determining the appropriate placement for the  
1244 client. Considerations for placement shall be made in the  
1245 following order:

HB 1503 CS

2006  
CS

- 1246 (a) Client's own home or the home of a family member or  
 1247 direct service provider.
- 1248 (b) Foster care facility.
- 1249 (c) Group home facility.
- 1250 (d) Intermediate care facility for the developmentally  
 1251 disabled.
- 1252 (e) Other facilities licensed by the agency which offer  
 1253 special programs for people with developmental disabilities.
- 1254 (f) Developmental disabilities ~~services~~ institution.
- 1255 (6) In developing a client's annual family or individual  
 1256 support plan, the individual or family with the assistance of  
 1257 the support planning team shall identify measurable objectives  
 1258 for client progress and shall specify a time period expected for  
 1259 achievement of each objective.
- 1260 (7) The individual, family, and support coordinator shall  
 1261 review progress in achieving the objectives specified in each  
 1262 client's family or individual support plan, and shall revise the  
 1263 plan annually, following consultation with the client, if  
 1264 competent, or with the parent or guardian of the client, or,  
 1265 when appropriate, the client advocate. The agency or designated  
 1266 contractor shall annually report in writing to the client, if  
 1267 competent, or to the parent or guardian of the client, or to the  
 1268 client advocate, when appropriate, with respect to the client's  
 1269 habilitative and medical progress.
- 1270 (8) Any client, or any parent of a minor client, or  
 1271 guardian, authorized guardian advocate, or client advocate for a  
 1272 client, who is substantially affected by the client's initial  
 1273 family or individual support plan, or the annual review thereof,

HB 1503 CS

2006  
CS

1274 shall have the right to file a notice to challenge the decision  
 1275 pursuant to ss. 120.569 and 120.57. Notice of such right to  
 1276 appeal shall be included in all support plans provided by the  
 1277 agency.

1278 Section 15. Section 393.0654, Florida Statutes, is created  
 1279 to read.

1280 393.0654 Direct service providers; private sector  
 1281 services.--It is not a violation of s. 112.313(7) for a direct  
 1282 service provider who is employed by the agency to own, operate,  
 1283 or work in a private facility that is a service provider under  
 1284 contract with the agency if:

1285 (1) The employee does not have any role in the agency's  
 1286 placement recommendations or the client's decisionmaking process  
 1287 regarding placement;

1288 (2) The direct service provider's employment with the  
 1289 agency does not compromise the ability of the client to make a  
 1290 voluntary choice among private providers for services;

1291 (3) The employee's employment outside the agency does not  
 1292 create a conflict with the employee's public duties and does not  
 1293 impede the full and faithful discharge of the employee's duties  
 1294 as assigned by the agency; and

1295 (4) The service provider discloses the dual employment or  
 1296 ownership status to the agency and all clients within the  
 1297 provider's care. The disclosure must be given to the agency, the  
 1298 client, and the client's guardian or guardian advocate, if  
 1299 appropriate.

1300 Section 16. Section 393.0655, Florida Statutes, is amended  
 1301 to read:

HB 1503 CS

2006  
CS

1302 393.0655 Screening of direct service providers.--  
1303 (1) MINIMUM STANDARDS.--The agency shall require level 2  
1304 employment screening pursuant to chapter 435 for direct service  
1305 providers who are unrelated to their clients, including support  
1306 coordinators, and managers and supervisors of residential  
1307 facilities or comprehensive transitional education programs  
1308 licensed under this chapter ~~s. 393.067~~ and any other person,  
1309 including volunteers, who provide care or services, who have  
1310 access to a client's living areas, or who have access to a  
1311 client's funds or personal property. Background screening shall  
1312 include employment history checks as provided in s. 435.03(1)  
1313 and local criminal records checks through local law enforcement  
1314 agencies.

1315 (a) A volunteer who assists on an intermittent basis for  
1316 less than 40 hours per month does not have to be screened if the  
1317 volunteer is under the direct and constant visual supervision of  
1318 persons who meet the screening requirements of this section.

1319 (b) Licensed physicians, nurses, or other professionals  
1320 licensed and regulated by the Department of Health are not  
1321 subject to background screening pursuant to this section if they  
1322 are providing a service that is within their scope of licensed  
1323 practice.

1324 (c) A person selected by the family or the individual with  
1325 developmental disabilities and paid by the family or the  
1326 individual to provide supports or services is not required to  
1327 have a background screening under this section.

1328 (d) Persons 12 years of age or older, including family  
1329 members, residing with a ~~the~~ direct services provider who



HB 1503 CS

2006  
CS

1330 provides services to clients in his or her own place of  
 1331 residence, including family members, are subject to background  
 1332 screening; however, such persons who are 12 to 18 years of age  
 1333 shall be screened for delinquency records only.

1334 (e) A direct service provider who is awaiting the  
 1335 completion of background screening is temporarily exempt from  
 1336 the screening requirements under this section if the provider is  
 1337 under the direct and constant visual supervision of persons who  
 1338 meet the screening requirements of this section. Such exemption  
 1339 expires 90 days after the direct service provider first provides  
 1340 care or services to clients, has access to a client's living  
 1341 areas, or has access to a client's funds or personal property.

1342 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may  
 1343 grant exemptions from disqualification from working with  
 1344 children or adults with developmental disabilities only as  
 1345 provided in s. 435.07.

1346 (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE  
 1347 CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints  
 1348 and the state criminal records checks shall be borne by the  
 1349 employer or by the employee or individual who is being screened.

1350 (4) ~~TERMINATION EXCLUSION FROM OWNING, OPERATING, OR BEING~~  
 1351 ~~EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;~~  
 1352 HEARINGS PROVIDED.--

1353 (a) The agency shall deny, suspend, terminate, or revoke a  
 1354 license, certification, rate agreement, purchase order, or  
 1355 contract, or pursue other remedies provided in s. 393.0673, s.  
 1356 393.0675, or s. 393.0678 in addition to or in lieu of denial,

HB 1503 CS

2006  
CS

1357 suspension, termination, or revocation for failure to comply  
1358 with this section.

1359 (b) When the agency has reasonable cause to believe that  
1360 grounds for denial or termination of employment exist, it shall  
1361 notify, in writing, the employer and the person ~~direct service~~  
1362 ~~provider~~ affected, stating the specific record that ~~which~~  
1363 indicates noncompliance with the standards in this section.

1364 (c) The procedures established for hearing under chapter  
1365 120 shall be available to the employer and the person affected  
1366 ~~direct service provider~~ in order to present evidence relating  
1367 either to the accuracy of the basis of exclusion or to the  
1368 denial of an exemption from disqualification.

1369 (d) Refusal on the part of an employer to dismiss a  
1370 manager, supervisor, or direct service provider who has been  
1371 found to be in noncompliance with standards of this section  
1372 shall result in automatic denial, termination, or revocation of  
1373 the license or, certification, rate agreement, purchase order,  
1374 or contract, in addition to any other remedies pursued by the  
1375 agency.

1376 Section 17. Section 393.0657, Florida Statutes, is amended  
1377 to read:

1378 393.0657 Persons not required to be refingerprinted or  
1379 rescreened.--Persons who have undergone any portion of the  
1380 background screening required under s. 393.0655 within the last  
1381 12 months are ~~Any provision of law to the contrary~~  
1382 ~~notwithstanding, human resource personnel who have been~~  
1383 ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~  
1384 ~~402, and 409, and teachers who have been fingerprinted pursuant~~

HB 1503 CS

2006  
CS

1385 ~~to chapter 1012, who have not been unemployed for more than 90~~  
 1386 ~~days thereafter, and who under the penalty of perjury attest to~~  
 1387 ~~the completion of such fingerprinting or screening and to~~  
 1388 ~~compliance with the provisions of this section and the standards~~  
 1389 ~~for good moral character as contained in such provisions as ss.~~  
 1390 ~~110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and~~  
 1391 ~~409.175(6), shall not be required to repeat such screening be~~  
 1392 ~~refingerprinted or rescreened in order to comply with the any~~  
 1393 ~~direct service provider screening or fingerprinting~~  
 1394 ~~requirements. Such persons are responsible for providing~~  
 1395 ~~documentation of the screening and shall undergo screening for~~  
 1396 ~~any remaining background screening requirements that have never~~  
 1397 ~~been conducted or have not been completed within the last 12~~  
 1398 ~~months.~~

1399 Section 18. Section 393.066, Florida Statutes, is amended  
 1400 to read:

1401 393.066 Community services and treatment ~~for persons who~~  
 1402 ~~are developmentally disabled.--~~

1403 (1) The agency shall plan, develop, organize, and  
 1404 implement its programs of services and treatment for persons  
 1405 with developmental disabilities ~~who are developmentally disabled~~  
 1406 to allow clients to live as independently as possible in their  
 1407 own homes or communities and to achieve productive lives as  
 1408 close to normal as possible. All elements of community-based  
 1409 services shall be made available, and eligibility for these  
 1410 services shall be consistent across the state. ~~In addition, all~~  
 1411 ~~purchased services shall be approved by the agency.~~

1412 (2) All services needed shall be purchased instead of  
 1413 provided directly by the agency, when such arrangement is more  
 1414 cost-efficient than having those services provided directly. All  
 1415 purchased services must be approved by the agency.

1416 (3) Community-based services that are medically necessary  
 1417 to prevent institutionalization shall, to the extent of  
 1418 available resources, include:

1419 (a) Adult day training ~~habilitation~~ services, ~~including~~  
 1420 ~~developmental training services.~~

1421 (b) Family care services.

1422 (c) Guardian advocate referral services.

1423 (d) Medical/dental services, except that medical services  
 1424 shall not be provided to clients with spina bifida except as  
 1425 specifically appropriated by the Legislature.

1426 (e) Parent training.

1427 (f) Personal care services.

1428 (g) ~~(f)~~ Recreation.

1429 (h) ~~(g)~~ Residential facility services.

1430 (i) ~~(h)~~ Respite services.

1431 (j) ~~(i)~~ Social services.

1432 (k) ~~(j)~~ Specialized therapies.

1433 (l) ~~(k)~~ Supported employment, ~~including enclave, job coach,~~  
 1434 ~~mobile work crew, and follow along services.~~

1435 (m) ~~(l)~~ Supported living.

1436 (n) ~~(m)~~ Training, including behavioral-analysis services  
 1437 ~~behavioral programming.~~

1438 (o) ~~(n)~~ Transportation.

1439 |        (p)~~(e)~~ Other habilitative and rehabilitative services as  
 1440 | needed.

1441 |        (4) The agency shall utilize the services of private  
 1442 | businesses, not-for-profit organizations, and units of local  
 1443 | government whenever such services are more cost-efficient than  
 1444 | such services provided directly by the department, including  
 1445 | arrangements for provision of residential facilities.

1446 |        (5) In order to improve the potential for utilization of  
 1447 | more cost-effective, community-based residential facilities, the  
 1448 | agency shall promote the statewide development of day  
 1449 | habilitation services for clients who live with a direct service  
 1450 | provider in a community-based residential facility and who do  
 1451 | not require 24-hour-a-day care in a hospital or other health  
 1452 | care institution, but who may, in the absence of day  
 1453 | habilitation services, require admission to a developmental  
 1454 | disabilities institution. Each day service facility shall  
 1455 | provide a protective physical environment for clients, ensure  
 1456 | that direct service providers meet minimum screening standards  
 1457 | as required in s. 393.0655, make available to all day  
 1458 | habilitation service participants at least one meal on each day  
 1459 | of operation, provide facilities to enable participants to  
 1460 | obtain needed rest while attending the program, as appropriate,  
 1461 | and provide social and educational activities designed to  
 1462 | stimulate interest and provide socialization skills.

1463 |        (6) To promote independence and productivity, the agency  
 1464 | shall provide supports and services, within available resources,  
 1465 | to assist clients enrolled in Medicaid waivers who choose to  
 1466 | pursue gainful employment.

HB 1503 CS

2006  
CS

1467 (7) For the purpose of making needed community-based  
 1468 residential facilities available at the least possible cost to  
 1469 the state, the agency is authorized to lease privately owned  
 1470 residential facilities under long-term rental agreements, if  
 1471 such rental agreements are projected to be less costly to the  
 1472 state over the useful life of the facility than state purchase  
 1473 or state construction of such a facility.

1474 (8) The agency may adopt rules providing definitions,  
 1475 eligibility criteria, and procedures for the purchase of  
 1476 services ~~to ensure compliance with federal laws or regulations~~  
 1477 ~~that apply to services~~ provided pursuant to this section.

1478 Section 19. Section 393.067, Florida Statutes, is amended  
 1479 to read:

1480 393.067 Facility licensure of residential facilities and  
 1481 ~~comprehensive transitional education programs.--~~

1482 (1) The agency shall provide through its licensing  
 1483 authority and by rule license application procedures, ~~a system~~  
 1484 ~~of provider qualifications,~~ facility and client care standards,  
 1485 requirements for client records, requirements for staff  
 1486 qualifications and training criteria for meeting standards, and  
 1487 requirements for monitoring foster care for residential  
 1488 facilities, group home facilities, residential habilitation  
 1489 centers, and comprehensive transitional education programs that  
 1490 serve agency clients.

1491 (2) The agency shall conduct annual inspections and  
 1492 reviews of ~~residential~~ facilities and ~~comprehensive transitional~~  
 1493 ~~education~~ programs licensed under this section annually.

HB 1503 CS

2006  
CS

1494           (3) An application for a license under this section must  
1495 ~~for a residential facility or a comprehensive transitional~~  
1496 ~~education program shall~~ be made to the agency on a form  
1497 furnished by it and shall be accompanied by the appropriate  
1498 license fee.

1499           (4) The application shall be under oath and shall contain  
1500 the following:

1501           (a) The name and address of the applicant, if an applicant  
1502 is an individual; if the applicant is a firm, partnership, or  
1503 association, the name and address of each member thereof; if the  
1504 applicant is a corporation, its name and address and the name  
1505 and address of each director and each officer thereof; and the  
1506 name by which the facility or program is to be known.

1507           (b) The location of the facility or program for which a  
1508 license is sought.

1509           (c) The name of the person or persons under whose  
1510 management or supervision the facility or program will be  
1511 conducted.

1512           (d) The number and type of residents or clients for which  
1513 maintenance, care, education, or treatment is to be provided by  
1514 the facility or program.

1515           (e) The number and location of the component centers or  
1516 units which will compose the comprehensive transitional  
1517 education program.

1518           (f) A description of the types of services and treatment  
1519 to be provided by the facility or program.

1520           (g) Information relating to the number, experience, and  
1521 training of the employees of the facility or program.

Page 55 of 161

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

hb1503-03-c3

HB 1503 CS

2006  
CS

1522 (h) Certification that the staff of the facility or  
1523 program will receive training to detect and prevent sexual abuse  
1524 of residents and clients.

1525 (i) Such other information as the agency determines is  
1526 necessary to carry out the provisions of this chapter.

1527 ~~(5) The applicant shall submit evidence which establishes~~  
1528 ~~the good moral character of the manager or supervisor of the~~  
1529 ~~facility or program and the direct service providers in the~~  
1530 ~~facility or program and its component centers or units. A~~  
1531 ~~license may be issued if all the screening materials have been~~  
1532 ~~timely submitted; however, a license may not be issued or~~  
1533 ~~renewed if any of the direct service providers have failed the~~  
1534 ~~screening required by s. 393.0655.~~

1535 ~~(a)1. A licensed residential facility or comprehensive~~  
1536 ~~transitional education program which applies for renewal of its~~  
1537 ~~license shall submit to the agency a list of direct service~~  
1538 ~~providers who have worked on a continuous basis at the applicant~~  
1539 ~~facility or program since submitting fingerprints to the agency~~  
1540 ~~or the Department of Children and Family Services, identifying~~  
1541 ~~those direct service providers for whom a written assurance of~~  
1542 ~~compliance was provided by the agency or department and~~  
1543 ~~identifying those direct service providers who have recently~~  
1544 ~~begun working at the facility or program and are awaiting the~~  
1545 ~~results of the required fingerprint check along with the date of~~  
1546 ~~the submission of those fingerprints for processing. The agency~~  
1547 ~~shall by rule determine the frequency of requests to the~~  
1548 ~~Department of Law Enforcement to run state criminal records~~  
1549 ~~checks for such direct service providers except for those direct~~

Page 56 of 161

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

hb1503-03-c3



HB 1503 CS

2006  
CS

1550 ~~service providers awaiting the results of initial fingerprint~~  
1551 ~~checks for employment at the applicant facility or program. The~~  
1552 ~~agency shall review the records of the direct service providers~~  
1553 ~~at the applicant facility or program with respect to the crimes~~  
1554 ~~specified in s. 393.0655 and shall notify the facility or~~  
1555 ~~program of its findings. When disposition information is missing~~  
1556 ~~on a criminal record, it is the responsibility of the person~~  
1557 ~~being screened, upon request of the agency, to obtain and supply~~  
1558 ~~within 30 days the missing disposition information to the~~  
1559 ~~agency. Failure to supply the missing information within 30 days~~  
1560 ~~or to show reasonable efforts to obtain such information shall~~  
1561 ~~result in automatic disqualification.~~

1562 ~~2. The applicant shall sign an affidavit under penalty of~~  
1563 ~~perjury stating that all new direct service providers have been~~  
1564 ~~fingerprinted and that the facility's or program's remaining~~  
1565 ~~direct service providers have worked at the applicant facility~~  
1566 ~~or program on a continuous basis since being initially screened~~  
1567 ~~at that facility or program or have a written assurance of~~  
1568 ~~compliance from the agency or department.~~

1569 ~~(5)(b)~~ As a prerequisite for issuance of an the initial or  
1570 renewal license, the applicant, and any manager, supervisor, and  
1571 staff member of the direct service provider of a facility or  
1572 program licensed under this section, must have submitted to  
1573 background screening as required under s. 393.0655. A license  
1574 may not be issued or renewed if the applicant or any manager,  
1575 supervisor, or staff member of the direct service provider has  
1576 failed background screenings as required under s. 393.0655. The  
1577 agency shall determine by rule the frequency of background

HB 1503 CS

2006  
CS

1578 screening. The applicant shall submit with each initial or  
1579 renewal application a signed affidavit under penalty of perjury  
1580 stating that the applicant and any manager, supervisor, or staff  
1581 member of the direct service provider is in compliance with all  
1582 requirements for background screening. ~~to a residential facility~~  
1583 ~~or comprehensive transitional education program.~~

1584 ~~1. The applicant shall submit to the agency a complete set~~  
1585 ~~of fingerprints, taken by an authorized law enforcement agency~~  
1586 ~~or an employee of the agency who is trained to take~~  
1587 ~~fingerprints, for the manager, supervisor, or direct service~~  
1588 ~~providers of the facility or program;~~

1589 ~~2. The agency shall submit the fingerprints to the~~  
1590 ~~Department of Law Enforcement for state processing and for~~  
1591 ~~federal processing by the Federal Bureau of Investigation; and~~

1592 ~~3. The agency shall review the record of the manager or~~  
1593 ~~supervisor with respect to the crimes specified in s.~~  
1594 ~~393.0655(1) and shall notify the applicant of its findings. When~~  
1595 ~~disposition information is missing on a criminal record, it is~~  
1596 ~~the responsibility of the manager or supervisor, upon request of~~  
1597 ~~the agency, to obtain and supply within 30 days the missing~~  
1598 ~~disposition information to the agency. Failure to supply the~~  
1599 ~~missing information within 30 days or to show reasonable efforts~~  
1600 ~~to obtain such information shall result in automatic~~  
1601 ~~disqualification.~~

1602 ~~(c) The agency or a residential facility or comprehensive~~  
1603 ~~transitional education program may not use the criminal records~~  
1604 ~~or juvenile records of a person obtained under this subsection~~  
1605 ~~for any purpose other than determining if that person meets the~~

HB 1503 CS

2006  
CS

1606 ~~minimum standards for good moral character for a manager or~~  
1607 ~~supervisor of, or direct service provider in, such a facility or~~  
1608 ~~program. The criminal records or juvenile records obtained by~~  
1609 ~~the agency or a residential facility or comprehensive~~  
1610 ~~transitional education program for determining the moral~~  
1611 ~~character of a manager, supervisor, or direct service provider~~  
1612 ~~are exempt from s. 119.07(1).~~

1613 ~~(6) Each applicant for licensure as an intermediate care~~  
1614 ~~facility for the developmentally disabled must comply with the~~  
1615 ~~following requirements:~~

1616 ~~(a) Upon receipt of a completed, signed, and dated~~  
1617 ~~application, the agency shall require background screening, in~~  
1618 ~~accordance with the level 2 standards for screening set forth in~~  
1619 ~~chapter 435, of the managing employee, or other similarly titled~~  
1620 ~~individual who is responsible for the daily operation of the~~  
1621 ~~facility, and of the financial officer, or other similarly~~  
1622 ~~titled individual who is responsible for the financial operation~~  
1623 ~~of the center, including billings for resident care and~~  
1624 ~~services. The applicant must comply with the procedures for~~  
1625 ~~level 2 background screening as set forth in chapter 435, as~~  
1626 ~~well as the requirements of s. 435.03(3).~~

1627 ~~(b) The agency may require background screening of any~~  
1628 ~~other individual who is an applicant if the agency has probable~~  
1629 ~~cause to believe that he or she has been convicted of a crime or~~  
1630 ~~has committed any other offense prohibited under the level 2~~  
1631 ~~standards for screening set forth in chapter 435.~~

1632 ~~(c) Proof of compliance with the level 2 background~~  
1633 ~~screening requirements of chapter 435 which has been submitted~~

HB 1503 CS

2006  
CS

1634 ~~within the previous 5 years in compliance with any other health~~  
1635 ~~care licensure requirements of this state is acceptable in~~  
1636 ~~fulfillment of the requirements of paragraph (a).~~

1637 ~~(d) A provisional license may be granted to an applicant~~  
1638 ~~when each individual required by this section to undergo~~  
1639 ~~background screening has met the standards for the Department of~~  
1640 ~~Law Enforcement background check, but the agency has not yet~~  
1641 ~~received background screening results from the Federal Bureau of~~  
1642 ~~Investigation, or a request for a disqualification exemption has~~  
1643 ~~been submitted to the agency as set forth in chapter 435, but a~~  
1644 ~~response has not yet been issued. A standard license may be~~  
1645 ~~granted to the applicant upon the agency's receipt of a report~~  
1646 ~~of the results of the Federal Bureau of Investigation background~~  
1647 ~~screening for each individual required by this section to~~  
1648 ~~undergo background screening which confirms that all standards~~  
1649 ~~have been met, or upon the granting of a disqualification~~  
1650 ~~exemption by the agency as set forth in chapter 435. Any other~~  
1651 ~~person who is required to undergo level 2 background screening~~  
1652 ~~may serve in his or her capacity pending the agency's receipt of~~  
1653 ~~the report from the Federal Bureau of Investigation. However,~~  
1654 ~~the person may not continue to serve if the report indicates any~~  
1655 ~~violation of background screening standards and a~~  
1656 ~~disqualification exemption has not been requested of and granted~~  
1657 ~~by the agency as set forth in chapter 435.~~

1658 ~~(e) Each applicant must submit to the agency, with its~~  
1659 ~~application, a description and explanation of any exclusions,~~  
1660 ~~permanent suspensions, or terminations of the applicant from the~~  
1661 ~~Medicare or Medicaid programs. Proof of compliance with the~~

HB 1503 CS

2006  
CS

1662 ~~requirements for disclosure of ownership and control interests~~  
1663 ~~under the Medicaid or Medicare programs shall be accepted in~~  
1664 ~~lieu of this submission.~~

1665 ~~(f) Each applicant must submit to the agency a description~~  
1666 ~~and explanation of any conviction of an offense prohibited under~~  
1667 ~~the level 2 standards of chapter 435 by a member of the board of~~  
1668 ~~directors of the applicant, its officers, or any individual~~  
1669 ~~owning 5 percent or more of the applicant. This requirement does~~  
1670 ~~not apply to a director of a not-for-profit corporation or~~  
1671 ~~organization if the director serves solely in a voluntary~~  
1672 ~~capacity for the corporation or organization, does not regularly~~  
1673 ~~take part in the day-to-day operational decisions of the~~  
1674 ~~corporation or organization, receives no remuneration for his or~~  
1675 ~~her services on the corporation or organization's board of~~  
1676 ~~directors, and has no financial interest and has no family~~  
1677 ~~members with a financial interest in the corporation or~~  
1678 ~~organization, provided that the director and the not-for-profit~~  
1679 ~~corporation or organization include in the application a~~  
1680 ~~statement affirming that the director's relationship to the~~  
1681 ~~corporation satisfies the requirements of this paragraph.~~

1682 ~~(g) A license may not be granted to an applicant if the~~  
1683 ~~applicant or managing employee has been found guilty of,~~  
1684 ~~regardless of adjudication, or has entered a plea of nolo~~  
1685 ~~contendere or guilty to, any offense prohibited under the level~~  
1686 ~~2 standards for screening set forth in chapter 435, unless an~~  
1687 ~~exemption from disqualification has been granted by the agency~~  
1688 ~~as set forth in chapter 435.~~

1689       ~~(h) The agency may deny or revoke licensure if the~~  
 1690       ~~applicant:~~

1691             ~~1. Has falsely represented a material fact in the~~  
 1692       ~~application required by paragraph (e) or paragraph (f), or has~~  
 1693       ~~omitted any material fact from the application required by~~  
 1694       ~~paragraph (e) or paragraph (f); or~~

1695             ~~2. Has had prior action taken against the applicant under~~  
 1696       ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1697       ~~(i) An application for license renewal must contain the~~  
 1698       ~~information required under paragraphs (e) and (f).~~

1699             ~~(6)(7)~~ The applicant shall furnish satisfactory proof of  
 1700       financial ability to operate and conduct the facility or program  
 1701       in accordance with the requirements of this chapter and adopted  
 1702       ~~all~~ rules ~~promulgated hereunder.~~

1703             ~~(7)(8)~~ The agency shall adopt rules establishing minimum  
 1704       standards for ~~licensure of residential~~ facilities and  
 1705       ~~comprehensive transitional education~~ programs licensed under  
 1706       this section, including rules requiring facilities and programs  
 1707       to train staff to detect and prevent sexual abuse of residents  
 1708       and clients, minimum standards of quality and adequacy of client  
 1709       care, incident-reporting requirements, and uniform firesafety  
 1710       standards established by the State Fire Marshal which are  
 1711       appropriate to the size of the facility or of the component  
 1712       centers or units of the program.

1713             ~~(8)(9)~~ The agency and the ~~Agency for Health Care~~  
 1714       ~~Administration~~, after consultation with the Department of  
 1715       Community Affairs, shall adopt rules for foster care residential  
 1716       facilities, group home facilities, and residential habilitation

HB 1503 CS

2006  
CS

1717 | centers which establish ~~under the respective regulatory~~  
 1718 | ~~jurisdiction of each establishing~~ minimum standards for the  
 1719 | preparation and annual update of a comprehensive emergency  
 1720 | management plan. At a minimum, the rules must provide for plan  
 1721 | components that address emergency evacuation transportation;  
 1722 | adequate sheltering arrangements; postdisaster activities,  
 1723 | including emergency power, food, and water; postdisaster  
 1724 | transportation; supplies; staffing; emergency equipment;  
 1725 | individual identification of residents and transfer of records;  
 1726 | and responding to family inquiries. The comprehensive emergency  
 1727 | management plan for all comprehensive transitional education  
 1728 | programs and for homes serving individuals who have complex  
 1729 | medical conditions is subject to review and approval by the  
 1730 | local emergency management agency. During its review, the local  
 1731 | emergency management agency shall ensure that the agency and the  
 1732 | Department of Community Affairs ~~following agencies~~, at a  
 1733 | minimum, are given the opportunity to review the plan: ~~the~~  
 1734 | ~~Agency for Health Care Administration, the Agency for Persons~~  
 1735 | ~~with Disabilities, and the Department of Community Affairs.~~  
 1736 | Also, appropriate volunteer organizations must be given the  
 1737 | opportunity to review the plan. The local emergency management  
 1738 | agency shall complete its review within 60 days and either  
 1739 | approve the plan or advise the facility of necessary revisions.

1740 |        (9) ~~(10)~~ The agency may conduct unannounced inspections to  
 1741 | determine compliance by foster care residential facilities,  
 1742 | group home facilities, residential habilitation centers, and  
 1743 | comprehensive transitional education programs with the  
 1744 | applicable provisions of this chapter and the rules adopted

HB 1503 CS

2006  
CS

1745 | pursuant hereto, including the rules adopted for training staff  
 1746 | of a facility or a program to detect and prevent sexual abuse of  
 1747 | residents and clients. The facility or program shall make copies  
 1748 | of inspection reports available to the public upon request.

1749 | ~~(11) An alternative living center and an independent~~  
 1750 | ~~living education center, as defined in s. 393.063, shall be~~  
 1751 | ~~subject to the provisions of s. 419.001, except that such~~  
 1752 | ~~centers shall be exempt from the 1,000-foot radius requirement~~  
 1753 | ~~of s. 419.001(2) if:~~

1754 | ~~(a) Such centers are located on a site zoned in a manner~~  
 1755 | ~~so that all the component centers of a comprehensive transition~~  
 1756 | ~~education center may be located thereon; or~~

1757 | ~~(b) There are no more than three such centers within said~~  
 1758 | ~~radius of 1,000 feet.~~

1759 | (10)~~(12)~~ Each residential facility or comprehensive  
 1760 | ~~transitional education~~ program licensed under this section by  
 1761 | the agency shall forward annually to the agency a true and  
 1762 | accurate sworn statement of its costs of providing care to  
 1763 | clients funded by the agency.

1764 | (11)~~(13)~~ The agency may audit the records of any  
 1765 | ~~residential facility or comprehensive transitional education~~  
 1766 | ~~program~~ that it has reason to believe may not be in full  
 1767 | compliance with the provisions of this section; provided that,  
 1768 | any financial audit of such facility or program shall be limited  
 1769 | to the records of clients funded by the agency.

1770 | (12)~~(14)~~ The agency shall establish, for the purpose of  
 1771 | control of licensure costs, a uniform management information



HB 1503 CS

2006  
CS

1772 system and a uniform reporting system with uniform definitions  
1773 and reporting categories.

1774 (13)~~(15)~~ Facilities and programs licensed pursuant to this  
1775 section shall adhere to all rights specified in s. 393.13,  
1776 including those enumerated in s. 393.13(4).

1777 (14)~~(16)~~ An ~~No~~ unlicensed ~~residential~~ facility or  
1778 ~~comprehensive transitional education program~~ may not ~~shall~~  
1779 receive state funds. A license for the operation of a facility  
1780 or program shall not be renewed if the licensee has any  
1781 outstanding fines assessed pursuant to this chapter wherein  
1782 final adjudication of such fines has been entered.

1783 (15)~~(17)~~ The agency is ~~shall~~ not ~~be~~ required to contract  
1784 with new facilities licensed after October 1, 1989, pursuant to  
1785 this chapter. Pursuant to chapter 287, the agency shall continue  
1786 to contract within available resources for residential services  
1787 with facilities licensed prior to October 1, 1989, if such  
1788 facilities comply with the provisions of this chapter and all  
1789 other applicable laws and regulations.

1790 Section 20. Section 393.0673, Florida Statutes, is amended  
1791 to read:

1792 393.0673 Denial, suspension, revocation of license;  
1793 moratorium on admissions; administrative fines; procedures.--

1794 (1) The agency may deny, revoke, or suspend a license or  
1795 impose an administrative fine, not to exceed \$1,000 per  
1796 violation per day, if the applicant or licensee:

1797 (a) Has falsely represented, or omitted a material fact in  
1798 its license application submitted under s. 393.067.

1799           (b) Has had prior action taken against it under the  
1800 Medicaid or Medicare program.

1801           (c) Has failed to comply with the applicable requirements  
1802 of this chapter or rules applicable to the applicant or licensee  
1803 for a violation of any provision of s. 393.0655 or s. 393.067 or  
1804 rules adopted pursuant thereto.

1805           (2) All hearings shall be held within the county in which  
1806 the licensee or applicant operates or applies for a license to  
1807 operate a facility as defined herein.

1808           (3)~~(2)~~ The agency, as a part of any final order issued by  
1809 it under ~~the provisions of~~ this chapter, may impose such fine as  
1810 it deems proper, except that such fine may not exceed \$1,000 for  
1811 each violation. Each day a violation of this chapter occurs  
1812 constitutes a separate violation and is subject to a separate  
1813 fine, but in no event may the aggregate amount of any fine  
1814 exceed \$10,000. Fines paid by any facility licensee under the  
1815 provisions of this subsection shall be deposited in the Resident  
1816 Protection Trust Fund and expended as provided in s. 400.063.

1817           (4)~~(3)~~ The agency may issue an order immediately  
1818 suspending or revoking a license when it determines that any  
1819 condition in the facility presents a danger to the health,  
1820 safety, or welfare of the residents in the facility.

1821           (5)~~(4)~~ The agency may impose an immediate moratorium on  
1822 admissions to any facility when the department determines that  
1823 any condition in the facility presents a threat to the health,  
1824 safety, or welfare of the residents in the facility.

HB 1503 CS

2006  
CS

1825           (6) The agency shall establish by rule criteria for  
 1826 evaluating the severity of violations and for determining the  
 1827 amount of fines imposed.

1828           Section 21. Subsection (1) of section 393.0674, Florida  
 1829 Statutes, is amended to read:

1830           393.0674 Penalties.--

1831           (1) It is a misdemeanor of the first degree, punishable as  
 1832 provided in s. 775.082 or s. 775.083, for any person willfully,  
 1833 knowingly, or intentionally to:

1834           (a) Fail, by false statement, misrepresentation,  
 1835 impersonation, or other fraudulent means, to disclose in any  
 1836 application for voluntary or paid employment a material fact  
 1837 used in making a determination as to such person's  
 1838 qualifications to be a direct service provider;

1839           (b) Provide or attempt to provide supports or services  
 1840 with direct service providers who are not in compliance  
 1841 ~~noncompliance~~ with the background screening requirements ~~minimum~~  
 1842 ~~standards for good moral character as contained in this chapter;~~  
 1843 or

1844           (c) Use information from the criminal records or central  
 1845 abuse hotline obtained under s. 393.0655, s. 393.066, or s.  
 1846 393.067 for any purpose other than screening that person for  
 1847 employment as specified in those sections or release such  
 1848 information to any other person for any purpose other than  
 1849 screening for employment as specified in those sections.

1850           Section 22. Subsection (3) of section 393.0675, Florida  
 1851 Statutes, is amended to read:

1852           393.0675 Injunctive proceedings authorized.--

HB 1503 CS

2006  
CS

1853           (3) The agency may institute proceedings for an injunction  
1854 in a court of competent jurisdiction to terminate the operation  
1855 of a provider of supports or services if such provider has  
1856 willfully and knowingly refused to comply with the screening  
1857 requirement for direct service providers or has refused to  
1858 terminate direct service providers found not to be in compliance  
1859 with such ~~the requirements for good moral character.~~

1860           Section 23. Subsection (1) of section 393.0678, Florida  
1861 Statutes, is amended to read:

1862           393.0678 Receivership proceedings.--

1863           (1) The agency may petition a court of competent  
1864 jurisdiction for the appointment of a receiver for ~~an~~  
1865 ~~intermediate care facility for the developmentally disabled,~~ a  
1866 residential habilitation center, or a group home facility owned  
1867 and operated by a corporation or partnership when any of the  
1868 following conditions exist:

1869           (a) Any person is operating a facility without a license  
1870 and refuses to make application for a license as required by s.  
1871 393.067 ~~or, in the case of an intermediate care facility for the~~  
1872 ~~developmentally disabled, as required by ss. 393.067 and~~  
1873 ~~400.062.~~

1874           (b) The licensee is closing the facility or has informed  
1875 the department that it intends to close the facility; and  
1876 adequate arrangements have not been made for relocation of the  
1877 residents within 7 days, exclusive of weekends and holidays, of  
1878 the closing of the facility.

1879           (c) The agency determines that conditions exist in the  
1880 facility which present an imminent danger to the health, safety,

HB 1503 CS

2006  
CS

1881 or welfare of the residents of the facility or which present a  
 1882 substantial probability that death or serious physical harm  
 1883 would result therefrom. Whenever possible, the agency shall  
 1884 facilitate the continued operation of the program.

1885 (d) The licensee cannot meet its financial obligations to  
 1886 provide food, shelter, care, and utilities. Evidence such as the  
 1887 issuance of bad checks or the accumulation of delinquent bills  
 1888 for such items as personnel salaries, food, drugs, or utilities  
 1889 constitutes prima facie evidence that the ownership of the  
 1890 facility lacks the financial ability to operate the home in  
 1891 accordance with the requirements of this chapter and all rules  
 1892 promulgated thereunder.

1893 Section 24. Subsections (1), (2), (3), (5), and (7) of  
 1894 section 393.068, Florida Statutes, are amended to read:

1895 393.068 Family care program.--

1896 (1) The family care program is established for the purpose  
 1897 of providing services and support to families and individuals  
 1898 with developmental disabilities in order to maintain the  
 1899 individual in the home environment and avoid costly out-of-home  
 1900 residential placement. Services and support available to  
 1901 families and individuals with developmental disabilities shall  
 1902 emphasize community living and self-determination and enable  
 1903 individuals with developmental disabilities to enjoy typical  
 1904 lifestyles. One way to accomplish this is to recognize that  
 1905 families are the greatest resource available to individuals who  
 1906 have developmental disabilities and must be supported in their  
 1907 role as primary care givers.

HB 1503 CS

2006  
CS

1908           (2) Services and support authorized under the family care  
 1909 ~~this~~ program shall, to the extent of available resources,  
 1910 include the services listed under s. 393.066 and, in addition,  
 1911 shall include, but not be limited to:

- 1912           (a) Attendant care.
- 1913           (b) Barrier-free modifications to the home.
- 1914           (c) Home visitation by agency workers.
- 1915           (d) In-home subsidies.
- 1916           (e) Low-interest loans.
- 1917           (f) Modifications for vehicles used to transport the
- 1918 individual with a developmental disability.
- 1919           (g) Facilitated communication.
- 1920           (h) Family counseling.
- 1921           (i) Equipment and supplies.
- 1922           (j) Self-advocacy training.
- 1923           (k) Roommate services.
- 1924           (l) Integrated community activities.
- 1925           (m) Emergency services.
- 1926           (n) Support coordination.
- 1927           ~~(o) Supported employment.~~
- 1928           (o)-(p) Other support services as identified by the family
- 1929 or individual.

1930           (3) When it is determined by the agency to be more cost-  
 1931 effective and in the best interest of the client to maintain  
 1932 such client in the home of a direct service provider, the parent  
 1933 or guardian of the client or, if competent, the client may  
 1934 enroll the client in the family care program. The direct service  
 1935 provider of a client enrolled in the family care program shall

HB 1503 CS

2006  
CS

1936 | be reimbursed according to a rate schedule set by the agency,  
1937 | ~~except that~~, in-home subsidies ~~cited in paragraph (2)(d)~~ shall  
1938 | be provided in accordance with ~~according to~~ s. 393.0695 and are  
1939 | ~~not subject to any other payment method or rate schedule~~  
1940 | ~~provided for in this section.~~

1941 | (5) The agency may contract for the provision of any  
1942 | portion of the services required by the program, except for in-  
1943 | home subsidies ~~cited in paragraph (2)(d)~~, which shall be  
1944 | provided pursuant to s. 393.0695. ~~Otherwise, purchase of service~~  
1945 | ~~contracts shall be used~~ whenever the services so provided are  
1946 | more cost-efficient than those provided by the agency.

1947 | (7) To provide a range of personal care services for the  
1948 | client, the use of volunteers shall be maximized. The agency  
1949 | shall assure appropriate insurance coverage to protect  
1950 | volunteers from personal liability while acting within the scope  
1951 | of their volunteer assignments under the program.

1952 | Section 25. Subsection (3) of section 393.0695, Florida  
1953 | Statutes, is amended, and subsection (5) is added to that  
1954 | section, to read:

1955 | 393.0695 Provision of in-home subsidies.--

1956 | (3) In-home subsidies must be based on an individual  
1957 | determination of need and must not exceed maximum amounts set by  
1958 | the agency and reassessed by the agency quarterly ~~annually~~.

1959 | (5) The agency shall adopt rules to administer this  
1960 | section, including standards and procedures governing  
1961 | eligibility for services, selection of housing, selection of  
1962 | providers, and planning for services, and requirements for  
1963 | ongoing monitoring.

HB 1503 CS

2006  
CS

1964 Section 26. Subsection (2) of section 393.075, Florida  
 1965 Statutes, is amended to read:  
 1966 393.075 General liability coverage.--  
 1967 (2) The Division of Risk Management of the Department of  
 1968 Financial Services shall provide coverage through the agency to  
 1969 any person who owns or operates a foster care facility or group  
 1970 home facility solely for the agency, who cares for children  
 1971 placed by ~~developmental services staff of~~ the agency, and who is  
 1972 licensed pursuant to s. 393.067 to provide such supervision and  
 1973 care in his or her place of residence. The coverage shall be  
 1974 provided from the general liability account of the State Risk  
 1975 Management Trust Fund. The coverage is limited to general  
 1976 liability claims arising from the provision of supervision and  
 1977 care of children in a foster care facility or group home  
 1978 facility pursuant to an agreement with the agency and pursuant  
 1979 to guidelines established through policy, rule, or statute.  
 1980 Coverage shall be subject to the limits provided in ss. 284.38  
 1981 and 284.385, and the exclusions set forth therein, together with  
 1982 other exclusions as may be set forth in the certificate of  
 1983 coverage issued by the trust fund. A person covered under the  
 1984 general liability account pursuant to this subsection shall  
 1985 immediately notify the Division of Risk Management of the  
 1986 Department of Financial Services of any potential or actual  
 1987 claim.

1988 Section 27. Section 393.11, Florida Statutes, is amended  
 1989 to read:  
 1990 393.11 Involuntary admission to residential services.--



HB 1503 CS

2006  
CS

1991           (1) JURISDICTION.--When a person who has been determined  
 1992 eligible for services for mental retardation under this chapter  
 1993 ~~is mentally retarded~~ and requires involuntary admission to  
 1994 residential services provided by the agency, the circuit court  
 1995 of the county in which the person resides shall have  
 1996 jurisdiction to conduct a hearing and enter an order  
 1997 involuntarily admitting the person in order that the person may  
 1998 receive the care, treatment, habilitation, and rehabilitation  
 1999 which the person needs. For the purpose of identifying mental  
 2000 retardation, diagnostic capability shall be established by the  
 2001 agency. The involuntary commitment of a person with mental  
 2002 retardation or autism who is charged with a felony offense shall  
 2003 be determined in accordance with s. 916.302. ~~Except as otherwise~~  
 2004 ~~specified, the proceedings under this section shall be governed~~  
 2005 ~~by the Florida Rules of Civil Procedure.~~

2006           (2) PETITION.--

2007           (a) A petition for involuntary admission to residential  
 2008 services may be executed by a petitioning commission. ~~For~~  
 2009 ~~proposed involuntary admission to residential services arising~~  
 2010 ~~out of chapter 916, the petition may be filed by a petitioning~~  
 2011 ~~commission, the agency, the state attorney of the circuit from~~  
 2012 ~~which the defendant was committed, or the defendant's attorney.~~

2013           (b) The petitioning commission shall consist of three  
 2014 persons. One of these persons shall be a physician licensed and  
 2015 practicing under chapter 458 or chapter 459.

2016           (c) The petition shall be verified and shall:

HB 1503 CS

2006  
CS

2017 1. State the name, age, and present address of the  
2018 commissioners and their relationship to the person with mental  
2019 retardation or autism;

2020 2. State the name, age, county of residence, and present  
2021 address of the person with mental retardation or autism;

2022 3. Allege that the commission believes that the person  
2023 needs involuntary residential services and specify the factual  
2024 information on which the ~~such~~ belief is based;

2025 4. Allege that the person lacks sufficient capacity to  
2026 give express and informed consent to a voluntary application for  
2027 services and lacks the basic survival and self-care skills to  
2028 provide for the person's well-being or is likely to physically  
2029 injure others if allowed to remain at liberty; and

2030 5. State which residential setting is the least  
2031 restrictive and most appropriate alternative and specify the  
2032 factual information on which the ~~such~~ belief is based.

2033 (d) The petition shall be filed in the circuit court of  
2034 the county in which the person with mental retardation or autism  
2035 resides.

2036 (3) NOTICE.--

2037 (a) Notice of the filing of the petition shall be given to  
2038 the individual and his or her legal guardian. The notice shall  
2039 be given both verbally and in writing in the language of the  
2040 client, or in other modes of communication of the client, and in  
2041 English. Notice shall also be given to such other persons as the  
2042 court may direct. The petition for involuntary admission to  
2043 residential services shall be served with the notice.

HB 1503 CS

2006  
CS

2044 (b) Whenever a motion or petition has been filed pursuant  
 2045 to s. 916.303 to dismiss criminal charges against a defendant  
 2046 with retardation or autism, and a petition is filed to  
 2047 involuntarily admit the defendant to residential services under  
 2048 this section, the notice of the filing of the petition shall  
 2049 also be given to the defendant's attorney, ~~and to~~ the state  
 2050 attorney of the circuit from which the defendant was committed,  
 2051 and the agency.

2052 (c) The notice shall state that a hearing shall be set to  
 2053 inquire into the need of the person with mental retardation or  
 2054 autism for involuntary residential services. The notice shall  
 2055 also state the date of the hearing on the petition.

2056 (d) The notice shall state that the individual with mental  
 2057 retardation or autism has the right to be represented by counsel  
 2058 of his or her own choice and that, if the person cannot afford  
 2059 an attorney, the court shall appoint one.

2060 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

2061 (a) Upon receiving the petition, the court shall  
 2062 immediately order the developmental services program of the  
 2063 agency to examine the person being considered for involuntary  
 2064 admission to residential services.

2065 (b) Following examination, the agency shall file ~~After the~~  
 2066 ~~developmental services program examines the person,~~ a written  
 2067 report ~~shall be filed~~ with the court not less than 10 working  
 2068 days before the date of the hearing. The report must ~~shall~~ be  
 2069 served on the petitioner, the person with mental retardation,  
 2070 and the person's attorney at the time the report is filed with  
 2071 the court.

HB 1503 CS

2006  
CS

2072 (c) The report must ~~shall~~ contain the findings of the  
2073 agency's developmental services program evaluation, and any  
2074 recommendations deemed appropriate, and a determination of  
2075 whether the person is eligible for services under this chapter.

2076 (5) EXAMINING COMMITTEE.--

2077 (a) Upon receiving the petition, the court shall  
2078 immediately appoint an examining committee to examine the person  
2079 being considered for involuntary admission to residential  
2080 services provided by ~~of the developmental services program of~~  
2081 the agency.

2082 (b) The court shall appoint no fewer than three  
2083 disinterested experts who have demonstrated to the court an  
2084 expertise in the diagnosis, evaluation, and treatment of persons  
2085 with mental retardation. The committee must ~~shall~~ include at  
2086 least one licensed and qualified physician, one licensed and  
2087 qualified psychologist, and one qualified professional with a  
2088 minimum of a masters degree in social work, special education,  
2089 or vocational rehabilitation counseling, to examine the person  
2090 and to testify at the hearing on the involuntary admission to  
2091 residential services.

2092 (c) Counsel for the person who is being considered for  
2093 involuntary admission to residential services and counsel for  
2094 the petition commission has ~~shall have~~ the right to challenge  
2095 the qualifications of those appointed to the examining  
2096 committee.

2097 (d) Members of the committee may ~~shall~~ not be employees of  
2098 the agency or be associated with each other in practice or in  
2099 employer-employee relationships. Members of the committee may

Page 76 of 161

HB 1503 CS

2006  
CS

2100 | ~~shall~~ not have served as members of the petitioning commission.  
 2101 | Members of the committee may ~~shall~~ not be employees of the  
 2102 | members of the petitioning commission or be associated in  
 2103 | practice with members of the commission.

2104 | (e) The committee shall prepare a written report for the  
 2105 | court. The report must ~~shall~~ explicitly document the extent that  
 2106 | the person meets the criteria for involuntary admission. The  
 2107 | report, and expert testimony, must ~~shall~~ include, but not be  
 2108 | limited to:

2109 | 1. The degree of the person's mental retardation and  
 2110 | whether, using diagnostic capabilities established by the  
 2111 | agency, the person is eligible for agency services;

2112 | 2. Whether, because of the person's degree of mental  
 2113 | retardation, the person:

2114 | a. Lacks sufficient capacity to give express and informed  
 2115 | consent to a voluntary application for services pursuant to s.  
 2116 | 393.065;

2117 | b. Lacks basic survival and self-care skills to such a  
 2118 | degree that close supervision and habilitation in a residential  
 2119 | setting is necessary and if not provided would result in a real  
 2120 | and present threat of substantial harm to the person's well-  
 2121 | being; or

2122 | c. Is likely to physically injure others if allowed to  
 2123 | remain at liberty.

2124 | 3. The purpose to be served by residential care;

2125 | 4. A recommendation on the type of residential placement  
 2126 | which would be the most appropriate and least restrictive for  
 2127 | the person; and

HB 1503 CS

2006  
CS

2128 | 5. The appropriate care, habilitation, and treatment.

2129 | (f) The committee shall file the report with the court not  
2130 | less than 10 working days before the date of the hearing. The  
2131 | report shall be served on the petitioner, the person with mental  
2132 | retardation, ~~and~~ the person's attorney at the time the report is  
2133 | filed with the court, and the agency.

2134 | (g) Members of the examining committee shall receive a  
2135 | reasonable fee to be determined by the court. The fees are to be  
2136 | paid from the general revenue fund of the county in which the  
2137 | person with mental retardation resided when the petition was  
2138 | filed.

2139 | (h) The agency shall develop and prescribe by rule one or  
2140 | more standard forms to be used as a guide for members of the  
2141 | examining committee.

2142 | (6) COUNSEL; GUARDIAN AD LITEM.--

2143 | (a) The person with mental retardation shall be  
2144 | represented by counsel at all stages of the judicial proceeding.  
2145 | In the event the person is indigent and cannot afford counsel,  
2146 | the court shall appoint a public defender not less than 20  
2147 | working days before the scheduled hearing. The person's counsel  
2148 | shall have full access to the records of the service provider  
2149 | and the agency. In all cases, the attorney shall represent the  
2150 | rights and legal interests of the person with mental  
2151 | retardation, regardless of who may initiate the proceedings or  
2152 | pay the attorney's fee.

2153 | (b) If the attorney, during the course of his or her  
2154 | representation, reasonably believes that the person with mental  
2155 | retardation cannot adequately act in his or her own interest,

HB 1503 CS

2006  
CS

2156 | the attorney may seek the appointment of a guardian ad litem. A  
2157 | prior finding of incompetency is not required before a guardian  
2158 | ad litem is appointed pursuant to this section.

2159 | (7) HEARING.--

2160 | (a) The hearing for involuntary admission shall be  
2161 | conducted, and the order shall be entered, in the county in  
2162 | which the petition is filed ~~person is residing or be as~~  
2163 | ~~convenient to the person as may be consistent with orderly~~  
2164 | ~~procedure~~. The hearing shall be conducted in a physical setting  
2165 | not likely to be injurious to the person's condition.

2166 | (b) A hearing on the petition must ~~shall~~ be held as soon  
2167 | as practicable after the petition is filed, but reasonable delay  
2168 | for the purpose of investigation, discovery, or procuring  
2169 | counsel or witnesses shall be granted.

2170 | (c) The court may appoint a general or special magistrate  
2171 | to preside. Except as otherwise specified, the magistrate's  
2172 | proceeding shall be governed by the ~~rule 1.490~~, Florida Rules of  
2173 | Civil Procedure.

2174 | (d) The person with mental retardation shall be physically  
2175 | present throughout the entire proceeding. If the person's  
2176 | attorney believes that the person's presence at the hearing is  
2177 | not in the person's best interest, the person's presence may be  
2178 | waived once the court has seen the person and the hearing has  
2179 | commenced.

2180 | (e) The person has ~~shall have~~ the right to present  
2181 | evidence and to cross-examine all witnesses and other evidence  
2182 | alleging the appropriateness of the person's admission to  
2183 | residential care. Other relevant and material evidence regarding

HB 1503 CS

2006  
CS

2184 | the appropriateness of the person's admission to residential  
 2185 | services; the most appropriate, least restrictive residential  
 2186 | placement; and the appropriate care, treatment, and habilitation  
 2187 | of the person, including written or oral reports, may be  
 2188 | introduced at the hearing by any interested person.

2189 |       (f) The petitioning commission may be represented by  
 2190 | counsel at the hearing. The petitioning commission shall have  
 2191 | the right to call witnesses, present evidence, cross-examine  
 2192 | witnesses, and present argument on behalf of the petitioning  
 2193 | commission.

2194 |       (g) All evidence shall be presented according to chapter  
 2195 | 90. The burden of proof shall be on the party alleging the  
 2196 | appropriateness of the person's admission to residential  
 2197 | services. The burden of proof shall be by clear and convincing  
 2198 | evidence.

2199 |       (h) All stages of each proceeding shall be  
 2200 | stenographically reported.

2201 |       (8) ORDER.--

2202 |       (a) In all cases, the court shall issue written findings  
 2203 | of fact and conclusions of law to support its decision. The  
 2204 | order must ~~shall~~ state the basis for the ~~such~~ findings of fact.

2205 |       (b) An order of involuntary admission to residential  
 2206 | services may ~~shall~~ not be entered unless the court finds that:

- 2207 |           1. The person is mentally retarded or autistic;  
 2208 |           2. Placement in a residential setting is the least  
 2209 | restrictive and most appropriate alternative to meet the  
 2210 | person's needs; and



HB 1503 CS

2006  
CS

2211 3. Because of the person's degree of mental retardation or  
2212 autism, the person:

2213 a. Lacks sufficient capacity to give express and informed  
2214 consent to a voluntary application for services pursuant to s.  
2215 393.065 and lacks basic survival and self-care skills to such a  
2216 degree that close supervision and habilitation in a residential  
2217 setting is necessary and, if not provided, would result in a  
2218 real and present threat of substantial harm to the person's  
2219 well-being; or

2220 b. Is likely to physically injure others if allowed to  
2221 remain at liberty.

2222 (c) If the evidence presented to the court is not  
2223 sufficient to warrant involuntary admission to residential  
2224 services, but the court feels that residential services would be  
2225 beneficial, the court may recommend that the person seek  
2226 voluntary admission.

2227 (d) If an order of involuntary admission to residential  
2228 services provided by the ~~developmental services program of the~~  
2229 agency is entered by the court, a copy of the written order  
2230 shall be served upon the person, the person's counsel, the  
2231 agency, and the state attorney and the person's defense counsel,  
2232 if applicable. The order of involuntary admission sent to the  
2233 agency shall also be accompanied by a copy of the examining  
2234 committee's report and other reports contained in the court  
2235 file.

2236 (e) Upon receiving the order, the agency shall, within 45  
2237 days, provide the court with a copy of the person's family or  
2238 individual support plan and copies of all examinations and

HB 1503 CS

2006  
CS

2239 | evaluations, outlining the treatment and rehabilitative  
 2240 | programs. The agency shall document that the person has been  
 2241 | placed in the most appropriate, least restrictive and cost-  
 2242 | beneficial residential setting ~~facility~~. A copy of the family or  
 2243 | individual support plan and other examinations and evaluations  
 2244 | shall be served upon the person and the person's counsel at the  
 2245 | same time the documents are filed with the court.

2246 | (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO  
 2247 | RESIDENTIAL SERVICES.--

2248 | (a) ~~In no case shall~~ An order authorizing an admission to  
 2249 | residential care may not be considered an adjudication of mental  
 2250 | incompetency. A ~~No~~ person is not ~~shall be~~ presumed incompetent  
 2251 | solely by reason of the person's involuntary admission to  
 2252 | residential services. A ~~No~~ person may not ~~shall~~ be denied the  
 2253 | full exercise of all legal rights guaranteed to citizens of this  
 2254 | state and of the United States.

2255 | (b) Any minor involuntarily admitted to residential  
 2256 | services shall, upon reaching majority, be given a hearing to  
 2257 | determine the continued appropriateness of his or her  
 2258 | involuntary admission.

2259 | (10) COMPETENCY.--

2260 | (a) The issue of competency shall be separate and distinct  
 2261 | from a determination of the appropriateness of involuntary  
 2262 | admission to residential services for a condition of mental  
 2263 | retardation.

2264 | (b) The issue of the competency of a person with mental  
 2265 | retardation for purposes of assigning guardianship shall be  
 2266 | determined in a separate proceeding according to the procedures

HB 1503 CS

2006  
CS

2267 and requirements of chapter 744 ~~and the Florida Probate Rules.~~  
 2268 The issue of the competency of a person with mental retardation  
 2269 or autism for purposes of determining whether the person is  
 2270 competent to proceed in a criminal trial shall be determined in  
 2271 accordance with chapter 916.

2272 (11) CONTINUING JURISDICTION.--The court which issues the  
 2273 initial order for involuntary admission to residential services  
 2274 under this section has ~~shall have~~ continuing jurisdiction to  
 2275 enter further orders to ensure that the person is receiving  
 2276 adequate care, treatment, habilitation, and rehabilitation,  
 2277 including psychotropic medication and behavioral programming.  
 2278 Upon request, the court may transfer the continuing jurisdiction  
 2279 to the court where a client resides if it is different from  
 2280 where the original involuntary admission order was issued. A ~~No~~  
 2281 person may not be released from an order for involuntary  
 2282 admission to residential services except by the order of the  
 2283 court.

2284 (12) APPEAL.--

2285 (a) Any party to the proceeding who is affected by an  
 2286 order of the court may appeal to the appropriate district court  
 2287 of appeal within the time and in the manner prescribed by the  
 2288 Florida Rules of Appellate Procedure.

2289 (b) The filing of an appeal by the person with mental  
 2290 retardation shall stay admission of the person into residential  
 2291 care. The stay shall remain in effect during the pendency of all  
 2292 review proceedings in Florida courts until a mandate issues.

2293 (13) HABEAS CORPUS.--At any time and without notice, any  
 2294 person involuntarily admitted into residential care ~~to the~~

HB 1503 CS

2006  
CS

2295 ~~developmental services program of the agency,~~ or the person's  
 2296 parent or legal guardian in his or her behalf, is entitled to  
 2297 file a petition for a writ of habeas corpus to question the  
 2298 cause, legality, and appropriateness of the person's involuntary  
 2299 admission. Each person, or the person's parent or legal  
 2300 guardian, shall receive specific written notice of the right to  
 2301 petition for a writ of habeas corpus at the time of his or her  
 2302 involuntary placement.

2303 Section 28. Section 393.122, Florida Statutes, is amended  
 2304 to read:

2305 393.122 Applications for continued residential services.--

2306 (1) If a client is discharged from residential services  
 2307 under the provisions of s. 393.115 ~~this section~~, application for  
 2308 needed services shall be encouraged.

2309 (2) A ~~No~~ client receiving services from a state agency may  
 2310 not ~~the department as of July 1, 1977,~~ shall be denied continued  
 2311 services due to any change in eligibility requirements by  
 2312 chapter 77-335, Laws of Florida.

2313 Section 29. Section 393.13, Florida Statutes, is amended  
 2314 to read:

2315 393.13 ~~Personal~~ Treatment of persons with developmental  
 2316 disabilities ~~who are developmentally disabled~~--

2317 (1) SHORT TITLE.--This section ~~act~~ shall be known as "The  
 2318 Bill of Rights of Persons with Developmental Disabilities ~~who~~  
 2319 ~~are Developmentally Disabled~~."

2320 (2) LEGISLATIVE INTENT.--

2321 (a) The Legislature finds and declares that the system of  
 2322 care provided to individuals with developmental disabilities ~~who~~

HB 1503 CS

2006  
CS

2323 ~~are developmentally disabled~~ must be designed to meet the needs  
 2324 of the clients as well as protect the integrity of their legal  
 2325 and human rights.

2326 (b) The Legislature further finds and declares that the  
 2327 design and delivery of treatment and services to persons with  
 2328 developmental disabilities ~~who are developmentally disabled~~  
 2329 should be directed by the principles of self-determination  
 2330 ~~normalization~~ and therefore should:

2331 1. Abate the use of large institutions.  
 2332 2. Continue the development of community-based services  
 2333 that ~~which~~ provide reasonable alternatives to  
 2334 institutionalization in settings that are least restrictive to  
 2335 the client and that provide opportunities for inclusion in the  
 2336 community.

2337 3. Provide training and education that ~~to individuals who~~  
 2338 ~~are developmentally disabled~~ ~~which~~ will maximize their potential  
 2339 to lead independent and productive lives and that ~~which~~ will  
 2340 afford opportunities for outward mobility from institutions.

2341 4. Reduce the use of sheltered workshops and other  
 2342 noncompetitive employment day activities and promote  
 2343 opportunities for those ~~gainful employment for persons with~~  
 2344 ~~developmental disabilities~~ who choose to seek such employment.

2345 (c) It is the intent of the Legislature that duplicative  
 2346 and unnecessary administrative procedures and practices shall be  
 2347 eliminated, and areas of responsibility shall be clearly defined  
 2348 and consolidated in order to economically utilize present  
 2349 resources. Furthermore, personnel providing services should be  
 2350 sufficiently qualified and experienced to meet the needs of the

HB 1503 CS

2006  
CS

2351 clients, and they must be sufficient in number to provide  
2352 treatment in a manner which is beneficial to the clients.

2353 (d) It is the intent of the Legislature:

2354 1. To articulate the existing legal and human rights of  
2355 persons with developmental disabilities ~~who are developmentally~~  
2356 ~~disabled~~ so that they may be exercised and protected. Persons  
2357 with developmental disabilities shall have all the rights  
2358 enjoyed by citizens of the state and the United States.

2359 2. To provide a mechanism for the identification,  
2360 evaluation, and treatment of persons with developmental  
2361 disabilities.

2362 3. To divert those individuals from institutional  
2363 commitment who, by virtue of comprehensive assessment, can be  
2364 placed in less costly, more effective community environments and  
2365 programs.

2366 4. To fund improvements in the program in accordance with  
2367 the availability of state resources and yearly priorities  
2368 determined by the Legislature.

2369 5. To ensure that persons with developmental disabilities  
2370 receive treatment and habilitation which fosters the  
2371 developmental potential of the individual.

2372 6. To provide programs for the proper habilitation and  
2373 treatment of persons with developmental disabilities which shall  
2374 include, but not be limited to, comprehensive medical/dental  
2375 care, education, recreation, specialized therapies, training,  
2376 social services, transportation, guardianship, family care  
2377 programs, day habilitation services, and habilitative and  
2378 rehabilitative services suited to the needs of the individual

HB 1503 CS

2006  
CS

2379 | regardless of age, degree of disability, or handicapping  
 2380 | condition. It is the intent of the Legislature that no person  
 2381 | with developmental disabilities shall be deprived of these  
 2382 | enumerated services by reason of inability to pay.

2383 |         7. To fully effectuate the principles of self-  
 2384 | determination ~~normalization principle~~ through the establishment  
 2385 | of community services for persons with developmental  
 2386 | disabilities as a viable and practical alternative to  
 2387 | institutional care at each stage of individual life development  
 2388 | and to promote opportunities for community inclusion. If care in  
 2389 | a residential facility becomes necessary, it shall be in the  
 2390 | least restrictive setting.

2391 |         8. To minimize and achieve an ongoing reduction in the use  
 2392 | of restraint and seclusion in facilities and programs serving  
 2393 | persons with developmental disabilities.

2394 |         (e) It is the clear, unequivocal intent of this act to  
 2395 | guarantee individual dignity, liberty, pursuit of happiness, and  
 2396 | protection of the civil and legal rights of persons with  
 2397 | developmental disabilities.

2398 |         (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL  
 2399 | DISABILITIES.--The rights described in this subsection shall  
 2400 | apply to all persons with developmental disabilities, whether or  
 2401 | not such persons are clients of the agency.

2402 |         (a) Persons with developmental disabilities shall have a  
 2403 | right to dignity, privacy, and humane care, including the right  
 2404 | to be free from sexual abuse in residential facilities.

2405 |         (b) Persons with developmental disabilities shall have the  
 2406 | right to religious freedom and practice. Nothing shall restrict

HB 1503 CS

2006  
CS

2407 or infringe on a person's right to religious preference and  
2408 practice.

2409 (c) Persons with developmental disabilities shall receive  
2410 services, within available sources, which protect the personal  
2411 liberty of the individual and which are provided in the least  
2412 restrictive conditions necessary to achieve the purpose of  
2413 treatment.

2414 (d) Persons with developmental disabilities ~~who are~~  
2415 ~~developmentally disabled~~ shall have a right to participate in an  
2416 appropriate program of quality education and training services,  
2417 within available resources, regardless of chronological age or  
2418 degree of disability. Such persons may be provided with  
2419 instruction in sex education, marriage, and family planning.

2420 (e) Persons with developmental disabilities ~~who are~~  
2421 ~~developmentally disabled~~ shall have a right to social  
2422 interaction and to participate in community activities.

2423 (f) Persons with developmental disabilities ~~who are~~  
2424 ~~developmentally disabled~~ shall have a right to physical exercise  
2425 and recreational opportunities.

2426 (g) Persons with developmental disabilities ~~who are~~  
2427 ~~developmentally disabled~~ shall have a right to be free from  
2428 harm, including unnecessary physical, chemical, or mechanical  
2429 restraint, isolation, excessive medication, abuse, or neglect.

2430 (h) Persons with developmental disabilities ~~who are~~  
2431 ~~developmentally disabled~~ shall have a right to consent to or  
2432 refuse treatment, subject to the provisions of s. 393.12(2)(a)  
2433 or chapter 744.



HB 1503 CS

2006  
CS

2434 (i) No otherwise qualified person shall, by reason of  
 2435 having a developmental disability, be excluded from  
 2436 participation in, or be denied the benefits of, or be subject to  
 2437 discrimination under, any program or activity which receives  
 2438 public funds, and all prohibitions set forth under any other  
 2439 statute shall be actionable under this statute.

2440 (j) No otherwise qualified person shall, by reason of  
 2441 having a developmental disability, be denied the right to vote  
 2442 in public elections.

2443 (4) CLIENT RIGHTS.--For purposes of this subsection, the  
 2444 term "client," as defined in s. 393.063, shall also include any  
 2445 person served in a facility licensed under ~~pursuant to~~ s.  
 2446 393.067.

2447 (a) Clients shall have an unrestricted right to  
 2448 communication:

2449 1. Each client is ~~shall be~~ allowed to receive, send, and  
 2450 mail sealed, unopened correspondence. A ~~No~~ client's incoming or  
 2451 outgoing correspondence may not ~~shall~~ be opened, delayed, held,  
 2452 or censored by the facility unless there is reason to believe  
 2453 that it contains items or substances which may be harmful to the  
 2454 client or others, in which case the chief administrator of the  
 2455 facility may direct reasonable examination of such mail and  
 2456 regulate the disposition of such items or substances.

2457 2. Clients in residential facilities shall be afforded  
 2458 reasonable opportunities for telephone communication, to make  
 2459 and receive confidential calls, unless there is reason to  
 2460 believe that the content of the telephone communication may be  
 2461 harmful to the client or others, in which case the chief

HB 1503 CS

2006  
CS

2462 administrator of the facility may direct reasonable observation  
2463 and monitoring to the telephone communication.

2464 3. Clients ~~shall~~ have an unrestricted right to visitation  
2465 subject to reasonable rules of the facility. However, ~~nothing in~~  
2466 this provision may not ~~shall~~ be construed to permit infringement  
2467 upon other clients' rights to privacy.

2468 (b) Each client has the right to the possession and use of  
2469 his or her own clothing and personal effects, except in those  
2470 specific instances where the use of some of these items as  
2471 reinforcers is essential for training the client as part of an  
2472 appropriately approved behavioral program. The chief  
2473 administrator of the facility may take temporary custody of such  
2474 effects when it is essential to do so for medical or safety  
2475 reasons. Custody of such personal effects shall be promptly  
2476 recorded in the client's record, and a receipt for such effects  
2477 shall be immediately given to the client, if competent, or the  
2478 client's parent or legal guardian.

2479 1. All money belonging to a client held by the agency  
2480 shall be held in compliance with s. 402.17(2).

2481 2. All interest on money received and held for the  
2482 personal use and benefit of a client shall be the property of  
2483 that client and may ~~shall~~ not accrue to the general welfare of  
2484 all clients or be used to defray the cost of residential care.  
2485 Interest so accrued shall be used or conserved for the personal  
2486 use or benefit of the individual client as provided in s.  
2487 402.17(2).

2488 3. Upon the discharge or death of a client, a final  
2489 accounting shall be made of all personal effects and money

2490 | belonging to the client held by the agency. All ~~such~~ personal  
 2491 | effects and money, including interest, shall be promptly turned  
 2492 | over to the client or his or her heirs.

2493 |         (c) Each client shall receive prompt and appropriate  
 2494 | medical treatment and care for physical and mental ailments and  
 2495 | for the prevention of any illness or disability. Medical  
 2496 | treatment shall be consistent with the accepted standards of  
 2497 | medical practice in the community.

2498 |         1. Medication shall be administered only at the written  
 2499 | order of a physician. Medication shall not be used as  
 2500 | punishment, for the convenience of staff, as a substitute for  
 2501 | implementation of an individual or family support plan or  
 2502 | behavior-analysis services ~~behavior modification programming~~, or  
 2503 | in unnecessary or excessive quantities.

2504 |         2. Daily notation of medication received by each client in  
 2505 | a residential facility shall be kept in the client's record.

2506 |         3. Periodically, but no less frequently than every 6  
 2507 | months, the drug regimen of each client in a residential  
 2508 | facility shall be reviewed by the attending physician or other  
 2509 | appropriate monitoring body, consistent with appropriate  
 2510 | standards of medical practice. All prescriptions shall have a  
 2511 | termination date.

2512 |         4. When pharmacy services are provided at any residential  
 2513 | facility, such services shall be directed or supervised by a  
 2514 | professionally competent pharmacist licensed according to the  
 2515 | provisions of chapter 465.

2516 |         5. Pharmacy services shall be delivered in accordance with  
 2517 | the provisions of chapter 465.

HB 1503 CS

2006  
CS

2518 | 6. Prior to instituting a plan of experimental medical  
2519 | treatment or carrying out any necessary surgical procedure,  
2520 | express and informed consent shall be obtained from the client,  
2521 | if competent, or the client's parent or legal guardian.

2522 | Information upon which the client shall make necessary treatment  
2523 | and surgery decisions shall include, but not be limited to:

- 2524 | a. The nature and consequences of such procedures.  
2525 | b. The risks, benefits, and purposes of such procedures.  
2526 | c. Alternate procedures available.

2527 | 7. When the parent or legal guardian of the client is  
2528 | unknown or unlocatable and the physician is unwilling to perform  
2529 | surgery based solely on the client's consent, a court of  
2530 | competent jurisdiction shall hold a hearing to determine the  
2531 | appropriateness of the surgical procedure. The client shall be  
2532 | physically present, unless the client's medical condition  
2533 | precludes such presence, represented by counsel, and provided  
2534 | the right and opportunity to be confronted with, and to cross-  
2535 | examine, all witnesses alleging the appropriateness of such  
2536 | procedure. In such proceedings, the burden of proof by clear and  
2537 | convincing evidence shall be on the party alleging the  
2538 | appropriateness of such procedures. The express and informed  
2539 | consent of a person described in subparagraph 6. may be  
2540 | withdrawn at any time, with or without cause, prior to treatment  
2541 | or surgery.

2542 | 8. The absence of express and informed consent  
2543 | notwithstanding, a licensed and qualified physician may render  
2544 | emergency medical care or treatment to any client who has been  
2545 | injured or who is suffering from an acute illness, disease, or

HB 1503 CS

2006  
CS

2546 | condition if, within a reasonable degree of medical certainty,  
2547 | delay in initiation of emergency medical care or treatment would  
2548 | endanger the health of the client.

2549 | (d) Each client shall have access to individual storage  
2550 | space for his or her private use.

2551 | (e) Each client shall be provided with appropriate  
2552 | physical exercise as prescribed in the client's individual or  
2553 | family support plan. Indoor and outdoor facilities and equipment  
2554 | for such physical exercise shall be provided.

2555 | (f) Each client shall receive humane discipline.

2556 | (g) A ~~No~~ client may not shall be subjected to a treatment  
2557 | program to eliminate problematic ~~bizarre~~ or unusual behaviors  
2558 | without first being examined by a physician who in his or her  
2559 | best judgment determines that such behaviors are not organically  
2560 | caused.

2561 | 1. Treatment programs involving the use of noxious or  
2562 | painful stimuli are ~~shall be~~ prohibited.

2563 | 2. All alleged violations of this paragraph shall be  
2564 | reported immediately to the chief administrator ~~administrative~~  
2565 | ~~officer~~ of the facility and ~~or the district administrator,~~ the  
2566 | agency head, ~~and the Florida local advocacy council.~~ A thorough  
2567 | investigation of each incident shall be conducted and a written  
2568 | report of the finding and results of the ~~such~~ investigation  
2569 | shall be submitted to the chief administrator ~~administrative~~  
2570 | ~~officer~~ of the facility ~~or the district administrator~~ and ~~to~~ the  
2571 | agency head within 24 hours after ~~of~~ the occurrence or discovery  
2572 | of the incident.

HB 1503 CS

2006  
CS

2573           3. The agency shall adopt by rule a system for the  
2574 oversight of behavioral programs. The ~~Such~~ system shall  
2575 establish guidelines and procedures governing the design,  
2576 approval, implementation, and monitoring of all behavioral  
2577 programs involving clients. The system shall ensure statewide  
2578 and local review by committees of professionals certified as  
2579 behavior analysts pursuant to s. 393.17. No behavioral program  
2580 shall be implemented unless reviewed according to the rules  
2581 established by the agency under this section. ~~Nothing stated in~~  
2582 ~~this section shall prohibit the review of programs by the~~  
2583 ~~Florida statewide or local advocacy councils.~~

2584           ~~(h) Each client engaged in work programs which require~~  
2585 ~~compliance with federal wage and hour laws shall be provided~~  
2586 ~~with minimum wage protection and fair compensation for labor in~~  
2587 ~~accordance with the federal wage per hour regulations.~~

2588           (h)(i) Clients shall have the right to be free from the  
2589 unnecessary use of restraint or seclusion ~~physical, chemical, or~~  
2590 ~~mechanical restraint~~. Restraints shall be employed only in  
2591 emergencies or to protect the client or others from imminent  
2592 ~~injury to himself or herself or others~~. Restraints may ~~shall~~ not  
2593 be employed as punishment, for the convenience of staff, or as a  
2594 substitute for a support ~~habilitative~~ plan. Restraints shall  
2595 impose the least possible restrictions consistent with their  
2596 purpose and shall be removed when the emergency ends. Restraints  
2597 shall not cause physical injury to the client and shall be  
2598 designed to allow the greatest possible comfort.

2599           ~~1. Mechanical supports used in normative situations to~~  
2600 ~~achieve proper body position and balance shall not be considered~~

Page 94 of 161

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

hb1503-03-c3

HB 1503 CS

2006  
CS

2601 ~~restraints, but shall be prescriptively designed and applied~~  
2602 ~~under the supervision of a qualified professional with concern~~  
2603 ~~for principles of good body alignment, circulation, and~~  
2604 ~~allowance for change of position.~~

2605 ~~2. Totally enclosed cribs and barred enclosures shall be~~  
2606 ~~considered restraints.~~

2607 ~~1.3.~~ Daily reports on the employment of restraint or  
2608 seclusion physical, chemical, or mechanical restraints by those  
2609 ~~specialists authorized in the use of such restraints~~ shall be  
2610 made to the ~~appropriate chief~~ administrator of the facility or  
2611 program licensed under this chapter, and a monthly compilation  
2612 summary of such reports shall be relayed to the agency's local  
2613 area office ~~district administrator and the Florida local~~  
2614 ~~advocacy council~~. The monthly reports shall summarize all such  
2615 cases of restraints, the type used, the duration of usage, and  
2616 the reasons therefor. The area offices ~~Districts~~ shall submit  
2617 monthly summaries of these ~~districtwide quarterly~~ reports of  
2618 ~~these summaries~~ to the agency's central office ~~state~~  
2619 ~~Developmental Disabilities Program Office~~.

2620 ~~2.4.~~ The agency shall adopt by rule standards and  
2621 procedures relating to the use of restraint and seclusion ~~post a~~  
2622 ~~copy of the rules adopted under this section in each living unit~~  
2623 ~~of residential facilities~~. Such rules must be consistent with  
2624 recognized best practices; prohibit inherently dangerous  
2625 restraint or seclusion procedures; establish limitations on the  
2626 use and duration of restraint and seclusion; establish measures  
2627 to ensure the safety of clients and staff during an incident of  
2628 restraint or seclusion; establish procedures for staff to follow

HB 1503 CS

2006  
CS

2629 before, during, and after incidents of restraint or seclusion,  
2630 including individualized plans for the use of restraints or  
2631 seclusion in emergency situations; establish professional  
2632 qualifications of and training for staff who may order or be  
2633 engaged in the use of restraint or seclusion; establish  
2634 requirements for facility data collection and reporting relating  
2635 to the use of restraint and seclusion; and establish procedures  
2636 relating to the documentation of the use of restraint or  
2637 seclusion in the client's facility or program record. A copy of  
2638 the rules adopted under this subparagraph ~~section~~ shall be given  
2639 to the client, parent, guardian or guardian advocate, and all  
2640 staff members of licensed facilities and programs licensed under  
2641 this chapter and made a part of all staff preservice and  
2642 inservice training programs.

2643 (i) ~~(j)~~ 1. Each client shall have a central record. The  
2644 central record shall be established by the agency at the time  
2645 that an individual is determined eligible for services, shall be  
2646 maintained by the client's support coordinator, and must contain  
2647 information ~~include data~~ pertaining to admission, diagnosis and  
2648 treatment history, present condition, and such other information  
2649 as may be required under rules of the agency. The central record  
2650 is the property of the agency.

2651 1.2. Unless waived by the client, if competent, or the  
2652 client's parent or legal guardian if the client is incompetent,  
2653 the client's central record shall be confidential and exempt  
2654 from the provisions of s. 119.07(1), and no part of it shall be  
2655 released except:



HB 1503 CS

2006  
CS

2656 | a. The record may be released to physicians, attorneys,  
2657 | and government agencies having need of the record to aid the  
2658 | client, as designated by the client, if competent, or the  
2659 | client's parent or legal guardian, if the client is incompetent.

2660 | b. The record shall be produced in response to a subpoena  
2661 | or released to persons authorized by order of court, excluding  
2662 | matters privileged by other provisions of law.

2663 | c. The record or any part thereof may be disclosed to a  
2664 | qualified researcher, a staff member of the facility where the  
2665 | client resides, or an employee of the agency when the  
2666 | administrator of the facility or the director of the agency  
2667 | deems it necessary for the treatment of the client, maintenance  
2668 | of adequate records, compilation of treatment data, or  
2669 | evaluation of programs.

2670 | d. Information from the records may be used for  
2671 | statistical and research purposes if the information is  
2672 | abstracted in such a way to protect the identity of individuals.

2673 | ~~3. All central records for each client in residential~~  
2674 | ~~facilities shall be kept on uniform forms distributed by the~~  
2675 | ~~agency. The central record shall accurately summarize each~~  
2676 | ~~client's history and present condition.~~

2677 | ~~2.4.~~ The client, if competent, or the client's parent or  
2678 | legal guardian if the client is incompetent, shall be supplied  
2679 | with a copy of the client's central record upon request.

2680 | (j) ~~(k)~~ Each client residing in a residential facility who  
2681 | is eligible to vote in public elections according to the laws of  
2682 | the state has ~~shall have~~ the right to vote. Facilities operators  
2683 | shall arrange the means to exercise the client's right to vote.

HB 1503 CS

2006  
CS

2684 (5) LIABILITY FOR VIOLATIONS.--Any person who violates or  
 2685 abuses any rights or privileges of persons with developmental  
 2686 disabilities ~~who are developmentally disabled~~ provided by this  
 2687 chapter is act shall be liable for damages as determined by law.  
 2688 Any person who acts in good faith compliance with the provisions  
 2689 of this chapter is act shall be immune from civil or criminal  
 2690 liability for actions in connection with evaluation, admission,  
 2691 habilitative programming, education, treatment, or discharge of  
 2692 a client. However, this section does shall not relieve any  
 2693 person from liability if the such person is guilty of  
 2694 negligence, misfeasance, nonfeasance, or malfeasance.

2695 (6) NOTICE OF RIGHTS.--Each person with developmental  
 2696 disabilities, if competent, or parent or legal guardian of such  
 2697 person if the person is incompetent, shall promptly receive from  
 2698 the agency or the Department of Education a written copy of this  
 2699 act. Each person with developmental disabilities able to  
 2700 comprehend shall be promptly informed, in the language or other  
 2701 mode of communication which such person understands, of the  
 2702 above legal rights of persons with developmental disabilities.

2703 (7) RESIDENT GOVERNMENT.--Each residential facility  
 2704 providing services to clients who are desirous and capable of  
 2705 participating shall initiate and develop a program of resident  
 2706 government to hear the views and represent the interests of all  
 2707 clients served by the facility. The resident government shall be  
 2708 composed of residents elected by other residents, staff advisers  
 2709 skilled in the administration of community organizations, and,  
 2710 at the option of the resident government, representatives of  
 2711 advocacy groups for persons with developmental disabilities from

HB 1503 CS

2006  
CS

2712 | ~~the community a representative of the Florida local advocacy~~  
 2713 | ~~council. The resident government shall work closely with the~~  
 2714 | ~~Florida local advocacy council and the district administrator to~~  
 2715 | ~~promote the interests and welfare of all residents in the~~  
 2716 | ~~facility.~~

2717 | Section 30. Subsections (1), (2), (3), (4), and (5) of  
 2718 | section 393.135, Florida Statutes, are amended to read:

2719 | 393.135 Sexual misconduct prohibited; reporting required;  
 2720 | penalties.--

2721 | (1) As used in this section, the term:

2722 | (a) "Covered person" ~~"Employee"~~ includes any employee,  
 2723 | paid staff member, volunteer, or intern of the agency ~~or the~~  
 2724 | ~~department~~; any person under contract with the agency ~~or the~~  
 2725 | ~~department~~; and any person providing care or support to a client  
 2726 | on behalf of the agency ~~department~~ or its providers.

2727 | (b) "Sexual activity" means:

2728 | 1. Fondling the genital area, groin, inner thighs,  
 2729 | buttocks, or breasts of a person.

2730 | 2. The oral, anal, or vaginal penetration by or union with  
 2731 | the sexual organ of another or the anal or vaginal penetration  
 2732 | of another by any other object.

2733 | 3. Intentionally touching in a lewd or lascivious manner  
 2734 | the breasts, genitals, the genital area, or buttocks, or the  
 2735 | clothing covering them, of a person, or forcing or enticing a  
 2736 | person to touch the perpetrator.

2737 | 4. Intentionally masturbating in the presence of another  
 2738 | person.

HB 1503 CS

2006  
CS

2739 | 5. Intentionally exposing the genitals in a lewd or  
2740 | lascivious manner in the presence of another person.

2741 | 6. Intentionally committing any other sexual act that does  
2742 | not involve actual physical or sexual contact with the victim,  
2743 | including, but not limited to, sadomasochistic abuse, sexual  
2744 | bestiality, or the simulation of any act involving sexual  
2745 | activity in the presence of a victim.

2746 | (c) "Sexual misconduct" means any sexual activity between  
2747 | a covered person ~~an employee~~ and a client to whom a covered  
2748 | person renders services, care, or support on behalf of the  
2749 | agency or its providers, or between a covered person and another  
2750 | client who lives in the same home as the client to whom a  
2751 | covered person is rendering the services, care, or support,  
2752 | regardless of the consent of the client. The term does not  
2753 | include an act done for a bona fide medical purpose or an  
2754 | internal search conducted in the lawful performance of duty by a  
2755 | covered person ~~an employee~~.

2756 | (2) A covered person ~~An employee~~ who engages in sexual  
2757 | misconduct with an individual with a developmental disability  
2758 | who:

2759 | ~~(a) Is in the custody of the department;~~

2760 | (a) (b) Resides in a residential facility, including any  
2761 | comprehensive transitional education program, developmental  
2762 | disabilities ~~services~~ institution, foster care facility, group  
2763 | home facility, intermediate care facility for the  
2764 | developmentally disabled, or residential habilitation center; or

2765 | (b) (e) Is eligible to receive ~~Receives~~ services from the  
2766 | agency under this chapter ~~a family care program,~~

HB 1503 CS

2006  
CS

2767  
2768 commits a felony of the second degree, punishable as provided in  
2769 s. 775.082, s. 775.083, or s. 775.084. A covered person ~~An~~  
2770 ~~employee~~ may be found guilty of violating this subsection  
2771 without having committed the crime of sexual battery.

2772 (3) The consent of the client to sexual activity is not a  
2773 defense to prosecution under this section.

2774 (4) This section does not apply to a covered person ~~an~~  
2775 ~~employee~~ who:

2776 ~~(a) is legally married to the client, or~~

2777 ~~(b) Has no reason to believe that the person with whom the~~  
2778 ~~employee engaged in sexual misconduct is a client receiving~~  
2779 ~~services as described in subsection (2).~~

2780 (5) A covered person ~~An employee~~ who witnesses sexual  
2781 misconduct, or who otherwise knows or has reasonable cause to  
2782 suspect that a person has engaged in sexual misconduct, shall  
2783 immediately report the incident to the ~~department's~~ central  
2784 abuse hotline of the Department of Children and Family Services  
2785 and to the appropriate local law enforcement agency. The covered  
2786 person ~~Such employee~~ shall also prepare, date, and sign an  
2787 independent report that specifically describes the nature of the  
2788 sexual misconduct, the location and time of the incident, and  
2789 the persons involved. The covered person ~~employee~~ shall deliver  
2790 the report to the supervisor or program director, who is  
2791 responsible for providing copies to the agency's local office  
2792 and the agency's ~~department's~~ inspector general. ~~The inspector~~  
2793 ~~general shall immediately conduct an appropriate administrative~~  
2794 ~~investigation, and, if there is probable cause to believe that~~

HB 1503 CS

2006  
CS

2795 ~~sexual misconduct has occurred, the inspector general shall~~  
 2796 ~~notify the state attorney in the circuit in which the incident~~  
 2797 ~~occurred.~~

2798 Section 31. Section 393.15, Florida Statutes, is amended  
 2799 to read:

2800 393.15 Legislative intent; Community Resources Development  
 2801 Loan Program Trust Fund.--

2802 (1) The Legislature finds and declares that the  
 2803 development of community-based treatment facilities for persons  
 2804 with developmental disabilities ~~who are developmentally disabled~~  
 2805 is desirable and recommended and should be encouraged and  
 2806 fostered by the state. The Legislature further recognizes that  
 2807 the development of such facilities is financially difficult for  
 2808 private individuals, due to initial expenditures required to  
 2809 adapt existing structures to the special needs of such persons  
 2810 ~~who are developmentally disabled~~ who may be served in community-  
 2811 based foster care, group home, ~~developmental training,~~ and  
 2812 supported employment programs. Therefore, ~~it is the intent of~~  
 2813 the Legislature intends that the agency ~~by this act to~~ develop  
 2814 and administer a loan program ~~trust fund~~ to provide support and  
 2815 encouragement in the establishment of community-based foster  
 2816 care, group home, ~~developmental training,~~ and supported  
 2817 employment programs for persons with developmental disabilities  
 2818 ~~who are developmentally disabled.~~

2819 ~~(2) As used in this section, a foster care, group home,~~  
 2820 ~~developmental training, or supported employment program may not~~  
 2821 ~~be a for profit corporation, but may be a nonprofit corporation,~~  
 2822 ~~partnership, or sole proprietorship.~~

HB 1503 CS

2006  
CS

2823           ~~(3)~~ (2) There is created a Community Resources Development  
2824 Loan Program in Trust Fund in the State Treasury to be used by  
2825 the agency for the purpose of granting loans to eligible  
2826 programs for the initial costs of development of the programs.  
2827 In order to be eligible for the program, a foster home, group  
2828 home, or supported employment program must:

2829           (a) Serve persons with developmental disabilities;

2830           (b) Be a nonprofit corporation, partnership, or sole  
2831 proprietorship; and

2832           (c) Be ~~Loans shall be made only to those facilities which~~  
2833 ~~are~~ in compliance with the zoning regulations of the local  
2834 community.

2835           (3) Loans may be made to pay for the costs of development  
2836 and may include structural modification, the purchase of  
2837 equipment and fire and safety devices, preoperational staff  
2838 training, and the purchase of insurance. Such costs may shall  
2839 not include the actual construction of a facility and may not be  
2840 in lieu of payment for maintenance, client services, or care  
2841 provided.

2842           (4) The agency may grant to an eligible program a lump-sum  
2843 loan in one payment not to exceed the cost ~~to the program~~ of  
2844 providing 2 months' services, care, or maintenance to each  
2845 person with developmental disabilities ~~who is developmentally~~  
2846 ~~disabled~~ to be placed in the program by the agency, or the  
2847 actual cost of firesafety renovations to a facility required by  
2848 the state, whichever is greater. ~~Loans granted to programs shall~~  
2849 ~~not be in lieu of payment for maintenance, services, or care~~  
2850 ~~provided, but shall stand separate and distinct.~~

HB 1503 CS

2006  
CS

2851        (5) The agency shall adopt rules, ~~as provided in chapter~~  
2852 ~~120,~~ to determine the criteria ~~standards~~ under which a program  
2853 shall be eligible to receive a loan ~~as provided in this section~~  
2854 and the methodology ~~criteria~~ for the equitable allocation of  
2855 loan ~~trust~~ funds when eligible applications exceed the funds  
2856 available.

2857        (6) ~~(5)~~ Any loan granted by the agency under this section  
2858 shall be repaid by the program within 5 years and the amount  
2859 paid shall be deposited into the agency's Administrative Trust  
2860 Fund. Moneys repaid shall be used to fund new loans. A program  
2861 that operates as a nonprofit corporation meeting the  
2862 requirements of s. 501(c)(3) of the Internal Revenue Code, and  
2863 that seeks forgiveness of its loan shall submit to the agency an  
2864 annual a statement setting forth the service it has provided  
2865 during the year together with such other information as the  
2866 agency by rule shall require, and, upon approval of each such  
2867 annual statement, the agency may ~~shall~~ forgive up to 20 percent  
2868 of the principal of any such loan granted ~~after June 30, 1975.~~

2869        (7) ~~(6)~~ If any program that has received a loan under this  
2870 section ceases to accept, or provide care, services, or  
2871 maintenance to persons placed in the program by the department,  
2872 or if such program files papers of bankruptcy, at that point in  
2873 time the loan shall become an interest-bearing loan at the rate  
2874 of 5 percent per annum on the entire amount of the initial loan  
2875 which shall be repaid within a 1-year period from the date on  
2876 which the program ceases to provide care, services, or  
2877 maintenance, or files papers in bankruptcy, and the amount of  
2878 the loan due plus interest shall constitute a lien in favor of



HB 1503 CS

2006  
CS

2879 | the state against all real and personal property of the program.  
 2880 | The lien shall be perfected by the appropriate officer of the  
 2881 | agency by executing and acknowledging a statement of the name of  
 2882 | the program and the amount due on the loan and a copy of the  
 2883 | promissory note, which shall be recorded by the agency with the  
 2884 | clerk of the circuit court in the county wherein the program is  
 2885 | located. If the program has filed a petition for bankruptcy, the  
 2886 | agency shall file and enforce the lien in the bankruptcy  
 2887 | proceedings. Otherwise, the lien shall be enforced in the manner  
 2888 | provided in s. 85.011. All funds received by the agency from the  
 2889 | enforcement of the lien shall be deposited in the agency's  
 2890 | Administrative Community Resources Development Trust Fund and  
 2891 | used to fund new loans.

2892 |         Section 32. Section 393.17, Florida Statutes, is amended  
 2893 | to read:

2894 |         393.17 Behavioral programs; certification of behavior  
 2895 | analysts.--

2896 |         (1) The agency may establish a certification process for  
 2897 | behavior analysts in order to ensure that only qualified  
 2898 | employees and service providers provide behavioral analysis  
 2899 | services to clients. The procedures must be established by rule  
 2900 | and must include criteria for scope of practice, qualifications  
 2901 | for certification, including training and testing requirements,  
 2902 | continuing education requirements for ongoing certification, and  
 2903 | standards of performance. The procedures must also include  
 2904 | decertification procedures that may be used to determine whether  
 2905 | an individual continues to meet the qualifications for  
 2906 | certification or the professional performance standards and, if

HB 1503 CS

2006  
CS

2907 | not, the procedures necessary to decertify an employee or  
 2908 | service provider.

2909 |       (2) The agency shall ~~may~~ recognize the certification of  
 2910 | behavior analysts awarded by a nonprofit corporation that  
 2911 | adheres to the national standards of boards that determine  
 2912 | professional credentials and whose mission is to meet  
 2913 | professional credentialing needs identified by behavior  
 2914 | analysts, state governments, and consumers of behavior analysis  
 2915 | services and whose work has the support of the Association for  
 2916 | Behavior Analysis International. The certification procedure  
 2917 | recognized by the agency must undergo regular psychometric  
 2918 | review and validation, pursuant to a job analysis survey of the  
 2919 | profession and standards established by content experts in the  
 2920 | field.

2921 |       Section 33. Section 393.18, Florida Statutes, is created  
 2922 | to read:

2923 |       393.18 Comprehensive transitional education program.--A  
 2924 | comprehensive transition education program is a group of jointly  
 2925 | operating centers or units, the collective purpose of which is  
 2926 | to provide a sequential series of educational care, training,  
 2927 | treatment, habilitation, and rehabilitation services to persons  
 2928 | who have developmental disabilities and who have severe or  
 2929 | moderate maladaptive behaviors. However, this section does not  
 2930 | require such programs to provide services only to persons with  
 2931 | developmental disabilities. All such services shall be temporary  
 2932 | in nature and delivered in a structured residential setting,  
 2933 | having the primary goal of incorporating the principle of self-  
 2934 | determination in establishing permanent residence for persons

2935 with maladaptive behaviors in facilities that are not associated  
 2936 with the comprehensive transitional education program. The staff  
 2937 shall include behavior analysts and teachers, as appropriate,  
 2938 who shall be available to provide services in each component  
 2939 center or unit of the program. A behavior analyst must be  
 2940 certified pursuant to s. 393.17.

2941 (1) Comprehensive transitional education programs shall  
 2942 include a minimum of two component centers or units, one of  
 2943 which shall be an intensive treatment and educational center or  
 2944 a transitional training and educational center, which provides  
 2945 services to persons with maladaptive behaviors in the following  
 2946 sequential order:

2947 (a) Intensive treatment and educational center.--This  
 2948 component is a self-contained residential unit providing  
 2949 intensive behavioral and educational programming for persons  
 2950 with severe maladaptive behaviors whose behaviors preclude  
 2951 placement in a less-restrictive environment due to the threat of  
 2952 danger or injury to themselves or others. Continuous-shift staff  
 2953 shall be required for this component.

2954 (b) Transitional training and educational center.--This  
 2955 component is a residential unit for persons with moderate  
 2956 maladaptive behaviors providing concentrated psychological and  
 2957 educational programming that emphasizes a transition toward a  
 2958 less-restrictive environment. Continuous-shift staff shall be  
 2959 required for this component.

2960 (c) Community transition residence.--This component is a  
 2961 residential center providing educational programs and any  
 2962 support services, training, and care that are needed to assist

2963 persons with maladaptive behaviors to avoid regression to more  
 2964 restrictive environments while preparing them for more  
 2965 independent living. Continuous-shift staff shall be required for  
 2966 this component.

2967 (d) Alternative living center.--This component is a  
 2968 residential unit providing an educational and family living  
 2969 environment for persons with maladaptive behaviors in a  
 2970 moderately unrestricted setting. Residential staff shall be  
 2971 required for this component.

2972 (e) Independent living education center.--This component  
 2973 is a facility providing a family living environment for persons  
 2974 with maladaptive behaviors in a largely unrestricted setting and  
 2975 includes education and monitoring that is appropriate to support  
 2976 the development of independent living skills.

2977 (2) Components of a comprehensive transitional education  
 2978 program are subject to the license issued under s. 393.067 to a  
 2979 comprehensive transitional education program and may be located  
 2980 on a single site or multiple sites.

2981 (3) Comprehensive transitional education programs shall  
 2982 develop individual education plans for each person with  
 2983 maladaptive behaviors who receives services from the program.  
 2984 Each individual education plan shall be developed in accordance  
 2985 with the criteria specified in 20 U.S.C. ss. 401 et seq., and 34  
 2986 C.F.R. part 300.

2987 (4) The total number of persons with maladaptive behaviors  
 2988 who are being provided with services in a comprehensive  
 2989 transitional education program may not in any instance exceed  
 2990 120 residents.

HB 1503 CS

2006  
CS

2991           (5) This section shall authorize licensure for  
 2992 comprehensive transitional education programs which by July 1,  
 2993 1989:

2994           (a) Were in actual operation; or

2995           (b) Owned a fee simple interest in real property for which  
 2996 a county or city government has approved zoning allowing for the  
 2997 placement of the facilities described in this subsection, and  
 2998 have registered an intent with the agency to operate a  
 2999 comprehensive transitional education program. However, nothing  
 3000 shall prohibit the assignment by such a registrant to another  
 3001 entity at a different site within the state, so long as there is  
 3002 compliance with all criteria of this program and local zoning  
 3003 requirements and provided that each residential facility within  
 3004 the component centers or units of the program authorized under  
 3005 this subparagraph does not exceed a capacity of 15 persons.

3006           Section 34. Section 393.23, Florida Statutes, is created  
 3007 to read:

3008           393.23 Developmental disabilities institutions; trust  
 3009 accounts.--All receipts from the operation of canteens, vending  
 3010 machines, hobby shops, sheltered workshops, activity centers,  
 3011 farming projects, and other like activities operated in a  
 3012 developmental disabilities institution, and moneys donated to  
 3013 the institution, must be deposited in a trust account in any  
 3014 bank, credit union, or savings and loan association authorized  
 3015 by the State Treasury as a qualified depositor to do business in  
 3016 this state, if the moneys are available on demand.

3017           (1) Moneys in the trust account must be expended for the  
 3018 benefit, education, and welfare of clients. However, if

HB 1503 CS

2006  
CS

3019 specified, moneys that are donated to the institution must be  
3020 expended in accordance with the intentions of the donor. Trust  
3021 account money may not be used for the benefit of employees of  
3022 the agency, or to pay the wages of such employees. The welfare  
3023 of the clients includes the expenditure of funds for the  
3024 purchase of items for resale at canteens or vending machines,  
3025 and for the establishment of, maintenance of, and operation of  
3026 canteens, hobby shops, recreational or entertainment facilities,  
3027 sheltered workshops, activity centers, farming projects, or  
3028 other like facilities or programs established at the  
3029 institutions for the benefit of clients.

3030 (2) The institution may invest, in the manner authorized  
3031 by law for fiduciaries, any money in a trust account which is  
3032 not necessary for immediate use. The interest earned and other  
3033 increments derived from the investments of the money must be  
3034 deposited into the trust account for the benefit of clients.

3035 (3) The accounting system of an institution must account  
3036 separately for revenues and expenses for each activity. The  
3037 institution shall reconcile the trust account to the  
3038 institution's accounting system and check registers and to the  
3039 accounting system of the Chief Financial Officer.

3040 (4) All sales taxes collected by the institution as a  
3041 result of sales shall be deposited into the trust account and  
3042 remitted to the Department of Revenue.

3043 (5) Funds shall be expended in accordance with  
3044 requirements and guidelines established by the Chief Financial  
3045 Officer.

HB 1503 CS

2006  
CS

3046 Section 35. Section 393.501, Florida Statutes, is amended  
3047 to read:

3048 393.501 Rulemaking.--

3049 (1) The agency may ~~shall~~ adopt rules pursuant to ss.  
3050 120.536(1) and 120.54 to carry out its statutory duties ~~the~~  
3051 ~~provisions of this chapter.~~

3052 (2) Such rules shall address the number of facilities on a  
3053 single lot ~~parcel~~ or on adjacent lots ~~parcels of land,~~ and in  
3054 ~~addition, for ICF/MR, the rate and location of facility~~  
3055 ~~development and level of care.~~ In adopting rules, an alternative  
3056 living center and an independent living education center, as  
3057 described in s. 393.18, shall be subject to the provisions of s.  
3058 419.001, except that such centers shall be exempt from the  
3059 1,000-foot-radius requirement of s. 419.001(2) if:

3060 (a) The centers are located on a site zoned in a manner  
3061 that permits all the components of a comprehensive transition  
3062 education center to be located on the site; or

3063 (b) There are no more than three such centers within a  
3064 radius of 1,000 feet.

3065 Section 36. Section 394.453, Florida Statutes, is amended  
3066 to read:

3067 394.453 Legislative intent.--It is the intent of the  
3068 Legislature to authorize and direct the Department of Children  
3069 and Family Services to evaluate, research, plan, and recommend  
3070 to the Governor and the Legislature programs designed to reduce  
3071 the occurrence, severity, duration, and disabling aspects of  
3072 mental, emotional, and behavioral disorders. It is the intent of  
3073 the Legislature that treatment programs for such disorders shall

HB 1503 CS

2006  
CS

3074 include, but not be limited to, comprehensive health, social,  
3075 educational, and rehabilitative services to persons requiring  
3076 intensive short-term and continued treatment in order to  
3077 encourage them to assume responsibility for their treatment and  
3078 recovery. It is intended that such persons be provided with  
3079 emergency service and temporary detention for evaluation when  
3080 required; that they be admitted to treatment facilities on a  
3081 voluntary basis when extended or continuing care is needed and  
3082 unavailable in the community; that involuntary placement be  
3083 provided only when expert evaluation determines that it is  
3084 necessary; that any involuntary treatment or examination be  
3085 accomplished in a setting which is clinically appropriate and  
3086 most likely to facilitate the person's return to the community  
3087 as soon as possible; and that individual dignity and human  
3088 rights be guaranteed to all persons who are admitted to mental  
3089 health facilities or who are being held under s. 394.463. It is  
3090 the further intent of the Legislature that the least restrictive  
3091 means of intervention be employed based on the individual needs  
3092 of each person, within the scope of available services. It is  
3093 the policy of this state that the use of restraint and seclusion  
3094 on clients is justified only as an emergency safety measure to  
3095 be used in response to imminent danger to the client or others.  
3096 It is, therefore, the intent of the Legislature to achieve an  
3097 ongoing reduction in the use of restraint and seclusion in  
3098 programs and facilities serving persons with mental illness.

3099 Section 37. Present subsections (28) through (33) of  
3100 section 394.455, Florida Statutes, are redesignated as



HB 1503 CS

2006  
CS

3101 subsections (30) through (35), respectively, and new subsections  
3102 (28) and (29) are added to that section, to read:

3103 394.455 Definitions.--As used in this part, unless the  
3104 context clearly requires otherwise, the term:

3105 (28) (a) "Restraint" means a physical device, method, or  
3106 drug used to control behavior. A physical restraint is any  
3107 manual method or physical or mechanical device, material, or  
3108 equipment attached or adjacent to the individual's body so that  
3109 he or she cannot easily remove the restraint and which restricts  
3110 freedom of movement or normal access to one's body.

3111 (b) A drug used as a restraint is a medication used to  
3112 control the person's behavior or to restrict his or her freedom  
3113 of movement and is not part of the standard treatment regimen of  
3114 a person with a diagnosed mental illness who is a client of the  
3115 department. Physically holding a person during a procedure to  
3116 forcibly administer psychotropic medication is a physical  
3117 restraint.

3118 (c) Restraint does not include physical devices, such as  
3119 orthopedically prescribed appliances, surgical dressings and  
3120 bandages, supportive body bands, or other physical holding when  
3121 necessary for routine physical examinations and tests; or for  
3122 purposes of orthopedic, surgical, or other similar medical  
3123 treatment; when used to provide support for the achievement of  
3124 functional body position or proper balance; or when used to  
3125 protect a person from falling out of bed.

3126 (29) "Seclusion" means the physical segregation of a  
3127 person in any fashion or involuntary isolation of a person in a  
3128 room or area from which the person is prevented from leaving.

HB 1503 CS

2006  
CS

3129 | The prevention may be by physical barrier or by a staff member  
 3130 | who is acting in a manner, or who is physically situated, so as  
 3131 | to prevent the person from leaving the room or area. For  
 3132 | purposes of this chapter, the term does not mean isolation due  
 3133 | to a person's medical condition or symptoms.

3134 | Section 38. Paragraph (b) of subsection (5) of section  
 3135 | 394.457, Florida Statutes, is amended to read:

3136 | 394.457 Operation and administration.--

3137 | (5) RULES.--

3138 | (b) The department shall adopt rules necessary for the  
 3139 | implementation and administration of the provisions of this  
 3140 | part, and a program subject to the provisions of this part shall  
 3141 | not be permitted to operate unless rules designed to ensure the  
 3142 | protection of the health, safety, and welfare of the patients  
 3143 | treated through such program have been adopted. Rules adopted  
 3144 | under this subsection must include provisions governing the use  
 3145 | of restraint and seclusion which are consistent with recognized  
 3146 | best practices and professional judgment; prohibit inherently  
 3147 | dangerous restraint or seclusion procedures; establish  
 3148 | limitations on the use and duration of restraint and seclusion;  
 3149 | establish measures to ensure the safety of program participants  
 3150 | and staff during an incident of restraint or seclusion;  
 3151 | establish procedures for staff to follow before, during, and  
 3152 | after incidents of restraint or seclusion; establish  
 3153 | professional qualifications of and training for staff who may  
 3154 | order or be engaged in the use of restraint or seclusion; and  
 3155 | establish mandatory reporting, data collection, and data  
 3156 | dissemination procedures and requirements. Rules adopted under

HB 1503 CS

2006  
CS

3157 | this subsection must require that each instance of the use of  
 3158 | restraint or seclusion be documented in the record of the  
 3159 | patient.

3160 | Section 39. Paragraph (g) is added to subsection (1) of  
 3161 | section 394.879, Florida Statutes, to read:

3162 | 394.879 Rules; enforcement.--

3163 | (1) The department, in consultation with the agency, shall  
 3164 | adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
 3165 | the provisions of this chapter, including, at a minimum, rules  
 3166 | providing standards to ensure that:

3167 | (g) The use of restraint and seclusion is consistent with  
 3168 | recognized best practices and professional judgment; that  
 3169 | inherently dangerous restraint or seclusion procedures are  
 3170 | prohibited; that limitations are established on the use and  
 3171 | duration of restraint and seclusion; that measures are  
 3172 | established to ensure the safety of program participants and  
 3173 | staff during an incident of restraint or seclusion; that  
 3174 | procedures are created for staff to follow before, during, and  
 3175 | after incidents of restraint or seclusion; that professional  
 3176 | qualifications and training are established for staff who may  
 3177 | order or be engaged in the use of restraint or seclusion; and  
 3178 | that mandatory reporting, data collection, and data  
 3179 | dissemination procedures and requirements are instituted. Rules  
 3180 | adopted under this section must require that any instance of the  
 3181 | use of restraint or seclusion shall be documented in the record  
 3182 | of the client.

3183 | Section 40. Subsection (9) of section 397.405, Florida  
 3184 | Statutes, is amended to read:

HB 1503 CS

2006  
CS

3185           397.405 Exemptions from licensure.--The following are  
3186 exempt from the licensing provisions of this chapter:

3187           (9) Facilities licensed under chapter 393 which ~~s. 393.063~~  
3188 ~~that~~, in addition to providing services to persons with  
3189 developmental disabilities ~~who are developmentally disabled as~~  
3190 ~~defined therein~~, also provide services to persons  
3191 developmentally at risk as a consequence of exposure to alcohol  
3192 or other legal or illegal drugs while in utero.

3193  
3194 The exemptions from licensure in this section do not apply to  
3195 any service provider that receives an appropriation, grant, or  
3196 contract from the state to operate as a service provider as  
3197 defined in this chapter or to any substance abuse program  
3198 regulated pursuant to s. 397.406. Furthermore, this chapter may  
3199 not be construed to limit the practice of a physician licensed  
3200 under chapter 458 or chapter 459, a psychologist licensed under  
3201 chapter 490, or a psychotherapist licensed under chapter 491 who  
3202 provides substance abuse treatment, so long as the physician,  
3203 psychologist, or psychotherapist does not represent to the  
3204 public that he or she is a licensed service provider and does  
3205 not provide services to clients pursuant to part V of this  
3206 chapter. Failure to comply with any requirement necessary to  
3207 maintain an exempt status under this section is a misdemeanor of  
3208 the first degree, punishable as provided in s. 775.082 or s.  
3209 775.083.

3210           Section 41. Subsection (13) of section 400.419, Florida  
3211 Statutes, is amended to read:

HB 1503 CS

2006  
CS

3212 400.419 Violations; imposition of administrative fines;  
3213 grounds.--

3214 (13) The agency shall develop and disseminate an annual  
3215 list of all facilities sanctioned or fined \$5,000 or more for  
3216 violations of state standards, the number and class of  
3217 violations involved, the penalties imposed, and the current  
3218 status of cases. The list shall be disseminated, at no charge,  
3219 to the Department of Elderly Affairs, the Department of Health,  
3220 the Department of Children and Family Services, the Agency for  
3221 Persons with Disabilities, the area agencies on aging, the  
3222 Florida Statewide Advocacy Council, and the state and local  
3223 ombudsman councils. The Department of Children and Family  
3224 Services shall disseminate the list to service providers under  
3225 contract to the department who are responsible for referring  
3226 persons to a facility for residency. The agency may charge a fee  
3227 commensurate with the cost of printing and postage to other  
3228 interested parties requesting a copy of this list.

3229 Section 42. Section 400.960, Florida Statutes, is amended  
3230 to read:

3231 400.960 Definitions.--As used in this part, the term:

3232 (1) "Active treatment" means the provision of services by  
3233 an interdisciplinary team which are necessary to maximize a  
3234 client's individual independence or prevent regression or loss  
3235 of functional status.

3236 (2) "Agency" means the Agency for Health Care  
3237 Administration.

3238 (3) "Autism" has the same meaning as in s. 393.063. ~~means~~  
3239 ~~a pervasive, neurologically based developmental disability of~~

HB 1503 CS

2006  
CS

3240 ~~extended duration which causes severe learning, communication,~~  
3241 ~~and behavior disorders with age of onset during infancy or~~  
3242 ~~childhood. Individuals with autism exhibit impairment in~~  
3243 ~~reciprocal social interaction, impairment in verbal and~~  
3244 ~~nonverbal communication and imaginative ability, and a markedly~~  
3245 ~~restricted repertoire of activities and interests.~~

3246 (4) "Cerebral palsy" has the same meaning as in s.  
3247 393.063. ~~means a group of disabling symptoms of extended~~  
3248 ~~duration which results from damage to the developing brain~~  
3249 ~~occurring before, during, or after birth and resulting in the~~  
3250 ~~loss or impairment of control over voluntary muscles. The term~~  
3251 ~~does not include those symptoms or impairments resulting solely~~  
3252 ~~from a stroke.~~

3253 (5) "Client" means any person determined by the Agency for  
3254 Persons with Disabilities department to be eligible for  
3255 developmental services.

3256 ~~(6) "Client advocate" means a friend or relative of the~~  
3257 ~~client, or of the client's immediate family, who advocates for~~  
3258 ~~the best interests of the client in any proceedings under this~~  
3259 ~~part in which the client or his or her family has the right or~~  
3260 ~~duty to participate.~~

3261 ~~(7) "Department" means the Department of Children and~~  
3262 ~~Family Services.~~

3263 ~~(6)(8)~~ (6) "Developmental disability" has the same meaning as  
3264 in s. 393.063 ~~means a disorder or syndrome that is attributable~~  
3265 ~~to retardation, cerebral palsy, autism, spina bifida, or Prader-~~  
3266 ~~Willi syndrome and that constitutes a substantial handicap that~~  
3267 ~~can reasonably be expected to continue indefinitely.~~

HB 1503 CS

2006  
CS

3268        ~~(7)-(9)~~ "Direct service provider" means a person 18 years  
3269 of age or older who has direct contact with individuals with  
3270 developmental disabilities and who is unrelated to the  
3271 individuals with developmental disabilities.

3272        ~~(10)~~ "Epilepsy" means a chronic brain disorder of various  
3273 causes which is characterized by recurrent seizures due to  
3274 excessive discharge of cerebral neurons. When found concurrently  
3275 with retardation, autism, or cerebral palsy, epilepsy is  
3276 considered a secondary disability for which the client is  
3277 eligible to receive services to ameliorate this condition  
3278 according to the provisions of this part.

3279        ~~(11)~~ "Guardian advocate" means a person appointed by the  
3280 circuit court to represent a person with developmental  
3281 disabilities in any proceedings brought pursuant to s. 393.12,  
3282 and is distinct from a guardian advocate for mentally ill  
3283 persons under chapter 394.

3284        ~~(8)-(12)~~ "Intermediate care facility for the  
3285 developmentally disabled" means a residential facility licensed  
3286 and certified in accordance with state law, and certified by the  
3287 Federal Government, pursuant to the Social Security Act, as a  
3288 provider of Medicaid services to persons with developmental  
3289 disabilities who are developmentally disabled.

3290        ~~(9)-(13)~~ "Prader-Willi syndrome" has the same meaning as in  
3291 s. 393.063. ~~means an inherited condition typified by neonatal~~  
3292 ~~hypotonia with failure to thrive, hyperphagia, or an excessive~~  
3293 ~~drive to eat which leads to obesity, usually at 18 to 36 months~~  
3294 ~~of age, mild to moderate retardation, hypogonadism, short~~

3295 ~~stature, mild facial dysmorphism, and a characteristic~~  
 3296 ~~neurobehavior.~~

3297 (10) (a) "Restraint" means a physical device, method, or  
 3298 drug used to control behavior. A physical restraint is any  
 3299 manual method or physical or mechanical device, material, or  
 3300 equipment attached or adjacent to the individual's body so that  
 3301 he or she cannot easily remove the restraint and which restricts  
 3302 freedom of movement or normal access to one's body.

3303 (b) A drug used as a restraint is a medication used to  
 3304 control the person's behavior or to restrict his or her freedom  
 3305 of movement. Physically holding a person during a procedure to  
 3306 forcibly administer psychotropic medication is a physical  
 3307 restraint.

3308 (c) Restraint does not include physical devices, such as  
 3309 orthopedically prescribed appliances, surgical dressings and  
 3310 bandages, supportive body bands, or other physical holding when  
 3311 necessary for routine physical examinations and tests; for  
 3312 purposes of orthopedic, surgical, or other similar medical  
 3313 treatment; when used to provide support for the achievement of  
 3314 functional body position or proper balance; or when used to  
 3315 protect a person from falling out of bed.

3316 (11)~~(14)~~ "Retardation" has the same meaning as in s.  
 3317 393.063. ~~means significantly subaverage general intellectual~~  
 3318 ~~functioning existing concurrently with deficits in adaptive~~  
 3319 ~~behavior and manifested during the period from conception to age~~  
 3320 ~~18. "Significantly subaverage general intellectual functioning,"~~  
 3321 ~~for the purpose of this definition, means performance that is~~  
 3322 ~~two or more standard deviations from the mean score on a~~



HB 1503 CS

2006  
CS

3323 ~~standardized intelligence test specified in rules of the~~  
 3324 ~~department. "Deficits in adaptive behavior," for the purpose of~~  
 3325 ~~this definition, means deficits in the effectiveness or degree~~  
 3326 ~~with which an individual meets the standards of personal~~  
 3327 ~~independence and social responsibility expected of his or her~~  
 3328 ~~age, cultural group, and community.~~

3329 (12) "Seclusion" means the physical segregation of a  
 3330 person in any fashion or the involuntary isolation of a person  
 3331 in a room or area from which the person is prevented from  
 3332 leaving. The prevention may be by physical barrier or by a staff  
 3333 member who is acting in a manner, or who is physically situated,  
 3334 so as to prevent the person from leaving the room or area. For  
 3335 purposes of this part, the term does not mean isolation due to a  
 3336 person's medical condition or symptoms.

3337 ~~(13)-(15)~~ "Spina bifida" has the same meaning as in s.  
 3338 ~~393.063 means a medical diagnosis of spina bifida cystica or~~  
 3339 ~~myelomeningocele.~~

3340 Section 43. Subsection (12) is added to section 400.962,  
 3341 Florida Statutes, to read:

3342 400.962 License required; license application.--

3343 (12) The applicant must agree to provide or arrange for  
 3344 active treatment services by an interdisciplinary team to  
 3345 maximize individual independence or prevent regression or loss  
 3346 of functional status. Standards for active treatment shall be  
 3347 adopted by the Agency for Health Care Administration by rule  
 3348 pursuant to ss. 120.536(1) and 120.54. Active treatment services  
 3349 shall be provided in accordance with the individual support plan

HB 1503 CS

2006  
CS

3350 | and shall be reimbursed as part of the per diem rate as paid  
 3351 | under the Medicaid program.

3352 | Section 44. Subsection (2) of section 400.967, Florida  
 3353 | Statutes, is amended to read:

3354 | 400.967 Rules and classification of deficiencies.--

3355 | (2) Pursuant to the intention of the Legislature, the  
 3356 | agency, in consultation with the Agency for Persons with  
 3357 | Disabilities ~~Department of Children and Family Services~~ and the  
 3358 | Department of Elderly Affairs, shall adopt and enforce rules to  
 3359 | administer this part, which shall include reasonable and fair  
 3360 | criteria governing:

3361 | (a) The location and construction of the facility;  
 3362 | including fire and life safety, plumbing, heating, cooling,  
 3363 | lighting, ventilation, and other housing conditions that will  
 3364 | ensure the health, safety, and comfort of residents. The agency  
 3365 | shall establish standards for facilities and equipment to  
 3366 | increase the extent to which new facilities and a new wing or  
 3367 | floor added to an existing facility after July 1, 2000, are  
 3368 | structurally capable of serving as shelters only for residents,  
 3369 | staff, and families of residents and staff, and equipped to be  
 3370 | self-supporting during and immediately following disasters. The  
 3371 | Agency for Health Care Administration shall work with facilities  
 3372 | licensed under this part and report to the Governor and the  
 3373 | Legislature by April 1, 2000, its recommendations for cost-  
 3374 | effective renovation standards to be applied to existing  
 3375 | facilities. In making such rules, the agency shall be guided by  
 3376 | criteria recommended by nationally recognized, reputable  
 3377 | professional groups and associations having knowledge concerning

HB 1503 CS

2006  
CS

3378 | such subject matters. The agency shall update or revise such  
 3379 | criteria as the need arises. All facilities must comply with  
 3380 | those lifesafety code requirements and building code standards  
 3381 | applicable at the time of approval of their construction plans.  
 3382 | The agency may require alterations to a building if it  
 3383 | determines that an existing condition constitutes a distinct  
 3384 | hazard to life, health, or safety. The agency shall adopt fair  
 3385 | and reasonable rules setting forth conditions under which  
 3386 | existing facilities undergoing additions, alterations,  
 3387 | conversions, renovations, or repairs are required to comply with  
 3388 | the most recent updated or revised standards.

3389 |         (b) The number and qualifications of all personnel,  
 3390 | including management, medical nursing, and other personnel,  
 3391 | having responsibility for any part of the care given to  
 3392 | residents.

3393 |         (c) All sanitary conditions within the facility and its  
 3394 | surroundings, including water supply, sewage disposal, food  
 3395 | handling, and general hygiene, which will ensure the health and  
 3396 | comfort of residents.

3397 |         (d) The equipment essential to the health and welfare of  
 3398 | the residents.

3399 |         (e) A uniform accounting system.

3400 |         (f) The care, treatment, and maintenance of residents and  
 3401 | measurement of the quality and adequacy thereof.

3402 |         (g) The preparation and annual update of a comprehensive  
 3403 | emergency management plan. The agency shall adopt rules  
 3404 | establishing minimum criteria for the plan after consultation  
 3405 | with the Department of Community Affairs. At a minimum, the

HB 1503 CS

2006  
CS

3406 | rules must provide for plan components that address emergency  
 3407 | evacuation transportation; adequate sheltering arrangements;  
 3408 | postdisaster activities, including emergency power, food, and  
 3409 | water; postdisaster transportation; supplies; staffing;  
 3410 | emergency equipment; individual identification of residents and  
 3411 | transfer of records; and responding to family inquiries. The  
 3412 | comprehensive emergency management plan is subject to review and  
 3413 | approval by the local emergency management agency. During its  
 3414 | review, the local emergency management agency shall ensure that  
 3415 | the following agencies, at a minimum, are given the opportunity  
 3416 | to review the plan: the Department of Elderly Affairs, the  
 3417 | Agency for Persons with Disabilities ~~Department of Children and~~  
 3418 | ~~Family Services~~, the Agency for Health Care Administration, and  
 3419 | the Department of Community Affairs. Also, appropriate volunteer  
 3420 | organizations must be given the opportunity to review the plan.  
 3421 | The local emergency management agency shall complete its review  
 3422 | within 60 days and either approve the plan or advise the  
 3423 | facility of necessary revisions.

3424 |       (h) The posting of licenses. Each licensee shall post its  
 3425 | license in a prominent place that is in clear and unobstructed  
 3426 | public view at or near the place where residents are being  
 3427 | admitted to the facility.

3428 |       (i) The use of restraint and seclusion. Such rules must be  
 3429 | consistent with recognized best practices; prohibit inherently  
 3430 | dangerous restraint or seclusion procedures; establish  
 3431 | limitations on the use and duration of restraint and seclusion;  
 3432 | establish measures to ensure the safety of clients and staff  
 3433 | during an incident of restraint or seclusion; establish

HB 1503 CS

2006  
CS

3434 procedures for staff to follow before, during, and after  
 3435 incidents of restraint or seclusion, including individualized  
 3436 plans for the use of restraints or seclusion in emergency  
 3437 situations; establish professional qualifications of and  
 3438 training for staff who may order or be engaged in the use of  
 3439 restraint or seclusion; establish requirements for facility data  
 3440 collection and reporting relating to the use of restraint and  
 3441 seclusion; and establish procedures relating to the  
 3442 documentation of the use of restraint or seclusion in the  
 3443 client's facility or program record.

3444 Section 45. Section 402.115, Florida Statutes, is amended  
 3445 to read:

3446 402.115 Sharing confidential or exempt  
 3447 information.--Notwithstanding any other provision of law to the  
 3448 contrary, the Department of Health, and the Department of  
 3449 Children and Family Services, and the Agency for Persons with  
 3450 Disabilities may share confidential information or information  
 3451 exempt from disclosure under chapter 119 on any individual who  
 3452 is or has been the subject of a program within the jurisdiction  
 3453 of each agency. Information so exchanged remains confidential or  
 3454 exempt as provided by law.

3455 Section 46. Section 402.17, Florida Statutes, is amended  
 3456 to read:

3457 402.17 Claims for care and maintenance; trust  
 3458 property.--The Department of Children and Family Services and  
 3459 the Agency for Persons with Disabilities shall protect the  
 3460 financial interest of the state with respect to claims that  
 3461 ~~which~~ the state may have for the care and maintenance of clients

HB 1503 CS

2006  
CS

3462 of the department or agency. The department or agency shall, as  
 3463 trustee, hold in trust and administer money ~~of clients~~ and  
 3464 property designated for the personal benefit of clients. The  
 3465 department or agency shall act as trustee of clients' money and  
 3466 property entrusted to it in accordance with the usual fiduciary  
 3467 standards applicable generally to trustees, and shall act to  
 3468 protect both the short-term and long-term interests of the  
 3469 clients for whose benefit it is holding such money and property.

3470 (1) CLAIMS FOR CARE AND MAINTENANCE.--

3471 (a) The department or agency shall perform the following  
 3472 acts:

3473 1. Receive and supervise the collection of sums due the  
 3474 state.

3475 2. Bring any court action necessary to collect any claim  
 3476 the state may have against any client, former client, guardian  
 3477 of any client or former client, executor or administrator of the  
 3478 client's estate, or any person against whom any client or former  
 3479 client may have a claim.

3480 3. Obtain a copy of any inventory or appraisal of the  
 3481 client's property filed with any court.

3482 4. Obtain from the department's Economic Self-Sufficiency  
 3483 Services Program Office a financial status report on any client  
 3484 or former client, including the ability of third parties  
 3485 responsible for such client to pay all or part of the cost of  
 3486 the client's care and maintenance.

3487 5. Petition the court for appointment of a guardian or  
 3488 administrator for an otherwise unrepresented client or former  
 3489 client should the financial status report or other information

HB 1503 CS

2006  
CS

3490 indicate the need for such action. The cost of any such action  
3491 shall be charged against the assets or estate of the client.

3492 6. Represent the interest of the state in any litigation  
3493 in which a client or former client is a party.

3494 7. File claims with any person, firm, or corporation or  
3495 with any federal, state, county, district, or municipal agency  
3496 on behalf of an unrepresented client.

3497 8. Represent the state in the settlement of the estates of  
3498 deceased clients or in the settlement of estates in which a  
3499 client or a former client against whom the state may have a  
3500 claim has a financial interest.

3501 9. Establish procedures by rule for the use of amounts  
3502 held in trust for the client to pay for the cost of care and  
3503 maintenance, if such amounts would otherwise cause the client to  
3504 become ineligible for services which are in the client's best  
3505 interests.

3506 (b) The department or agency ~~of Children and Family~~  
3507 ~~Services~~ may charge off accounts if it certifies that the  
3508 accounts are uncollectible after diligent efforts have been made  
3509 to collect them. If the department certifies an account to the  
3510 Department of Financial Services, setting forth the  
3511 circumstances upon which it predicates the uncollectibility, and  
3512 if, pursuant to s. 17.04, the Department of Financial Services  
3513 concurs, the account shall be charged off.

3514 (2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE OR  
3515 BENEFIT OF ANY CLIENT.--The department or agency shall perform  
3516 the following acts:

HB 1503 CS

2006  
CS

3517 (a) Accept and administer in trust, as a trustee having a  
3518 fiduciary responsibility to a client ~~of the department~~, any  
3519 money or other property received for personal use or benefit of  
3520 that client. In the case of children in the legal custody of the  
3521 department, following the termination of the parental rights ~~as~~  
3522 ~~to that client~~, until the child ~~such client~~ leaves the legal  
3523 custody of the department due to ~~the client's~~ adoption or  
3524 attaining ~~because the client attains~~ the age of 18 or, in the  
3525 case of children who are otherwise in the custody of the  
3526 department, the court having jurisdiction over such child ~~client~~  
3527 shall have jurisdiction, upon application of the department or  
3528 other interested party, to review or approve any extraordinary  
3529 action of the department acting as trustee as to the child's  
3530 ~~client's~~ money or other property. When directed by a court of  
3531 competent jurisdiction, the department may further hold money or  
3532 property of a child ~~person under the age of 18~~ who has been in  
3533 the care, custody, or control of the department and who is the  
3534 subject of a court proceeding during the pendency of that  
3535 proceeding.

3536 (b) Deposit the money in banks qualified as state  
3537 depositories, or in any bank, credit union, or savings and loan  
3538 association authorized to do business in this state, provided  
3539 moneys so deposited or held by such institutions are fully  
3540 insured by a federal depository or share insurance program, or  
3541 an approved state depository or share insurance program, and are  
3542 available on demand.

3543 (c) Withdraw the money and use it to meet current needs of  
3544 clients. For purposes of this paragraph, "current needs"



HB 1503 CS

2006  
CS

3545 | includes payment of fees assessed under s. 402.33. The amount of  
 3546 | money withdrawn ~~by the department to meet current needs of a~~  
 3547 | ~~client~~ shall take into account the need of the department or  
 3548 | agency, as the trustee of a client's money and property, to  
 3549 | provide for the long-term needs of a client, including, but not  
 3550 | limited to, ensuring that ~~to provide for the need of a client~~  
 3551 | under the age of 18 will ~~to~~ have sufficient financial resources  
 3552 | available to be able to function as an adult upon reaching the  
 3553 | age of 18, meeting ~~or to meet~~ the special needs of a client who  
 3554 | has a disability and whose special needs cannot otherwise be met  
 3555 | by any form of public assistance or family resources, or  
 3556 | maintaining ~~to maintain~~ the client's eligibility for public  
 3557 | assistance, including medical assistance, under state or federal  
 3558 | law.

3559 | (d) As trustee, invest in the manner authorized by law for  
 3560 | fiduciaries money not used for current needs of clients. Such  
 3561 | investments may include, but shall not be limited to,  
 3562 | investments in savings share accounts of any credit union  
 3563 | chartered under the laws of the United States and doing business  
 3564 | in this state, and savings share accounts of any credit union  
 3565 | chartered under the laws of this state, provided the credit  
 3566 | union is insured under the federal share insurance program or an  
 3567 | approved state share insurance program.

3568 | (3) DEPOSIT OF FUNDS RECEIVED.--Funds received by the  
 3569 | Department of Children and Family Services in accordance with s.  
 3570 | 402.33 shall be deposited into a trust fund for the operation of  
 3571 | the department.

HB 1503 CS

2006  
CS

3572 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the death  
3573 of any client affected by the provisions of this section, any  
3574 unclaimed money held in trust by the department, the agency, or  
3575 by the Chief Financial Officer for the child ~~him or her~~ shall be  
3576 applied first to the payment of any unpaid claim of the state  
3577 against the client, and any balance remaining unclaimed for a  
3578 period of 1 year shall escheat to the state as unclaimed funds  
3579 held by fiduciaries.

3580 (5) LEGAL REPRESENTATION.--To the extent that the budget  
3581 will permit, the Department of Legal Affairs shall furnish the  
3582 legal services to carry out the provisions of this section. Upon  
3583 the request of the department or agency ~~of Children and Family~~  
3584 ~~Services~~, the various state and county attorneys shall assist in  
3585 litigation within their jurisdiction. The ~~Such~~ department or  
3586 agency may retain legal counsel for necessary legal services  
3587 which cannot be furnished by the Department of Legal Affairs and  
3588 the various state and county attorneys.

3589 (6) DEPOSIT OR INVESTMENT OF FUNDS OF CLIENTS.--

3590 (a) The department or agency ~~of Children and Family~~  
3591 ~~Services~~ may deposit any funds of clients in its possession in  
3592 any bank in the state or may invest or reinvest such funds in  
3593 bonds or obligations of the United States for the payment of  
3594 which the full faith and credit of the United States is pledged.  
3595 For purposes of deposit only, the funds of any client may be  
3596 mingled with the funds of any other clients.

3597 (b) The interest or increment accruing on such funds shall  
3598 be the property of the clients and shall be used or conserved  
3599 for the personal use or benefit of the ~~individual~~ client, in

HB 1503 CS

2006  
CS

3600 accordance with the department's or agency's fiduciary  
 3601 responsibility as a trustee for the money and property of the  
 3602 client ~~held by the department~~. Such interest shall not accrue to  
 3603 the general welfare of all clients. Whenever any proposed action  
 3604 of the department or agency, acting in its own interest, may  
 3605 conflict with the department's or agency's ~~obligation as a~~  
 3606 ~~trustee with a~~ fiduciary responsibility to the client, the  
 3607 department or agency shall promptly present the matter to a  
 3608 court of competent jurisdiction for the court's determination as  
 3609 to what action the department or agency may take. The department  
 3610 or agency shall establish ~~rules governing~~ reasonable fees by  
 3611 rule for the cost of administering such accounts and for  
 3612 establishing the minimum balance eligible to earn interest.

3613 (7) DISPOSITION OF MONEY AND PROPERTY OF CLIENTS UPON  
 3614 ATTAINING AGE 18 OR DISCHARGE FROM CARE, CUSTODY, CONTROL, OR  
 3615 SERVICES OF THE DEPARTMENT.--

3616 (a) Whenever a client of the department for whom the  
 3617 department is holding money or property as a trustee attains the  
 3618 age of 18, and thereby will no longer be in the legal custody of  
 3619 the department, the department shall promptly disburse such  
 3620 money and property ~~of the client the department has held as a~~  
 3621 ~~trustee~~ to that client, or as that client directs, as soon as  
 3622 practicable ~~once the client attains the age of 18~~.

3623 (b) Whenever a client of the department over the age of 18  
 3624 for whom the department is holding money or property as a  
 3625 trustee no longer requires the care, custody, control, or  
 3626 services of the department, the department shall promptly  
 3627 disburse such money and property ~~of the client the department~~

HB 1503 CS

2006  
CS

3628 ~~has held as a trustee~~ to that client, or as that client or a  
3629 court directs, as soon as practicable.

3630 (c) When a client under the age of 18 who has been in the  
3631 legal custody, care, or control of the department and for whom  
3632 the department is holding money or property as a trustee attains  
3633 the age of 18 and has a physical or mental disability, or is  
3634 otherwise incapacitated or incompetent to handle that client's  
3635 own financial affairs, the department shall apply for a court  
3636 order from a court of competent jurisdiction to establish a  
3637 trust on behalf of that client. Where there is no willing  
3638 relative of the client acceptable to the court available to  
3639 serve as trustee of such proposed trust, the court may enter an  
3640 order authorizing the department to serve as trustee of a  
3641 separate trust under such terms and conditions as the court  
3642 determines appropriate to the circumstances.

3643 (d) When a client under the age of 18 who has been in the  
3644 legal custody, care, or control of the department and for whom  
3645 the department is holding money or property as a trustee leaves  
3646 the care, custody, and control of the department due to adoption  
3647 or placement of the client with a relative, or as otherwise  
3648 directed by a court of competent jurisdiction, the department  
3649 shall notify that court of the existence of the money and  
3650 property ~~in the possession of the department~~ either prior to, or  
3651 promptly after, receiving knowledge of the change of custody,  
3652 care, or control. The department shall apply for an order from  
3653 the court exercising jurisdiction over the client to direct the  
3654 disposition of the money and property belonging to that client.  
3655 The court order may establish a trust in which the money and

HB 1503 CS

2006  
CS

3656 | property of the client will be deposited, appoint a guardian of  
3657 | a property as to the money or property of the client, or direct  
3658 | the creation of a Uniform Transfers ~~Gifts~~ to Minors Act account  
3659 | on behalf of that client, ~~as the court finds appropriate and~~  
3660 | under the terms and conditions the court determines appropriate  
3661 | to the circumstances.

3662 |       Section 47. Section 402.181, Florida Statutes, is amended  
3663 | to read:

3664 |       402.181 State Institutions Claims Program.--

3665 |       (1) There is created a State Institutions Claims Program,  
3666 | for the purpose of making restitution for property damages and  
3667 | direct medical expenses for injuries caused by shelter children  
3668 | or foster children, or escapees, inmates, or patients of state  
3669 | institutions under the Department of Children and Family  
3670 | Services, the Department of Health, the Department of Juvenile  
3671 | Justice, ~~or~~ the Department of Corrections, or the Agency for  
3672 | Persons with Disabilities.

3673 |       (2) Claims for restitution may be filed with the  
3674 | Department of Legal Affairs at its office in accordance with  
3675 | regulations prescribed by the Department of Legal Affairs. The  
3676 | Department of Legal Affairs shall have full power and authority  
3677 | to hear, investigate, and determine all questions in respect to  
3678 | such claims and is authorized, within the limits of current  
3679 | appropriations, to pay individual claims up to \$1,000 or, with  
3680 | respect to children in foster care and their families,  
3681 | individual claims up to \$1,500. Claims in excess of these  
3682 | amounts shall continue to require legislative approval.

HB 1503 CS

2006  
CS

3683 (3) (a) The Department of Legal Affairs shall make or cause  
3684 to be made such investigations as it considers necessary in  
3685 respect to such claims. Hearings shall be held in accordance  
3686 with chapter 120.

3687 (b) The Department of Legal Affairs shall work with the  
3688 Department of Children and Family Services, the Department of  
3689 Health, the Department of Juvenile Justice, ~~and~~ the Department  
3690 of Corrections, and the Agency for Persons with Disabilities to  
3691 streamline the process of investigations, hearings, and  
3692 determinations with respect to claims under this section, to  
3693 ensure that eligible claimants receive restitution within a  
3694 reasonable time.

3695 Section 48. Section 402.20, Florida Statutes, is amended  
3696 to read:

3697 402.20 County contracts authorized for services and  
3698 facilities for ~~in~~ mental health and developmental disabilities  
3699 ~~retardation areas.~~--The boards of county commissioners are  
3700 authorized to provide monetary grants and facilities, and to  
3701 enter into renewable contracts, for services and facilities, for  
3702 a period not to exceed 2 years, with public and private  
3703 hospitals, clinics, and laboratories; other state agencies,  
3704 departments, or divisions; the state colleges and universities;  
3705 the community colleges; private colleges and universities;  
3706 counties; municipalities; towns; townships; and any other  
3707 governmental unit or nonprofit organization which provides  
3708 needed facilities for persons with mental illness or  
3709 developmental disabilities ~~the mentally ill or retarded~~. These  
3710 services are hereby declared to be for a public and county

HB 1503 CS

2006  
CS

3711 | purpose. The county commissioners may make periodic inspections  
 3712 | to assure that the services or facilities provided under this  
 3713 | chapter meet the standards of the Department of Children and  
 3714 | Family Services and the Agency for Persons with Disabilities.

3715 | Section 49. Section 402.22, Florida Statutes, is amended  
 3716 | to read:

3717 | 402.22 Education program for students who reside in  
 3718 | residential care facilities operated by the Department of  
 3719 | Children and Family Services or the Agency for Persons with  
 3720 | Disabilities.--

3721 | (1) (a) The Legislature recognizes that the Department of  
 3722 | Children and Family Services and the Agency for Persons with  
 3723 | Disabilities have under their ~~has under its~~ residential care  
 3724 | students with critical problems of physical impairment,  
 3725 | emotional disturbance, mental impairment, and learning  
 3726 | impairment.

3727 | (b) The Legislature recognizes the vital role of education  
 3728 | in the rehabilitation of such students. It is the intent of the  
 3729 | Legislature that all such students benefit from educational  
 3730 | services and receive such services.

3731 | (c) It is the intent of the Legislature that educational  
 3732 | services be coordinated with appropriate and existing diagnostic  
 3733 | and evaluative, social, followup, and other therapeutic services  
 3734 | of the department and agency ~~of Children and Family Services~~ so  
 3735 | that the effect of the total rehabilitation process is  
 3736 | maximized.

3737 | (d) It is the intent of the Legislature that, as  
 3738 | educational programs for students in residential care facilities

HB 1503 CS

2006  
CS

3739 are implemented by the district school board, educational  
 3740 personnel in the ~~Department of Children and Family Services~~  
 3741 residential care facilities who meet the qualifications for  
 3742 employees of the district school board be employed by the  
 3743 district school board.

3744 (2) District school boards shall establish educational  
 3745 programs for all students ages 5 through 18 under the  
 3746 residential care of the Department of Children and Family  
 3747 Services and the Agency for Persons with Disabilities, and may  
 3748 provide for students below age 3 as provided for in s.  
 3749 1003.21(1)(e). Funding of such programs shall be pursuant to s.  
 3750 1011.62.

3751 (3) Notwithstanding any provisions of chapters 39, 393,  
 3752 394, and 397 to the contrary, the services of the Department of  
 3753 Children and Family Services and the Agency for Persons with  
 3754 Disabilities and those of the Department of Education and  
 3755 district school boards shall be mutually supportive and  
 3756 complementary of each other. The education programs provided by  
 3757 the district school board shall meet the standards prescribed by  
 3758 the State Board of Education and the district school board.  
 3759 Decisions regarding the design and delivery of department or  
 3760 agency ~~of Children and Family Services~~ treatment or habilitative  
 3761 services shall be made by interdisciplinary teams of  
 3762 professional and paraprofessional staff of which appropriate  
 3763 district school system administrative and instructional  
 3764 personnel shall be invited to be participating members. The  
 3765 requirements for maintenance of confidentiality as prescribed in  
 3766 chapters 39, 393, 394, and 397 shall be applied to information



HB 1503 CS

2006  
CS

3767 used by such interdisciplinary teams, and such information shall  
3768 be exempt from the provisions of ss. 119.07(1) and 286.011.

3769 (4) Students age 18 and under who are under the  
3770 residential care of the Department of Children and Family  
3771 Services or the Agency for Persons with Disabilities and who  
3772 receive an education program shall be calculated as full-time  
3773 equivalent student membership in the appropriate cost factor as  
3774 provided for in s. 1011.62(1)(c). Residential care facilities ~~of~~  
3775 ~~the Department of Children and Family Services~~ shall include,  
3776 but not be limited to, developmental disabilities ~~services~~  
3777 institutions and state mental health facilities. All students  
3778 shall receive their education program from the district school  
3779 system, and funding shall be allocated through the Florida  
3780 Education Finance Program for the district school system.

3781 (5) Instructional and special educational services that  
3782 ~~which~~ are provided to ~~mental health and retardation~~ clients with  
3783 mental illness or developmental disabilities of the department's  
3784 or agency's in the Department of Children and Family Services  
3785 residential care facilities by local school districts shall not  
3786 be less than 180 days or 900 hours; however, the 900 hours may  
3787 be distributed over a 12-month period, unless otherwise stated  
3788 in rules developed by the State Board of Education, with the  
3789 concurrence of the department or agency and adopted ~~of Children~~  
3790 ~~and Family Services promulgated~~ pursuant to subsection (6).

3791 (6) The State Board of Education, and the Department of  
3792 Children and Family Services, and the Agency for Persons with  
3793 Disabilities may adopt ~~shall have the authority to promulgate~~  
3794 rules to ~~which shall~~ assist in the orderly transfer of the

HB 1503 CS

2006  
CS

3795 | instruction of students from department or agency ~~Department of~~  
 3796 | ~~Children and Family Services~~ residential care facilities to the  
 3797 | district school system or to the public education agency and  
 3798 | which shall assist in implementing the specific intent as stated  
 3799 | in this act.

3800 |         (7) Notwithstanding the provisions of s. 1001.42(4)(n),  
 3801 | the educational program at the Marianna Sunland Center in  
 3802 | Jackson County shall be operated by the Department of Education,  
 3803 | either directly or through grants or contractual agreements with  
 3804 | other public educational agencies. The annual state allocation  
 3805 | to any such agency shall be computed pursuant to s. 1011.62(1),  
 3806 | (2), and (5) and allocated in the amount that would have been  
 3807 | provided the local school district in which the residential  
 3808 | facility is located.

3809 |         Section 50. Paragraph (c) of subsection (1) and subsection  
 3810 | (2) of section 402.33, Florida Statutes, are amended to read:

3811 |         402.33 Department authority to charge fees for services  
 3812 | provided.--

3813 |         (1) As used in this section, the term:

3814 |         (c) "Department" means the Department of Children and  
 3815 | Family Services, ~~and~~ the Department of Health, and the Agency  
 3816 | for Persons with Disabilities.

3817 |         (2) The department, in accordance with rules established  
 3818 | by it, shall either charge, assess, or collect, or cause to be  
 3819 | charged, assessed, or collected, fees for any service it  
 3820 | provides to its clients either directly or through its agencies  
 3821 | or contractors, except for:

HB 1503 CS

2006  
CS

- 3822 (a) Diagnosis and evaluation procedures necessary to  
 3823 determine the client's eligibility and need for services  
 3824 provided by the department;
- 3825 (b) Customary and routine information and referral  
 3826 services;
- 3827 (c) Educational services provided in lieu of public  
 3828 education;
- 3829 (d) Specific services exempted by law from fee assessment;
- 3830 (e) Emergency shelter or emergency detention care and  
 3831 custody prior to a detention hearing under chapter 39;
- 3832 (f) Specific classes or types of services provided in  
 3833 programs funded by grants, donations, or contracts that prohibit  
 3834 charging fees;
- 3835 (g) Developmental disability services provided under  
 3836 chapter 393 to any person who is determined to be eligible for  
 3837 such services ~~by the department~~ and whose earned income falls  
 3838 below the federal Health and Human Services Poverty Guidelines,  
 3839 unless such fees are collected from third-party benefits and  
 3840 benefit payments; or
- 3841 (h) Any type of service for which the department  
 3842 determines that the net estimated revenue from such fees after  
 3843 deducting any loss of funds from federal grants occasioned by  
 3844 such fees will be less than the estimated cost to charge and  
 3845 collect such fees.
- 3846
- 3847 Fees, other than third-party benefits and benefit payments, may  
 3848 not be charged for services provided to indigents whose only  
 3849 sources of income are from state and federal aid. In addition,

HB 1503 CS

2006  
CS

3850 | fees may not be charged parents of a minor client for services  
 3851 | requested by the minor without parental consent or for services  
 3852 | provided a minor client who has been permanently committed to  
 3853 | the care and custody of the department with parental rights  
 3854 | permanently severed. However, lack of parental consent does not  
 3855 | preclude the charging of fees established under chapter 39. ~~The~~  
 3856 | ~~department may not require~~ A client who is receiving wages that  
 3857 | ~~which~~ are below the minimum wage under the federal Fair Labor  
 3858 | Standards Act may not be required to pay fees from such wages.  
 3859 | Voluntary payments for services must be encouraged.

3860 |         Section 51. Paragraphs (r) and (s) of subsection (3) of  
 3861 | section 408.036, Florida Statutes, are amended to read:

3862 |             408.036 Projects subject to review; exemptions.--

3863 |             (3) EXEMPTIONS.--Upon request, the following projects are  
 3864 | subject to exemption from the provisions of subsection (1):

3865 |             (r) For beds in state mental health treatment facilities  
 3866 | operated under s. 394.455 (32) ~~(30)~~ and state mental health  
 3867 | forensic facilities operated under s. 916.106(8).

3868 |             (s) For beds in state developmental disabilities ~~services~~  
 3869 | institutions as defined in s. 393.063.

3870 |         Section 52. Paragraphs (a), (j), and (k) of subsection (4)  
 3871 | of section 409.221, Florida Statutes, are amended to read:

3872 |             409.221 Consumer-directed care program.--

3873 |             (4) CONSUMER-DIRECTED CARE.--

3874 |             (a) Program established.--The Agency for Health Care  
 3875 | Administration shall establish the consumer-directed care  
 3876 | program which shall be based on the principles of consumer  
 3877 | choice and control. The agency shall implement the program upon

HB 1503 CS

2006  
CS

3878 federal approval. The agency shall establish interagency  
3879 cooperative agreements with and shall work with the Departments  
3880 of Elderly Affairs, Health, and Children and Family Services and  
3881 the Agency for Persons with Disabilities to implement and  
3882 administer the program. The program shall allow enrolled persons  
3883 to choose the providers of services and to direct the delivery  
3884 of services, to best meet their long-term care needs. The  
3885 program must operate within the funds appropriated by the  
3886 Legislature.

3887 (j) Rules; federal waivers.--In order to implement this  
3888 section:

3889 1. The agency and the Departments of Elderly Affairs,  
3890 Health, and Children and Family Services and the Agency for  
3891 Persons with Disabilities are authorized to adopt and enforce  
3892 rules.

3893 2. The agency shall take all necessary action to ensure  
3894 state compliance with federal regulations. The agency shall  
3895 apply for any necessary federal waivers or waiver amendments  
3896 needed to implement the program.

3897 (k) Reviews and reports.--The agency and the Departments  
3898 of Elderly Affairs, Health, and Children and Family Services and  
3899 the Agency for Persons with Disabilities shall each, on an  
3900 ongoing basis, review and assess the implementation of the  
3901 consumer-directed care program. By January 15 of each year, the  
3902 agency shall submit a written report to the Legislature that  
3903 includes each department's review of the program and contains  
3904 recommendations for improvements to the program.

HB 1503 CS

2006  
CS

3905 Section 53. Paragraph (a) of subsection (2) and subsection  
 3906 (8) of section 409.908, Florida Statutes, are amended to read:  
 3907 409.908 Reimbursement of Medicaid providers.--Subject to  
 3908 specific appropriations, the agency shall reimburse Medicaid  
 3909 providers, in accordance with state and federal law, according  
 3910 to methodologies set forth in the rules of the agency and in  
 3911 policy manuals and handbooks incorporated by reference therein.  
 3912 These methodologies may include fee schedules, reimbursement  
 3913 methods based on cost reporting, negotiated fees, competitive  
 3914 bidding pursuant to s. 287.057, and other mechanisms the agency  
 3915 considers efficient and effective for purchasing services or  
 3916 goods on behalf of recipients. If a provider is reimbursed based  
 3917 on cost reporting and submits a cost report late and that cost  
 3918 report would have been used to set a lower reimbursement rate  
 3919 for a rate semester, then the provider's rate for that semester  
 3920 shall be retroactively calculated using the new cost report, and  
 3921 full payment at the recalculated rate shall be effected  
 3922 retroactively. Medicare-granted extensions for filing cost  
 3923 reports, if applicable, shall also apply to Medicaid cost  
 3924 reports. Payment for Medicaid compensable services made on  
 3925 behalf of Medicaid eligible persons is subject to the  
 3926 availability of moneys and any limitations or directions  
 3927 provided for in the General Appropriations Act or chapter 216.  
 3928 Further, nothing in this section shall be construed to prevent  
 3929 or limit the agency from adjusting fees, reimbursement rates,  
 3930 lengths of stay, number of visits, or number of services, or  
 3931 making any other adjustments necessary to comply with the  
 3932 availability of moneys and any limitations or directions

HB 1503 CS

2006  
CS

3933 | provided for in the General Appropriations Act, provided the  
3934 | adjustment is consistent with legislative intent.

3935 |       (2)(a)1. Reimbursement to nursing homes licensed under  
3936 | part II of chapter 400 and state-owned-and-operated intermediate  
3937 | care facilities for the developmentally disabled licensed under  
3938 | part XI of chapter 400 ~~chapter 393~~ must be made prospectively.

3939 |       2. Unless otherwise limited or directed in the General  
3940 | Appropriations Act, reimbursement to hospitals licensed under  
3941 | part I of chapter 395 for the provision of swing-bed nursing  
3942 | home services must be made on the basis of the average statewide  
3943 | nursing home payment, and reimbursement to a hospital licensed  
3944 | under part I of chapter 395 for the provision of skilled nursing  
3945 | services must be made on the basis of the average nursing home  
3946 | payment for those services in the county in which the hospital  
3947 | is located. When a hospital is located in a county that does not  
3948 | have any community nursing homes, reimbursement shall ~~must~~ be  
3949 | determined by averaging the nursing home payments, in counties  
3950 | that surround the county in which the hospital is located.  
3951 | Reimbursement to hospitals, including Medicaid payment of  
3952 | Medicare copayments, for skilled nursing services shall be  
3953 | limited to 30 days, unless a prior authorization has been  
3954 | obtained from the agency. Medicaid reimbursement may be extended  
3955 | by the agency beyond 30 days, and approval must be based upon  
3956 | verification by the patient's physician that the patient  
3957 | requires short-term rehabilitative and recuperative services  
3958 | only, in which case an extension of no more than 15 days may be  
3959 | approved. Reimbursement to a hospital licensed under part I of  
3960 | chapter 395 for the temporary provision of skilled nursing

HB 1503 CS

2006  
CS

3961 services to nursing home residents who have been displaced as  
 3962 the result of a natural disaster or other emergency may not  
 3963 exceed the average county nursing home payment for those  
 3964 services in the county in which the hospital is located and is  
 3965 limited to the period of time which the agency considers  
 3966 necessary for continued placement of the nursing home residents  
 3967 in the hospital.

3968 (8) A provider of home-based or community-based services  
 3969 rendered pursuant to a federally approved waiver shall be  
 3970 reimbursed based on an established or negotiated rate for each  
 3971 service. These rates shall be established according to an  
 3972 analysis of the expenditure history and prospective budget  
 3973 developed by each contract provider participating in the waiver  
 3974 program, or under any other methodology adopted by the agency  
 3975 and approved by the Federal Government in accordance with the  
 3976 waiver. ~~Effective July 1, 1996,~~ Privately owned and operated  
 3977 community-based residential facilities which meet agency  
 3978 requirements and which formerly received Medicaid reimbursement  
 3979 for the optional intermediate care facility for the mentally  
 3980 retarded service may participate in the developmental services  
 3981 waiver as part of a home-and-community-based continuum of care  
 3982 for Medicaid recipients who receive waiver services.

3983 Section 54. Subsection (3) of section 409.9127, Florida  
 3984 Statutes, is amended to read:

3985 409.9127 Preauthorization and concurrent utilization  
 3986 review; conflict-of-interest standards.--

3987 (3) The agency shall help the Agency for Persons with  
 3988 Disabilities ~~Department of Children and Family Services~~ meet the



HB 1503 CS

2006  
CS

3989 requirements of s. 393.065(4). Only admissions approved pursuant  
3990 to such assessments are eligible for reimbursement under this  
3991 chapter.

3992 Section 55. Paragraph (c) of subsection (2) and subsection  
3993 (5) of section 411.224, Florida Statutes, are amended to read:

3994 411.224 Family support planning process.--The Legislature  
3995 establishes a family support planning process to be used by the  
3996 Department of Children and Family Services as the service  
3997 planning process for targeted individuals, children, and  
3998 families under its purview.

3999 (2) To the extent possible within existing resources, the  
4000 following populations must be included in the family support  
4001 planning process:

4002 (c) Children from age 3 ~~birth~~ through age 5 who are served  
4003 by the Agency for Persons with Disabilities Developmental  
4004 ~~Disabilities Program Office of the Department of Children and~~  
4005 ~~Family Services.~~

4006 (5) There must be only a single-family support plan to  
4007 address the problems of the various family members unless the  
4008 family requests that an individual family support plan be  
4009 developed for different members of that family. The family  
4010 support plan must replace individual habilitation plans for  
4011 children from 3 ~~birth~~ through 5 years old who are served by the  
4012 Agency for Persons with Disabilities Developmental Disabilities  
4013 ~~Program Office of the Department of Children and Family~~  
4014 ~~Services. To the extent possible, the family support plan must~~  
4015 ~~replace other case planning forms used by the Department of~~  
4016 ~~Children and Family Services.~~

HB 1503 CS

2006  
CS

4017 Section 56. Subsection (4) of section 411.232, Florida  
4018 Statutes, is amended to read:

4019 411.232 Children's Early Investment Program.--

4020 (4) RULES FOR IMPLEMENTATION.--The Department of Health  
4021 ~~and Rehabilitative Services~~ shall adopt rules necessary to  
4022 implement this section.

4023 Section 57. Subsection (8) of section 415.102, Florida  
4024 Statutes, is amended to read:

4025 415.102 Definitions of terms used in ss. 415.101-

4026 415.113.--As used in ss. 415.101-415.113, the term:

4027 (8) "Facility" means any location providing day or  
4028 residential care or treatment for vulnerable adults. The term  
4029 "facility" may include, but is not limited to, any hospital,  
4030 state institution, nursing home, assisted living facility, adult  
4031 family-care home, adult day care center, residential facility  
4032 licensed under chapter 393, adult day training center, group  
4033 ~~home~~, or mental health treatment center.

4034 Section 58. Section 415.1035, Florida Statutes, is amended  
4035 to read:

4036 415.1035 Facility's duty to inform residents of their  
4037 right to report abusive, neglectful, or exploitive  
4038 practices.--The department shall work cooperatively with the  
4039 Agency for Health Care Administration, the Agency for Persons  
4040 with Disabilities, and the Department of Elderly Affairs to  
4041 ensure that every facility that serves vulnerable adults informs  
4042 residents of their right to report abusive, neglectful, or  
4043 exploitive practices. Each facility must establish appropriate  
4044 policies and procedures to facilitate such reporting.

HB 1503 CS

2006  
CS

4045 Section 59. Subsections (1) and (10) of section 415.1055,  
4046 Florida Statutes, are amended to read:

4047 415.1055 Notification to administrative entities.--

4048 (1) Upon receipt of a report that alleges that an employee  
4049 or agent of the department, the Agency for Persons with  
4050 Disabilities, or the Department of Elderly Affairs, acting in an  
4051 official capacity, has committed an act of abuse, neglect, or  
4052 exploitation, the department shall notify the state attorney in  
4053 whose circuit the abuse, neglect, or exploitation occurred. This  
4054 notification may be oral or written.

4055 (10) When a report has been received and the department  
4056 has reason to believe that a vulnerable adult resident of a  
4057 facility licensed by the Agency for Health Care Administration  
4058 or the Agency for Persons with Disabilities has been the victim  
4059 of abuse, neglect, or exploitation, the department shall provide  
4060 a copy of its investigation to the appropriate agency. If the  
4061 investigation determines that a health professional licensed or  
4062 certified under the Department of Health may have abused,  
4063 neglected, or exploited a vulnerable adult, the department shall  
4064 also provide a copy to the Department of Health.

4065 Section 60. Paragraphs (a) and (h) of subsection (3) of  
4066 section 415.107, Florida Statutes, are amended to read:

4067 415.107 Confidentiality of reports and records.--

4068 (3) Access to all records, excluding the name of the  
4069 reporter which shall be released only as provided in subsection  
4070 (6), shall be granted only to the following persons, officials,  
4071 and agencies:

HB 1503 CS

2006  
CS

4072 (a) Employees or agents of the department, the Agency for  
 4073 Persons with Disabilities, ~~of~~ the Agency for Health Care  
 4074 Administration, or ~~of~~ the Department of Elderly Affairs who are  
 4075 responsible for carrying out protective investigations, ongoing  
 4076 protective services, or licensure or approval of nursing homes,  
 4077 assisted living facilities, adult day care centers, adult  
 4078 family-care homes, home care for the elderly, hospices,  
 4079 residential facilities licensed under chapter 393, or other  
 4080 facilities used for the placement of vulnerable adults.

4081 (h) Any appropriate official of the department, the Agency  
 4082 for Persons with Disabilities, ~~of~~ the Agency for Health Care  
 4083 Administration, or ~~of~~ the Department of Elderly Affairs who is  
 4084 responsible for:

4085 1. Administration or supervision of the programs for the  
 4086 prevention, investigation, or treatment of abuse, neglect, or  
 4087 exploitation of vulnerable adults when carrying out an official  
 4088 function; or

4089 2. Taking appropriate administrative action concerning an  
 4090 employee alleged to have perpetrated abuse, neglect, or  
 4091 exploitation of a vulnerable adult in an institution.

4092 Section 61. Paragraph (a) of subsection (3) of section  
 4093 435.03, Florida Statutes, is amended to read:

4094 435.03 Level 1 screening standards.--

4095 (3) Standards must also ensure that the person:

4096 (a) For employees and employers licensed or registered  
 4097 pursuant to chapter 400, and for employees and employers of  
 4098 developmental disabilities ~~services~~ institutions as defined in  
 4099 s. 393.063, intermediate care facilities for the developmentally

HB 1503 CS

2006  
CS

4100 disabled as defined in s. 400.960 ~~s. 393.063~~, and mental health  
4101 treatment facilities as defined in s. 394.455, meets the  
4102 requirements of this chapter.

4103 Section 62. Paragraph (a) of subsection (2) of section  
4104 490.014, Florida Statutes, is amended to read:

4105 490.014 Exemptions.--

4106 (2) No person shall be required to be licensed or  
4107 provisionally licensed under this chapter who:

4108 (a) Is a salaried employee of a government agency;  
4109 developmental disability facility or services program, mental  
4110 health, alcohol, or drug abuse facility operating under ~~pursuant~~  
4111 ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child  
4112 care program, subsidized child care case management program, or  
4113 child care resource and referral program operating pursuant to  
4114 chapter 402; child-placing or child-caring agency licensed  
4115 pursuant to chapter 409; domestic violence center certified  
4116 pursuant to chapter 39; accredited academic institution; or  
4117 research institution, if such employee is performing duties for  
4118 which he or she was trained and hired solely within the confines  
4119 of such agency, facility, or institution, so long as the  
4120 employee is not held out to the public as a psychologist  
4121 pursuant to s. 490.012(1)(a).

4122 Section 63. Paragraph (a) of subsection (4) of section  
4123 491.014, Florida Statutes, is amended to read:

4124 491.014 Exemptions.--

4125 (4) No person shall be required to be licensed,  
4126 provisionally licensed, registered, or certified under this  
4127 chapter who:

HB 1503 CS

2006  
CS

4128 (a) Is a salaried employee of a government agency;  
 4129 developmental disability facility or ~~services~~ program, mental  
 4130 health, alcohol, or drug abuse facility operating under ~~pursuant~~  
 4131 ~~to~~ chapter 393, chapter 394, or chapter 397; subsidized child  
 4132 care program, subsidized child care case management program, or  
 4133 child care resource and referral program operating pursuant to  
 4134 chapter 402; child-placing or child-caring agency licensed  
 4135 pursuant to chapter 409; domestic violence center certified  
 4136 pursuant to chapter 39; accredited academic institution; or  
 4137 research institution, if such employee is performing duties for  
 4138 which he or she was trained and hired solely within the confines  
 4139 of such agency, facility, or institution, so long as the  
 4140 employee is not held out to the public as a clinical social  
 4141 worker, mental health counselor, or marriage and family  
 4142 therapist.

4143 Section 64. Section 944.602, Florida Statutes, is amended  
 4144 to read:

4145 944.602 Agency notification of ~~Department of Children and~~  
 4146 ~~Family Services~~ before release of mentally retarded  
 4147 inmates.--Before the release by parole, release by reason of  
 4148 gain-time allowances provided for in s. 944.291, or expiration  
 4149 of sentence of any inmate who has been diagnosed as mentally  
 4150 retarded as defined in s. 393.063, the Department of Corrections  
 4151 shall notify the Agency for Persons with Disabilities ~~Department~~  
 4152 ~~of Children and Family Services~~ in order that sufficient time be  
 4153 allowed to notify the inmate or the inmate's representative, in  
 4154 writing, at least 7 days prior to the inmate's release, of  
 4155 available community services.

HB 1503 CS

2006  
CS

4156 Section 65. Subsections (2) and (3) of section 945.025,  
4157 Florida Statutes, are amended to read:

4158 945.025 Jurisdiction of department.--

4159 (2) In establishing, operating, and utilizing these  
4160 facilities, the department shall attempt, whenever possible, to  
4161 avoid the placement of nondangerous offenders who have potential  
4162 for rehabilitation with repeat offenders or dangerous offenders.  
4163 Medical, mental, and psychological problems shall be diagnosed  
4164 and treated whenever possible. The Department of Children and  
4165 Family Services and the Agency for Persons with Disabilities  
4166 shall cooperate to ensure the delivery of services to persons  
4167 under the custody or supervision of the department. When it is  
4168 the intent of the department to transfer a mentally ill or  
4169 retarded prisoner to the Department of Children and Family  
4170 Services or the Agency for Persons with Disabilities, an  
4171 involuntary commitment hearing shall be held according to the  
4172 provisions of chapter 393 or chapter 394.

4173 (3) There shall be other correctional facilities,  
4174 including detention facilities of varying levels of security,  
4175 work-release facilities, and community correctional facilities,  
4176 halfway houses, and other approved community residential and  
4177 nonresidential facilities and programs; however, no adult  
4178 correctional facility may be established by changing the use and  
4179 purpose of any mental health facility or mental health  
4180 institution under the jurisdiction of any state agency or  
4181 department without authorization in the General Appropriation  
4182 Act or other approval by the Legislature. ~~Any facility the~~  
4183 ~~purpose and use of which was changed subsequent to January 1,~~

HB 1503 CS

2006  
CS

4184 ~~1975, shall be returned to its original use and purpose by July~~  
 4185 ~~1, 1977. However, the G. Pierce Wood Memorial Hospital located~~  
 4186 ~~at Arcadia, DeSoto County, may not be converted into a~~  
 4187 ~~correctional facility as long as such hospital is in use as a~~  
 4188 ~~state mental health hospital.~~ Any community residential facility  
 4189 may be deemed a part of the state correctional system for  
 4190 purposes of maintaining custody of offenders, and for this  
 4191 purpose the department may contract for and purchase the  
 4192 services of such facilities.

4193 Section 66. Section 947.185, Florida Statutes, is amended  
 4194 to read:

4195 947.185 Application for mental retardation services as  
 4196 condition of parole.--The Parole Commission may require as a  
 4197 condition of parole that any inmate who has been diagnosed as  
 4198 mentally retarded as defined in s. 393.063 shall, upon release,  
 4199 apply for ~~retardation~~ services from the Agency for Persons with  
 4200 Disabilities ~~Department of Children and Family Services.~~

4201 Section 67. Subsection (1) of section 985.224, Florida  
 4202 Statutes, is amended to read:

4203 985.224 Medical, psychiatric, psychological, substance  
 4204 abuse, and educational examination and treatment.--

4205 (1) After a detention petition or a petition for  
 4206 delinquency has been filed, the court may order the child named  
 4207 in the petition to be examined by a physician. The court may  
 4208 also order the child to be evaluated by a psychiatrist or a  
 4209 psychologist, by a district school board educational needs  
 4210 assessment team, or, if a developmental disability is suspected  
 4211 or alleged, by a ~~the~~ developmental disabilities diagnostic and



HB 1503 CS

2006  
CS

4212 evaluation team ~~with~~ of the Agency for Persons with Disabilities  
4213 ~~Department of Children and Family Services~~. If it is necessary  
4214 to place a child in a residential facility for such evaluation,  
4215 the criteria and procedures established in chapter 393, chapter  
4216 394, or chapter 397, whichever is applicable, shall be used.

4217 Section 68. Section 1003.58, Florida Statutes, is amended  
4218 to read:

4219 1003.58 Students in residential care facilities.--Each  
4220 district school board shall provide educational programs  
4221 according to rules of the State Board of Education to students  
4222 who reside in residential care facilities operated by the  
4223 Department of Children and Family Services or the Agency for  
4224 Persons with Disabilities.

4225 (1) The district school board shall not be charged any  
4226 rent, maintenance, utilities, or overhead on such facilities.  
4227 Maintenance, repairs, and remodeling of existing facilities  
4228 shall be provided by the Department of Children and Family  
4229 Services or the Agency for Persons with Disabilities, as  
4230 appropriate.

4231 (2) If additional facilities are required, the district  
4232 school board and the Department of Children and Family Services  
4233 or the Agency for Persons with Disabilities, as appropriate,  
4234 shall agree on the appropriate site based on the instructional  
4235 needs of the students. When the most appropriate site for  
4236 instruction is on district school board property, a special  
4237 capital outlay request shall be made by the commissioner in  
4238 accordance with s. 1013.60. When the most appropriate site is on  
4239 state property, state capital outlay funds shall be requested by

HB 1503 CS

2006  
CS

4240 | the department or agency in accordance with chapter 216 of  
 4241 | ~~Children and Family Services as provided by s. 216.043 and shall~~  
 4242 | ~~be submitted as specified by s. 216.023.~~ Any instructional  
 4243 | facility to be built on state property shall have educational  
 4244 | specifications jointly developed by the school district and the  
 4245 | department or agency of Children and Family Services and  
 4246 | approved by the Department of Education. The size of space and  
 4247 | occupant design capacity criteria as provided by state board  
 4248 | rules shall be used for remodeling or new construction whether  
 4249 | facilities are provided on state property or district school  
 4250 | board property. The planning of such additional facilities shall  
 4251 | incorporate current state Department of Children and Family  
 4252 | ~~Services~~ deinstitutionalization goals and plans.

4253 |         (3) The district school board shall have full and complete  
 4254 | authority in the matter of the assignment and placement of such  
 4255 | students in educational programs. The parent of an exceptional  
 4256 | student shall have the same due process rights as are provided  
 4257 | under s. 1003.57(5).

4258 |         (4) The district school board shall have a written  
 4259 | agreement with the Department of Children and Family Services  
 4260 | and the Agency for Persons with Disabilities outlining the  
 4261 | respective duties and responsibilities of each party.

4262 |  
 4263 | Notwithstanding the provisions herein, the educational program  
 4264 | at the Marianna Sunland Center in Jackson County shall be  
 4265 | operated by the Department of Education, either directly or  
 4266 | through grants or contractual agreements with other public or

HB 1503 CS

2006  
CS

4267 | duly accredited educational agencies approved by the Department  
4268 | of Education.

4269 |       Section 69. Paragraph (c) of subsection (3) of section  
4270 | 17.61, Florida Statutes, is amended to read:

4271 |       17.61 Chief Financial Officer; powers and duties in the  
4272 | investment of certain funds.--

4273 |       (3)

4274 |       (c) Except as provided in this paragraph and except for  
4275 | moneys described in paragraph (d), the following agencies shall  
4276 | not invest trust fund moneys as provided in this section, but  
4277 | shall retain such moneys in their respective trust funds for  
4278 | investment, with interest appropriated to the General Revenue  
4279 | Fund, pursuant to s. 17.57:

4280 |       1. The Agency for Health Care Administration, except for  
4281 | the Tobacco Settlement Trust Fund.

4282 |       2. The Agency for Persons with Disabilities, except for:

4283 |       a. The Federal Grants Trust Fund.

4284 |       b. The Tobacco Settlement Trust Fund.

4285 |       ~~3.2-~~ The Department of Children and Family Services,  
4286 | except for:

4287 |       a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.

4288 |       b. The Community Resources Development Trust Fund.

4289 |       c. The Refugee Assistance Trust Fund.

4290 |       d. The Social Services Block Grant Trust Fund.

4291 |       e. The Tobacco Settlement Trust Fund.

4292 |       f. The Working Capital Trust Fund.

4293 |       ~~4.3-~~ The Department of Community Affairs, only for the  
4294 | Operating Trust Fund.

HB 1503 CS

2006  
CS

4295 |        ~~5.4.~~ The Department of Corrections.

4296 |        ~~6.5.~~ The Department of Elderly Affairs, except for:

4297 |        a. The Federal Grants Trust Fund.

4298 |        b. The Tobacco Settlement Trust Fund.

4299 |        ~~7.6.~~ The Department of Health, except for:

4300 |        a. The Federal Grants Trust Fund.

4301 |        b. The Grants and Donations Trust Fund.

4302 |        c. The Maternal and Child Health Block Grant Trust Fund.

4303 |        d. The Tobacco Settlement Trust Fund.

4304 |        ~~8.7.~~ The Department of Highway Safety and Motor Vehicles,

4305 | only for:

4306 |        a. The DUI Programs Coordination Trust Fund.

4307 |        b. The Security Deposits Trust Fund.

4308 |        ~~9.8.~~ The Department of Juvenile Justice.

4309 |        ~~10.9.~~ The Department of Law Enforcement.

4310 |        ~~11.10.~~ The Department of Legal Affairs.

4311 |        ~~12.11.~~ The Department of State, only for:

4312 |        a. The Grants and Donations Trust Fund.

4313 |        b. The Records Management Trust Fund.

4314 |        ~~13.12.~~ The Executive Office of the Governor, only for:

4315 |        a. The Economic Development Transportation Trust Fund.

4316 |        b. The Economic Development Trust Fund.

4317 |        ~~14.13.~~ The Florida Public Service Commission, only for the

4318 | Florida Public Service Regulatory Trust Fund.

4319 |        ~~15.14.~~ The Justice Administrative Commission.

4320 |        ~~16.15.~~ The state courts system.

4321 |        Section 70. Paragraph (b) of subsection (5) of section

4322 | 400.464, Florida Statutes, is amended to read:

HB 1503 CS

2006  
CS

4323 | 400.464 Home health agencies to be licensed; expiration of  
4324 | license; exemptions; unlawful acts; penalties.--

4325 | (5) The following are exempt from the licensure  
4326 | requirements of this part:

4327 | (b) Home health services provided by a state agency,  
4328 | either directly or through a contractor with:

4329 | 1. The Department of Elderly Affairs.

4330 | 2. The Department of Health, a community health center, or  
4331 | a rural health network that furnishes home visits for the  
4332 | purpose of providing environmental assessments, case management,  
4333 | health education, personal care services, family planning, or  
4334 | followup treatment, or for the purpose of monitoring and  
4335 | tracking disease.

4336 | 3. Services provided to persons with ~~who have~~  
4337 | developmental disabilities, as defined in s. 393.063.

4338 | 4. Companion and sitter organizations that were registered  
4339 | under s. 400.509(1) on January 1, 1999, and were authorized to  
4340 | provide personal services ~~under s. 393.063(33)~~ under a  
4341 | developmental services provider certificate on January 1, 1999,  
4342 | may continue to provide such services to past, present, and  
4343 | future clients of the organization who need such services,  
4344 | notwithstanding the provisions of this act.

4345 | 5. The Department of Children and Family Services.

4346 | Section 71. Subsection (7) of section 744.704, Florida  
4347 | Statutes, is amended to read:

4348 | 744.704 Powers and duties.--

HB 1503 CS

2006  
CS

4349 (7) A public guardian shall not commit a ward to a mental  
4350 health treatment facility, as defined in s. 394.455(32)~~(30)~~,  
4351 without an involuntary placement proceeding as provided by law.

4352 Section 72. Subsection (4) of section 984.22, Florida  
4353 Statutes, is amended to read:

4354 984.22 Powers of disposition.--

4355 (4) All payments of fees made to the department under  
4356 ~~pursuant to~~ this chapter, or child support payments made to the  
4357 department pursuant to subsection (3), shall be deposited in the  
4358 General Revenue Fund. ~~In cases in which the child is placed in~~  
4359 ~~foster care with the Department of Children and Family Services,~~  
4360 ~~such child support payments shall be deposited in the Community~~  
4361 ~~Resources Development Trust Fund.~~

4362 Section 73. Accessible electronic and information  
4363 technology.--

4364 (1) The Legislature recognizes the importance of ensuring  
4365 that persons with disabilities have access to electronic and  
4366 information technology maintained by the state.

4367 (2) State employees with disabilities shall have access to  
4368 and use of information and data that is comparable to the access  
4369 to and use of information and data provided to state employees  
4370 who are not individuals with disabilities, unless an undue  
4371 burden would be imposed on the agency.

4372 (3) Individuals with disabilities who are members of the  
4373 public seeking information or services from a state agency as  
4374 identified and covered by this section shall have access to and  
4375 use of information and data that is comparable to the access to  
4376 and use of information and data provided to members of the

HB 1503 CS

2006  
CS

4377 public who are not individuals with disabilities unless an undue  
4378 burden would be imposed on the state entity.

4379 (4) When procuring electronic and information technology  
4380 resources after July 1, 2006, a state agency as defined in s.  
4381 216.011(1)(qq), Florida Statutes, shall procure those products  
4382 that comply with the accessibility standards provided in this  
4383 section when such products are available in the commercial  
4384 marketplace or are developed in response to a competitive  
4385 solicitation. If products are commercially available that meet  
4386 some but not all of the accessibility standards, the state  
4387 agency may procure the product that best meets such  
4388 accessibility standards.

4389 (5) A state agency procuring electronic and information  
4390 technology shall include language in its solicitations and  
4391 contracts requiring vendors to provide such products as  
4392 electronic and information technology resources that comply with  
4393 the accessibility standards provided in this section.

4394 (6) When compliance with the provisions of this section  
4395 imposes an undue burden, a state agency shall comply with all  
4396 applicable state and federal civil rights statutes, including,  
4397 but not limited to, the Americans with Disabilities Act and s.  
4398 504 of the Rehabilitation Act of 1973, as amended, and provide  
4399 individuals with disabilities with the information and data  
4400 involved by an alternative method of access that allows the  
4401 individual to use the information and data.

4402 (7) This section does not require the installation of  
4403 specific accessibility-related software or the attachment of an

HB 1503 CS

2006  
CS

4404 assistive technology device at the workstation of a state  
4405 employee who is not an individual with a disability.

4406 (8) This section does not require a state agency providing  
4407 access to information or data to the public through electronic  
4408 and information technology to make products owned by the agency  
4409 available for access and use by individuals with disabilities at  
4410 a location other than where the electronic and information  
4411 technology is provided to the public or to purchase products for  
4412 access and use by individuals with disabilities at a location  
4413 other than where the electronic and information technology is  
4414 provided to the public.

4415 (9) The Department of Management Services, in partnership  
4416 with the Florida Alliance for Assistive Services and Technology,  
4417 shall adopt rules pursuant to ss. 120.536(1) and 120.54, Florida  
4418 Statutes, that address the following provisions:

4419 (a) Development of accessibility standards to be used by  
4420 each state agency in the procurement of electronic and  
4421 information technology and in the development and implementation  
4422 of custom-designed information technology systems, web sites,  
4423 and other emerging information technology systems.

4424 (b) Establishment and implementation of a review procedure  
4425 to be used to evaluate the accessibility of custom-designed  
4426 information technology systems proposed by a state agency prior  
4427 to expenditure of state funds.

4428 (c) Development of a procedure for reviewing and  
4429 evaluating the accessibility of electronic and information  
4430 technology commonly purchased by state agencies and for



HB 1503 CS

2006  
CS

4431 providing accessibility reports on these products to those  
 4432 responsible for purchasing decisions.

4433 (d) Development and delivery of training and technical  
 4434 assistance for state agencies to ensure procurement of  
 4435 electronic and information technology that meets adopted  
 4436 accessibility standards.

4437 (e) Involvement of individuals with disabilities in  
 4438 accessibility reviews of electronic and information technology  
 4439 and in the delivery of training and technical assistance.

4440 (f) Establishment of complaint procedures to be used by an  
 4441 individual with a disability who alleges that a state agency has  
 4442 failed to comply with the provisions of this section.

4443 Section 74. This act shall take effect July 1, 2006.