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HB 1503, Engrossed 1

2006 Legislature

1 A bill to be entitled
2 An act relating to persons with disabilities; amending s.
3 20.197, F.S.; requiring the director of the Agency for
4 Persons with Disabilities to be subject to confirmation by
5 the Senate; requiring the agency to create a Division of
6 Budget and Planning and a Division of Operations;
7 authorizing the director to recommend creating additional
8 subdivisions of the agency in order to promote efficient
9 and effective operation of the agency; amending s. 39.001,
10 F.S., relating to the development of a comprehensive state
11 plan for children; conforming provisions to the transfer
12 of duties from the Developmental Disabilities Program
13 Office within the Department of Children and Family
14 Services to the Agency for Persons with Disabilities;
15 amending s. 39.202, F.S.; providing for certain employees,
16 agents, and contract providers of the agency to have
17 access to records concerning cases of child abuse or
18 neglect for specified purposes; amending s. 39.407, F.S.;
19 deleting provisions authorizing the treatment of a child
20 under ch. 393, F.S., if the child is alleged to be
21 dependent; amending s. 287.155, F.S.; authorizing the
22 agency to purchase vehicles under certain circumstances;
23 amending ss. 381.0072 and 383.14, F.S., relating to food
24 service licenses and the Genetics and Newborn Screening
25 Advisory Council, respectively; conforming provisions to
26 the transfer of duties from the Developmental Disabilities
27 Program Office within the Department of Children and

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

28 Family Services to the Agency for Persons with
29 Disabilities; repealing s. 393.061, F.S., relating to a
30 short title; amending s. 393.062, F.S.; revising
31 legislative findings and intent to conform to changes in
32 terminology; amending s. 393.063, F.S.; revising the
33 definitions applicable to ch. 393, F.S., relating to
34 developmental disabilities; amending s. 393.064, F.S.;
35 revising the duties of the Agency for Persons with
36 Disabilities with respect to prevention services,
37 evaluations and assessments, intervention services, and
38 support services; amending s. 393.0641, F.S.; defining the
39 term "severe self-injurious behavior" for purposes of a
40 program of prevention and treatment for individuals
41 exhibiting such behavior; amending s. 393.065, F.S.,
42 relating to application for services and the determination
43 of eligibility for services; providing for children in the
44 child welfare system to be placed at the top of the
45 agency's wait list for waiver services; authorizing the
46 agency to adopt rules; amending s. 393.0651, F.S.,
47 relating to support plans for families and individuals;
48 revising the age at which support plans are developed for
49 children; deleting a prohibition against assessing certain
50 fees; creating s. 393.0654, F.S.; specifying circumstances
51 under which an employee of the agency may own, operate, or
52 work in a private facility under contract with the agency;
53 amending s. 393.0655, F.S.; revising the screening
54 requirements for direct service providers; providing a

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

55 temporary exemption from screening requirements for
56 certain providers; amending s. 393.0657, F.S.; revising an
57 exemption from certain requirements for refingerprinting
58 and rescreening; amending s. 393.066, F.S.; revising
59 certain requirements for the services provided by the
60 agency; requiring agency approval for purchased services;
61 revising the agency's rulemaking authority; amending s.
62 393.067, F.S.; revising requirements governing the
63 agency's licensure procedures; revising the requirements
64 for background screening of applicants for licensure and
65 managers, supervisors, and staff members of service
66 providers; requiring that the agency adopt rules governing
67 the reporting of incidents; deleting certain
68 responsibilities of the Agency for Health Care
69 Administration with respect to the development and review
70 of emergency management plans; amending s. 393.0673, F.S.;
71 providing circumstances under which the agency may deny,
72 revoke, or suspend a license or impose a fine; requiring
73 the Agency for Persons with Disabilities to adopt rules
74 for evaluating violations and determining the amount of
75 fines; amending s. 393.0674, F.S.; providing a penalty for
76 failure by a provider to comply with background screening
77 requirements; amending s. 393.0675, F.S.; deleting certain
78 obsolete provisions requiring that a provider be of good
79 moral character; amending s. 393.0678, F.S.; deleting
80 provisions governing receivership proceedings for an
81 intermediate care facility for the developmentally

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

82 disabled; amending s. 393.068, F.S.; requiring that the
83 family care program emphasize self-determination; removing
84 supported employment from the list of services available
85 under the family care program; revising certain
86 requirements for reimbursing a family care program
87 provider; amending s. 393.0695, F.S., relating to in-home
88 subsidies; requiring that the Agency for Persons with
89 Disabilities adopt rules for such subsidies; amending s.
90 393.075, F.S., relating to liability coverage for
91 facilities licensed by the agency; conforming terminology;
92 amending s. 393.11, F.S.; revising provisions governing
93 the involuntary admission of a person to residential
94 services; clarifying provisions governing involuntary
95 commitment; requiring that a person who is charged with a
96 felony will have his or her competency determined under
97 ch. 916, F.S.; conforming terminology; amending s.
98 393.122, F.S.; clarifying requirements governing
99 applications for continued residential services; amending
100 s. 393.13, F.S., relating to the Bill of Rights of Persons
101 Who are Developmentally Disabled; deleting a provision
102 protecting minimum wage compensation for certain programs;
103 limiting the use of restraint and seclusion; requiring the
104 agency to adopt rules governing the use of restraint or
105 seclusion; revising requirements for client records;
106 deleting certain requirements governing local advocacy
107 councils; allowing the resident government to include
108 disability advocates from the community; amending s.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

109 393.135, F.S.; revising definitions; clarifying provisions
110 making such misconduct a second-degree felony; amending s.
111 393.15, F.S.; establishing the Community Resources
112 Development Loan Program to provide loans to foster homes,
113 group homes, and supported employment programs; providing
114 legislative intent; providing eligibility requirements;
115 providing authorized uses of loan funds; requiring that
116 the agency adopt rules governing the loan program;
117 providing requirements for repaying loans; amending s.
118 393.17, F.S.; authorizing the agency to establish
119 certification programs for persons providing services to
120 clients; requiring that the agency establish a
121 certification program for behavior analysts; requiring
122 that the program be reviewed and validated; creating s.
123 393.18, F.S.; providing for a comprehensive transition
124 education program for persons who have severe or moderate
125 maladaptive behaviors; specifying the types of treatment
126 and education centers providing services under the
127 program; providing requirements for licensure; requiring
128 individual education plans for persons receiving services;
129 limiting the number of persons who may receive services in
130 such a program; authorizing licensure of certain existing
131 programs; creating s. 393.23, F.S.; requiring that
132 receipts from operating canteens, vending machines, and
133 other like activities in a developmental disabilities
134 institution be deposited in a trust account in a bank,
135 credit union, or savings and loan association; describing

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

136 | how the moneys earned may be expended; allowing for the
137 | investment of the funds; requiring that the accounting
138 | system at the institution account for the revenues and
139 | expenses of the activities; requiring that sales tax
140 | moneys be remitted to the Department of Revenue; amending
141 | s. 393.501, F.S.; revising the agency's rulemaking
142 | authority; providing requirements for rules governing
143 | alternative living centers and independent living
144 | education centers; amending s. 394.453, F.S.; declaring
145 | that the policy of the state is to achieve an ongoing
146 | reduction of the use of restraint and seclusion on persons
147 | with mental illness who are served by programs and
148 | facilities operated, licensed, or monitored by the agency;
149 | amending s. 394.455, F.S.; defining the terms "restraint"
150 | and "seclusion" for purposes of the Baker Act; amending s.
151 | 394.457, F.S.; requiring the Department of Children and
152 | Family Services to adopt rules for the use of restraint
153 | and seclusion for cases handled under the Baker Act;
154 | amending s. 394.879, F.S.; requiring that rules be adopted
155 | for the use of restraint and seclusion; amending s.
156 | 397.405, F.S.; clarifying an exemption from licensure
157 | provided to certain facilities licensed under ch. 393,
158 | F.S.; amending s. 400.419, F.S.; requiring that a list of
159 | facilities subject to sanctions or fines be disseminated
160 | to the Agency for Persons with Disabilities; amending s.
161 | 400.960, F.S.; revising definitions for purposes of part
162 | XI of ch. 400, F.S., relating to nursing homes and related

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

217 s. 744.704, F.S.; correcting a cross-reference; amending
 218 s. 984.22, F.S.; removing a provision that specifies fines
 219 be deposited into the Community Resources Development
 220 Trust Fund; creating part III of ch. 282, F.S.; requiring
 221 that the executive, legislative, and judicial branches of
 222 state government provide to individuals with disabilities
 223 access to and use of information and data that is
 224 comparable to the information and data provided to
 225 individuals who do not have disabilities; providing
 226 certain exceptions; providing definitions; requiring that
 227 each state agency use accessible electronic information
 228 and information technology that conforms with specified
 229 provisions of federal law; providing certain exceptions;
 230 requiring the Department of Management Services to adopt
 231 rules; providing an exception for electronic information
 232 and information technology involving military activities
 233 or criminal intelligence activities; specifying that the
 234 act applies to competitive solicitations; providing
 235 legislative intent; providing an effective date.

236

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

238

239 Section 1. Section 20.197, Florida Statutes, is amended to
 240 read:

241 20.197 Agency for Persons with Disabilities.--There is
 242 created the Agency for Persons with Disabilities, housed within
 243 the Department of Children and Family Services for

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

244 administrative purposes only. The agency shall be a separate
245 budget entity not subject to control, supervision, or direction
246 by the Department of Children and Family Services in any manner,
247 including, but not limited to, personnel, purchasing,
248 transactions involving real or personal property, and budgetary
249 matters.

250 (1) The director of the agency shall be the agency head
251 for all purposes and shall be appointed by the Governor, subject
252 to confirmation by the Senate, and shall serve at the pleasure
253 of the Governor. The director shall administer the affairs of
254 the agency ~~and establish administrative units as needed~~ and may,
255 within available resources, employ assistants, professional
256 staff, and other employees as necessary to discharge the powers
257 and duties of the agency.

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

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

270 ~~(4)~~(3) The agency shall engage in such other
 271 administrative activities as are deemed necessary to effectively
 272 and efficiently address the needs of the agency's clients.

273 ~~(5)~~(4) The agency shall enter into an interagency
 274 agreement that delineates the responsibilities of the Agency for
 275 Health Care Administration for the following:

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

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

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

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

290 Section 2. Paragraph (b) of subsection (7) of section
 291 39.001, Florida Statutes, is amended to read:

292 39.001 Purposes and intent; personnel standards and
 293 screening.--

294 (7) PLAN FOR COMPREHENSIVE APPROACH.--

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

297 1. The department shall establish an interprogram task
298 force comprised of the Program Director for Family Safety, or a
299 designee, a representative from the Child Care Services Program
300 Office, a representative from the Family Safety Program Office,
301 a representative from the Mental Health Program Office, a
302 representative from the Substance Abuse Program Office, a
303 representative from the Agency for Persons with Disabilities
304 ~~Developmental Disabilities Program Office~~, and a representative
305 from the Division of Children's Medical Services Network
306 ~~Prevention and Intervention~~ of the Department of Health.
307 Representatives of the Department of Law Enforcement and of the
308 Department of Education shall serve as ex officio members of the
309 interprogram task force. The interprogram task force shall be
310 responsible for:

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

317 b. Providing a basic format to be utilized by the
318 districts in the preparation of local plans of action in order
319 to provide for uniformity in the district plans and to provide
320 for greater ease in compiling information for the state plan.

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

323 d. Examining the local plans to determine if all the
324 requirements of the local plans have been met and, if they have
325 not, informing the districts of the deficiencies and requesting
326 the additional information needed.

327 e. Preparing the state plan for submission to the
328 Legislature and the Governor. Such preparation shall include the
329 collapsing of information obtained from the local plans, the
330 cooperative plans with the Department of Education, and the plan
331 of action for coordination and integration of departmental
332 activities into one comprehensive plan. The comprehensive plan
333 shall include a section reflecting general conditions and needs,
334 an analysis of variations based on population or geographic
335 areas, identified problems, and recommendations for change. In
336 essence, the plan shall provide an analysis and summary of each
337 element of the local plans to provide a statewide perspective.
338 The plan shall also include each separate local plan of action.

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

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

350 3. The department, the Department of Law Enforcement, and
351 the Department of Health shall work together in developing ways
352 to inform and instruct appropriate local law enforcement
353 personnel in the detection of child abuse, abandonment, and
354 neglect and in the proper action that should be taken in a
355 suspected case of child abuse, abandonment, or neglect.

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

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

374 6. Each district of the department shall develop a plan
375 for its specific geographical area. The plan developed at the
376 district level shall be submitted to the interprogram task force

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

377 | for utilization in preparing the state plan. The district local
378 | plan of action shall be prepared with the involvement and
379 | assistance of the local agencies and organizations listed in
380 | paragraph (a), as well as representatives from those
381 | departmental district offices participating in the treatment and
382 | prevention of child abuse, abandonment, and neglect. In order to
383 | accomplish this, the district administrator in each district
384 | shall establish a task force on the prevention of child abuse,
385 | abandonment, and neglect. The district administrator shall
386 | appoint the members of the task force in accordance with the
387 | membership requirements of this section. In addition, the
388 | district administrator shall ensure that each subdistrict is
389 | represented on the task force; and, if the district does not
390 | have subdistricts, the district administrator shall ensure that
391 | both urban and rural areas are represented on the task force.
392 | The task force shall develop a written statement clearly
393 | identifying its operating procedures, purpose, overall
394 | responsibilities, and method of meeting responsibilities. The
395 | district plan of action to be prepared by the task force shall
396 | include, but shall not be limited to:

397 | a. Documentation of the magnitude of the problems of child
398 | abuse, including sexual abuse, physical abuse, and emotional
399 | abuse, and child abandonment and neglect in its geographical
400 | area.

401 | b. A description of programs currently serving abused,
402 | abandoned, and neglected children and their families and a
403 | description of programs for the prevention of child abuse,

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

404 abandonment, and neglect, including information on the impact,
 405 cost-effectiveness, and sources of funding of such programs.

406 c. A continuum of programs and services necessary for a
 407 comprehensive approach to the prevention of all types of child
 408 abuse, abandonment, and neglect as well as a brief description
 409 of such programs and services.

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

413 e. A plan for steps to be taken in meeting identified
 414 needs, including the coordination and integration of services to
 415 avoid unnecessary duplication and cost, and for alternative
 416 funding strategies for meeting needs through the reallocation of
 417 existing resources, utilization of volunteers, contracting with
 418 local universities for services, and local government or private
 419 agency funding.

420 f. A description of barriers to the accomplishment of a
 421 comprehensive approach to the prevention of child abuse,
 422 abandonment, and neglect.

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

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

427 39.202 Confidentiality of reports and records in cases of
 428 child abuse or neglect.--

429 (2) Except as provided in subsection (4), access to such
 430 records, excluding the name of the reporter which shall be

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

431 released only as provided in subsection (5), shall be granted
 432 only to the following persons, officials, and agencies:

433 (a) Employees, authorized agents, or contract providers of
 434 the department, the Department of Health, the Agency for Persons
 435 with Disabilities, or county agencies responsible for carrying
 436 out:

- 437 1. Child or adult protective investigations;
- 438 2. Ongoing child or adult protective services;
- 439 3. Healthy Start services; or
- 440 4. Licensure or approval of adoptive homes, foster homes,
 441 ~~or~~ child care facilities, facilities licensed under chapter 393,
 442 or family day care homes or informal child care providers who
 443 receive subsidized child care funding, or other homes used to
 444 provide for the care and welfare of children.
- 445 5. Services for victims of domestic violence when provided
 446 by certified domestic violence centers working at the
 447 department's request as case consultants or with shared clients.

448
 449 Also, employees or agents of the Department of Juvenile Justice
 450 responsible for the provision of services to children, pursuant
 451 to chapters 984 and 985.

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

- 454 1. Administration or supervision of the department's
 455 program for the prevention, investigation, or treatment of child
 456 abuse, abandonment, or neglect, or abuse, neglect, or

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

457 exploitation of a vulnerable adult, when carrying out his or her
 458 official function;

459 2. Taking appropriate administrative action concerning an
 460 employee of the department or the agency who is alleged to have
 461 perpetrated child abuse, abandonment, or neglect, or abuse,
 462 neglect, or exploitation of a vulnerable adult; or

463 3. Employing and continuing employment of personnel of the
 464 department or the agency.

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

467 39.407 Medical, psychiatric, and psychological examination
 468 and treatment of child; physical or mental examination of parent
 469 or person requesting custody of child.--

470 (5) A judge may order a child in an out-of-home placement
 471 to be treated by a licensed health care professional based on
 472 evidence that the child should receive treatment. The judge may
 473 also order such child to receive mental health or developmental
 474 disabilities services from a psychiatrist, psychologist, or
 475 other appropriate service provider. Except as provided in
 476 subsection (6), if it is necessary to place the child in a
 477 residential facility for such services, the procedures and
 478 criteria established in s. 394.467 ~~or chapter 393~~ shall be used,
 479 ~~whichever is applicable~~. A child may be provided ~~developmental~~
 480 ~~disabilities~~ or mental health services in emergency situations,
 481 pursuant to the procedures and criteria contained in s.
 482 394.463(1) ~~or chapter 393, whichever is applicable~~. Nothing in

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

483 this section confers jurisdiction on the court with regard to
 484 determining eligibility or ordering services under chapter 393.

485 Section 5. Section 287.155, Florida Statutes, is amended
 486 to read:

487 287.155 Motor vehicles; purchase by Division of
 488 Universities, Department of Children and Family Services, Agency
 489 for Persons with Disabilities, Department of Health, Department
 490 of Juvenile Justice, and Department of Corrections.--

491 (1) The Division of Universities of the Department of
 492 Education, the Department of Children and Family Services, the
 493 Agency for Persons with Disabilities, the Department of Health,
 494 the Department of Juvenile Justice, and the Department of
 495 Corrections may ~~are hereby authorized~~, subject to the approval
 496 of the Department of Management Services, ~~to~~ purchase
 497 automobiles, trucks, tractors, and other automotive equipment
 498 for the use of institutions under the management of the Division
 499 of Universities, the Department of Children and Family Services,
 500 the Agency for Persons with Disabilities, the Department of
 501 Health, and the Department of Corrections, and for the use of
 502 residential facilities managed or contracted by the Department
 503 of Juvenile Justice.

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

510 (3) The Department of Health is authorized, subject to the
511 approval of the Department of Management Services, to purchase
512 automobiles, trucks, and other automotive equipment for use by
513 county health departments.

514 Section 6. Paragraph (a) of subsection (3) of section
515 381.0072, Florida Statutes, is amended to read:

516 381.0072 Food service protection.--It shall be the duty of
517 the Department of Health to adopt and enforce sanitation rules
518 consistent with law to ensure the protection of the public from
519 food-borne illness. These rules shall provide the standards and
520 requirements for the storage, preparation, serving, or display
521 of food in food service establishments as defined in this
522 section and which are not permitted or licensed under chapter
523 500 or chapter 509.

524 (3) LICENSES REQUIRED.--

525 (a) Licenses; annual renewals.--Each food service
526 establishment regulated under this section shall obtain a
527 license from the department annually. Food service establishment
528 licenses shall expire annually and are ~~shall~~ not be transferable
529 from one place or individual to another. However, those
530 facilities licensed by the department's Office of Licensure and
531 Certification, the Child Care Services Program Office, or the
532 Agency for Persons with Developmental Disabilities Program
533 ~~Office~~ are exempt from this subsection. It shall be a
534 misdemeanor of the second degree, punishable as provided in s.
535 381.0061, s. 775.082, or s. 775.083, for such an establishment
536 to operate without this license. The department may refuse a

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

537 | license, or a renewal thereof, to any establishment that is not
 538 | constructed or maintained in accordance with law and with the
 539 | rules of the department. Annual application for renewal is ~~shall~~
 540 | not ~~be~~ required.

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

543 | 383.14 Screening for metabolic disorders, other hereditary
 544 | and congenital disorders, and environmental risk factors.--

545 | (5) ADVISORY COUNCIL.--There is established a Genetics and
 546 | Newborn Screening Advisory Council made up of 15 members
 547 | appointed by the Secretary of Health. The council shall be
 548 | composed of two consumer members, three practicing
 549 | pediatricians, at least one of whom must be a pediatric
 550 | hematologist, one representative from each of the four medical
 551 | schools in the state, the Secretary of Health or his or her
 552 | designee, one representative from the Department of Health
 553 | representing Children's Medical Services, one representative
 554 | from the Florida Hospital Association, one individual with
 555 | experience in newborn screening programs, one individual
 556 | representing audiologists, and one representative from the
 557 | Agency for Persons with Disabilities ~~Developmental Disabilities~~
 558 | ~~Program Office of the Department of Children and Family~~
 559 | ~~Services~~. All appointments shall be for a term of 4 years. The
 560 | chairperson of the council shall be elected from the membership
 561 | of the council and shall serve for a period of 2 years. The
 562 | council shall meet at least semiannually or upon the call of the
 563 | chairperson. The council may establish ad hoc or temporary

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

564 technical advisory groups to assist the council with specific
 565 topics which come before the council. Council members shall
 566 serve without pay. Pursuant to the provisions of s. 112.061, the
 567 council members are entitled to be reimbursed for per diem and
 568 travel expenses. It is the purpose of the council to advise the
 569 department about:

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

572 (b) Procedures for collection and transmission of
 573 specimens and recording of results.

574 (c) Methods whereby screening programs and genetics
 575 services for children now provided or proposed to be offered in
 576 the state may be more effectively evaluated, coordinated, and
 577 consolidated.

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

579 Section 9. Section 393.062, Florida Statutes, is amended
 580 to read:

581 393.062 Legislative findings and declaration of
 582 intent.--The Legislature finds and declares that existing state
 583 programs for the treatment of individuals with developmental
 584 disabilities ~~who are developmentally disabled~~, which often
 585 unnecessarily place clients in institutions, are unreasonably
 586 costly, are ineffective in bringing the individual client to his
 587 or her maximum potential, and are in fact debilitating to many a
 588 ~~great majority of~~ clients. A redirection in state treatment
 589 programs for individuals with developmental disabilities ~~who are~~
 590 ~~developmentally disabled~~ is necessary if any significant

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

591 amelioration of the problems faced by such individuals is ever
592 to take place. Such redirection should place primary emphasis on
593 programs that ~~have the potential to~~ prevent or reduce the
594 severity of developmental disabilities. Further, the Legislature
595 ~~declares that~~ greatest priority shall be given to the
596 development and implementation of community-based ~~residential~~
597 ~~placements, services that, and treatment programs for~~
598 ~~individuals who are developmentally disabled which~~ will enable
599 such individuals with developmental disabilities to achieve
600 their greatest potential for independent and productive living,
601 ~~which will~~ enable them to live in their own homes or in
602 residences located in their own communities, and ~~which will~~
603 permit them to be diverted or removed from unnecessary
604 institutional placements. This goal ~~The Legislature finds that~~
605 ~~the eligibility criteria for intermediate care facilities for~~
606 ~~the developmentally disabled which are specified in the Medicaid~~
607 ~~state plan in effect on the effective date of this act are~~
608 ~~essential to the system of residential services. The Legislature~~
609 ~~declares that the goal of this act, to improve the quality of~~
610 ~~life of all developmentally disabled persons by the development~~
611 ~~and implementation of community based residential placements,~~
612 ~~services, and treatment,~~ cannot be met without ensuring the
613 availability of community residential opportunities ~~for~~
614 ~~developmentally disabled persons~~ in the residential areas of
615 this state. The Legislature, therefore, declares that all
616 persons with developmental disabilities who live in licensed
617 community homes shall have a family living environment

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

618 comparable to other Floridians and. ~~The Legislature intends~~ that
 619 such residences shall be considered and treated as a functional
 620 equivalent of a family unit and not as an institution, business,
 621 or boarding home. The Legislature further declares that, in
 622 developing community-based programs and services for individuals
 623 with developmental disabilities ~~who are developmentally~~
 624 ~~disabled~~, private businesses, not-for-profit corporations, units
 625 of local government, and other organizations capable of
 626 providing needed services to clients in a cost-efficient manner
 627 shall be given preference in lieu of operation of programs
 628 directly by state agencies. Finally, it is the intent of the
 629 Legislature that all caretakers unrelated to individuals with
 630 developmental disabilities receiving care shall be of good moral
 631 character.

632 Section 10. Section 393.063, Florida Statutes, is amended
 633 to read:

634 393.063 Definitions.--For the purposes of this chapter,
 635 the term:

636 (1) "Agency" means the Agency for Persons with
 637 Disabilities.

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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

659 (5)~~(4)~~ "Client" means any person determined eligible by
 660 the agency for services under this chapter.

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

666 (7)~~(6)~~ "Comprehensive assessment" means the process used
 667 to determine eligibility for services under this chapter.

668 (8)~~(7)~~ "Comprehensive transitional education program"
 669 means the program established in s. 393.18. ~~a group of jointly~~
 670 ~~operating centers or units, the collective purpose of which is~~

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

671 ~~to provide a sequential series of educational care, training,~~
672 ~~treatment, habilitation, and rehabilitation services to persons~~
673 ~~who have developmental disabilities and who have severe or~~
674 ~~moderate maladaptive behaviors. However, nothing in this~~
675 ~~subsection shall require such programs to provide services only~~
676 ~~to persons with developmental disabilities. All such services~~
677 ~~shall be temporary in nature and delivered in a structured~~
678 ~~residential setting with the primary goal of incorporating the~~
679 ~~normalization principle to establish permanent residence for~~
680 ~~persons with maladaptive behaviors in facilities not associated~~
681 ~~with the comprehensive transitional education program. The staff~~
682 ~~shall include psychologists and teachers who shall be available~~
683 ~~to provide services in each component center or unit of the~~
684 ~~program. The psychologists shall be individuals who are licensed~~
685 ~~in this state and certified as behavior analysts in this state,~~
686 ~~or individuals who are certified as behavior analysts pursuant~~
687 ~~to s. 393.17.~~

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

694 ~~1. Intensive treatment and educational center. This~~
695 ~~component is a self-contained residential unit providing~~
696 ~~intensive psychological and educational programming for persons~~
697 ~~with severe maladaptive behaviors, whose behaviors preclude~~

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

698 ~~placement in a less restrictive environment due to the threat of~~
699 ~~danger or injury to themselves or others.~~

700 ~~2.— Transitional training and educational center. This~~
701 ~~component is a residential unit for persons with moderate~~
702 ~~maladaptive behaviors, providing concentrated psychological and~~
703 ~~educational programming emphasizing a transition toward a less~~
704 ~~restrictive environment.~~

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

712 ~~4.— Alternative living center. This component is a~~
713 ~~residential unit providing an educational and family living~~
714 ~~environment for persons with maladaptive behaviors, in a~~
715 ~~moderately unrestricted setting. Residential staff shall be~~
716 ~~required for this component.~~

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

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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

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

735 ~~(e) This subsection shall authorize licensure for~~
 736 ~~comprehensive transitional education programs which by July 1,~~
 737 ~~1989:~~

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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

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

768 (10) ~~(11)~~ "Developmental disabilities institution" means a
 769 state-owned and state-operated facility, formerly known as a
 770 "Sunland Center," providing for the care, habilitation, and
 771 rehabilitation of clients with developmental disabilities.

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

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

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

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

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

804 (14)~~(17)~~ "Family care program" means the program
 805 established in s. 393.068.

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

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

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

826 (17)~~(21)~~ "Guardian advocate" means a person appointed by a
 827 written order of the court to represent a person with
 828 developmental disabilities under s. 393.12.

829 (18)~~(22)~~ "Habilitation" means the process by which a
 830 client is assisted to acquire and maintain those life skills

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

831 | which enable the client to cope more effectively with the
832 | demands of his or her condition and environment and to raise the
833 | level of his or her physical, mental, and social efficiency. It
834 | includes, but is not limited to, programs of formal structured
835 | education and treatment.

836 | ~~(19)-(23)~~ "High-risk child" means, for the purposes of this
837 | chapter, a child from 3 ~~birth~~ to 5 years of age with one or more
838 | of the following characteristics:

839 | (a) A developmental delay in cognition, language, or
840 | physical development.

841 | (b) A child surviving a catastrophic infectious or
842 | traumatic illness known to be associated with developmental
843 | delay, when funds are specifically appropriated.

844 | (c) A child with a parent or guardian with developmental
845 | disabilities who requires assistance in meeting the child's
846 | developmental needs.

847 | (d) A child who has a physical or genetic anomaly
848 | associated with developmental disability.

849 | ~~(20)-(24)~~ "Intermediate care facility for the
850 | developmentally disabled" or "ICF/DD" means a residential
851 | facility licensed and certified pursuant to part XI of chapter
852 | 400.

853 | ~~(25)~~ "~~Job coach~~" means ~~a person who provides employment-~~
854 | ~~related training at a worksite to individuals with developmental~~
855 | ~~disabilities.~~

856 | ~~(21)-(26)~~ "Medical/dental services" means medically
857 | necessary ~~those~~ services which are provided or ordered for a

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

858 client by a person licensed under ~~pursuant to the provisions of~~
859 chapter 458, chapter 459, or chapter 466. Such services may
860 include, but are not limited to, prescription drugs, specialized
861 therapies, nursing supervision, hospitalization, dietary
862 services, prosthetic devices, surgery, specialized equipment and
863 supplies, adaptive equipment, and other services as required to
864 prevent or alleviate a medical or dental condition.

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

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

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

885 ~~living area of a resident shall not be classified as a personal~~
 886 ~~service.~~

887 (23)~~(30)~~ "Prader-Willi syndrome" means an inherited
 888 condition typified by neonatal hypotonia with failure to thrive,
 889 hyperphagia or an excessive drive to eat which leads to obesity
 890 usually at 18 to 36 months of age, mild to moderate mental
 891 retardation, hypogonadism, short stature, mild facial
 892 dysmorphism, and a characteristic neurobehavior.

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

897 (24)~~(32)~~ "Relative" means an individual who is connected
 898 by affinity or consanguinity to the client and who is 18 years
 899 of age or older ~~more~~.

900 (25)~~(33)~~ "Resident" means any person with developmental
 901 disabilities ~~who is developmentally disabled~~ residing at a
 902 residential facility ~~in the state~~, whether or not such person is
 903 a client of the agency.

904 (26)~~(34)~~ "Residential facility" means a facility providing
 905 room and board and personal care for persons with developmental
 906 disabilities.

907 (27)~~(35)~~ "Residential habilitation" means supervision and
 908 training ~~assistance provided with the~~ acquisition, retention, or
 909 improvement in skills related to activities of daily living,
 910 such as personal hygiene skills ~~grooming and cleanliness~~,
 911 homemaking skills ~~bedmaking and household chores, eating and the~~

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

912 ~~preparation of food~~, and the social and adaptive skills
913 necessary to enable the individual to reside in the community a
914 ~~noninstitutional setting~~.

915 ~~(28)(36)~~ "Residential habilitation center" means a
916 community residential facility licensed under this chapter which
917 ~~that~~ provides ~~residential~~ habilitation services. The capacity of
918 such a facility shall not be fewer than nine residents. After
919 October 1, 1989, ~~no~~ new residential habilitation centers may not
920 ~~shall~~ be licensed and the licensed capacity ~~shall not be~~
921 ~~increased~~ for any existing residential habilitation center may
922 not be increased.

923 ~~(29)(37)~~ "Respite service" means appropriate, short-term,
924 temporary care that is provided to a person with developmental
925 disabilities to meet the planned or emergency needs of the
926 person or the family or other direct service provider.

927 ~~(30)~~ "Restraint" means a physical device, method, or drug
928 used to control dangerous behavior.

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

934 (b) A drug used as a restraint is a medication used to
935 control the person's behavior or to restrict his or her freedom
936 of movement and is not a standard treatment for the person's
937 medical or psychiatric condition. Physically holding a person

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

938 during a procedure to forcibly administer psychotropic
 939 medication is a physical restraint.

940 (c) Restraint does not include physical devices, such as
 941 orthopedically prescribed appliances, surgical dressings and
 942 bandages, supportive body bands, or other physical holding when
 943 necessary for routine physical examinations and tests; for
 944 purposes of orthopedic, surgical, or other similar medical
 945 treatment; when used to provide support for the achievement of
 946 functional body position or proper balance; or when used to
 947 protect a person from falling out of bed.

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

960 (32) "Seclusion" means the involuntary isolation of a
 961 person in a room or area from which the person is prevented from
 962 leaving. The prevention may be by physical barrier or by a staff
 963 member who is acting in a manner, or who is physically situated,
 964 so as to prevent the person from leaving the room or area. For

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

965 the purposes of this chapter, the term does not mean isolation
966 due to the medical condition or symptoms of the person.

967 (33) "Self-determination" means an individual's freedom to
968 exercise the same rights as all other citizens, authority to
969 exercise control over funds needed for one's own support,
970 including prioritizing these funds when necessary,
971 responsibility for the wise use of public funds, and self
972 advocacy to speak and advocate for oneself in order to gain
973 independence and ensure that individuals with a developmental
974 disability are treated equally.

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

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

987 ~~(35)(41)~~ (35) "Spina bifida" means, for purposes of this
988 chapter, a person with a medical diagnosis of spina bifida
989 cystica or myelomeningocele.

990 ~~(36)(42)~~ (36) "Support coordinator" means a person who is
991 designated by the agency to assist individuals and families in

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

992 identifying their capacities, needs, and resources, as well as
 993 finding and gaining access to necessary supports and services;
 994 coordinating the delivery of supports and services; advocating
 995 on behalf of the individual and family; maintaining relevant
 996 records; and monitoring and evaluating the delivery of supports
 997 and services to determine the extent to which they meet the
 998 needs and expectations identified by the individual, family, and
 999 others who participated in the development of the support plan.

1000 ~~(43) "Supported employee" means a person who requires and~~
 1001 ~~receives supported employment services in order to maintain~~
 1002 ~~community based employment.~~

1003 (37)~~(44)~~ "Supported employment" means employment located
 1004 or provided in a ~~normal employment setting which provides at~~
 1005 ~~least 20 hours employment per week in an integrated work~~
 1006 setting, with earnings paid on a commensurate wage basis, and
 1007 for which continued support is needed for job maintenance.

1008 (38)~~(45)~~ "Supported living" means a category of
 1009 individually determined services designed and coordinated in
 1010 such a manner as to provide assistance to adult clients who
 1011 require ongoing supports to live as independently as possible in
 1012 their own homes, to be integrated into the community, and to
 1013 participate in community life to the fullest extent possible.

1014 (39)~~(46)~~ "Training" means a planned approach to assisting
 1015 a client to attain or maintain his or her maximum potential and
 1016 includes services ranging from sensory stimulation to
 1017 instruction in skills for independent living and employment.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1018 ~~(40)-(47)~~ "Treatment" means the prevention, amelioration,
 1019 or cure of a client's physical and mental disabilities or
 1020 illnesses.

1021 Section 11. Subsections (1), (2), and (4) of section
 1022 393.064, Florida Statutes, are amended to read:

1023 393.064 Prevention.--

1024 (1) The agency shall give priority to the development,
 1025 planning, and implementation of programs which have the
 1026 potential to prevent, correct, cure, or reduce the severity of
 1027 developmental disabilities. The agency shall direct an
 1028 interagency and interprogram effort for the continued
 1029 development of a prevention plan and program. The agency shall
 1030 identify, through demonstration projects, through program
 1031 evaluation, and through monitoring of programs and projects
 1032 conducted outside of the agency, any medical, social, economic,
 1033 or educational methods, techniques, or procedures that have the
 1034 potential to effectively ameliorate, correct, or cure
 1035 developmental disabilities. The agency ~~program~~ shall determine
 1036 the costs and benefits that would be associated with such
 1037 prevention efforts and shall implement, or recommend the
 1038 implementation of, those methods, techniques, or procedures
 1039 which are found likely to be cost-beneficial.

1040 (2) Prevention services provided by the agency shall
 1041 ~~developmental services program~~ include services to high-risk and
 1042 ~~developmentally disabled~~ children from 3 ~~birth~~ to 5 years of
 1043 age, and their families, to meet the intent of chapter 411.
 1044 Except for services for children from birth to age 3 years which

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1045 ~~Such services shall include individual evaluations or~~
 1046 ~~assessments necessary to diagnose a developmental disability or~~
 1047 ~~high-risk condition and to determine appropriate individual~~
 1048 ~~family and support services, unless evaluations or assessments~~
 1049 are the responsibility of the Division of Children's Medical
 1050 Services in the Department of Health Prevention and Intervention
 1051 ~~for children ages birth to 3 years eligible for services under~~
 1052 ~~this chapter~~ or part H of the Individuals with Disabilities
 1053 Education Act, such services and may include:

1054 (a) Individual evaluations or assessments necessary to
 1055 diagnose a developmental disability or high-risk condition and
 1056 to determine appropriate, individual family and support
 1057 services.

1058 (b) ~~(a)~~ Early intervention services, including
 1059 developmental training and specialized therapies. ~~Early~~
 1060 ~~intervention services, which are the responsibility of the~~
 1061 ~~Division of Children's Medical Services Prevention and~~
 1062 ~~Intervention for children ages birth to 3 years who are eligible~~
 1063 ~~for services under this chapter or under part H of the~~
 1064 ~~Individuals with Disabilities Education Act, shall not be~~
 1065 ~~provided through the developmental services program unless~~
 1066 ~~funding is specifically appropriated to the developmental~~
 1067 ~~services program for this purpose.~~

1068 (c) ~~(b)~~ Support services, such as respite care, parent
 1069 education and training, parent-to-parent counseling, homemaker
 1070 services, and other services which allow families to maintain
 1071 and provide quality care to children in their homes. ~~The~~

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 HB 1503, Engrossed 1

2006 Legislature

1072 ~~Division of Children's Medical Services Prevention and~~
 1073 ~~Intervention is responsible for the provision of services to~~
 1074 ~~children from birth to 3 years who are eligible for services~~
 1075 ~~under this chapter.~~

1076 (4) There is created at the developmental disabilities
 1077 ~~services~~ institution in Gainesville a research and education
 1078 unit. Such unit shall be named the Raymond C. Philips Research
 1079 and Education Unit. The functions of such unit shall include:

1080 (a) Research into the etiology of developmental
 1081 disabilities.

1082 (b) Ensuring that new knowledge is rapidly disseminated
 1083 throughout ~~the developmental services program~~ of the agency.

1084 (c) Diagnosis of unusual conditions and syndromes
 1085 associated with developmental disabilities in clients identified
 1086 throughout ~~the developmental~~ disabilities ~~services~~ programs.

1087 (d) Evaluation of families of clients with developmental
 1088 disabilities of genetic origin in order to provide them with
 1089 genetic counseling aimed at preventing the recurrence of the
 1090 disorder in other family members.

1091 (e) Ensuring that health professionals in the
 1092 developmental disabilities ~~services~~ institution at Gainesville
 1093 have access to information systems that will allow them to
 1094 remain updated on newer knowledge and maintain their
 1095 postgraduate education standards.

1096 (f) Enhancing staff training for professionals throughout
 1097 the agency in the areas of genetics and developmental
 1098 disabilities.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1099 Section 12. Section 393.0641, Florida Statutes, is amended
 1100 to read:

1101 393.0641 Program for the prevention and treatment of
 1102 severe self-injurious behavior.--

1103 (1) Contingent upon specific appropriations, there is
 1104 created a diagnostic, treatment, training, and research program
 1105 for clients exhibiting severe self-injurious behavior. As used
 1106 in this section, the term "severe self-injurious behavior" means
 1107 any chronic behavior that results in injury to the person's own
 1108 body, including, but not limited to, self-hitting, head banging,
 1109 self-biting, scratching, and the ingestion of harmful or
 1110 potentially harmful nutritive or nonnutritive substances.

1111 (2) The ~~This~~ program shall:

1112 (a) Serve as a resource center for information, training,
 1113 and program development.

1114 (b) Research the diagnosis and treatment of severe self-
 1115 injurious behavior, and related disorders, and develop methods
 1116 of prevention and treatment of self-injurious behavior.

1117 (c) Identify individuals in critical need.

1118 (d) Develop treatment programs which are meaningful to
 1119 individuals with developmental disabilities, in critical need,
 1120 while safeguarding and respecting the legal and human rights of
 1121 the individuals.

1122 (e) Disseminate research findings on the prevention and
 1123 treatment of severe self-injurious behavior.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1124 (f) Collect data on the type, severity, incidence, and
 1125 demographics of individuals with severe self-injurious behavior,
 1126 and disseminate the data.

1127 ~~(3)-(2)~~ The ~~This~~ program shall adhere to the provisions of
 1128 s. 393.13.

1129 ~~(4)-(3)~~ The agency may contract for the provision of any
 1130 portion or all of the services required by the program.

1131 ~~(5)-(4)~~ The agency may ~~has the authority to~~ license this
 1132 program and ~~shall~~ adopt rules to administer ~~implement~~ the
 1133 program.

1134 Section 13. Subsections (1) and (4) of section 393.065,
 1135 Florida Statutes, are amended, and subsections (5) and (6) are
 1136 added to that section, to read:

1137 393.065 Application and eligibility determination.--

1138 (1) Application for services shall be made in writing to
 1139 the agency, in the service area ~~district~~ in which the applicant
 1140 resides. The agency ~~Employees of the agency's developmental~~
 1141 ~~services program~~ shall review each applicant for eligibility
 1142 within 45 days after the date the application is signed for
 1143 children under 6 years of age and within 60 days after the date
 1144 the application is signed for all other applicants. When
 1145 necessary to definitively identify individual conditions or
 1146 needs, the agency shall provide a comprehensive assessment. Only
 1147 applicants ~~individuals~~ whose domicile is in Florida are eligible
 1148 for services. Information accumulated by other agencies,
 1149 including professional reports and collateral data, shall be
 1150 considered in this process when available.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1151 (4) The agency shall assess the level of need and medical
 1152 necessity for prospective residents of intermediate-care
 1153 facilities for the developmentally disabled ~~after October 1,~~
 1154 ~~1999~~. The agency may enter into an agreement with the Department
 1155 of Elderly Affairs for its Comprehensive Assessment and Review
 1156 for Long-Term-Care Services (CARES) program to conduct
 1157 assessments to determine the level of need and medical necessity
 1158 for long-term-care services under this chapter. To the extent
 1159 permissible under federal law, the assessments shall ~~must~~ be
 1160 funded under Title XIX of the Social Security Act.

1161 (5) With the exception of clients deemed to be in crisis
 1162 whom the agency shall serve as described in rule, the agency
 1163 shall place at the top of its wait list for waiver services
 1164 those children on the wait list who are from the child welfare
 1165 system with an open case in the Department of Children and
 1166 Family Services' statewide automated child welfare information
 1167 system.

1168 (6) The agency may adopt rules specifying application
 1169 procedures and eligibility criteria as needed to administer this
 1170 section.

1171 Section 14. Section 393.0651, Florida Statutes, is amended
 1172 to read:

1173 393.0651 Family or individual support plan.--The agency
 1174 shall provide directly or contract for the development of a an
 1175 ~~appropriate~~ family support plan for children ages 3 ~~birth~~ to 18
 1176 years of age and an individual support plan for each client. ~~The~~
 1177 ~~parent or guardian of~~ The client ~~or~~, if competent, the client's

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

1178 parent or guardian ~~client~~, or, when appropriate, the client
1179 advocate, shall be consulted in the development of the plan and
1180 shall receive a copy of the plan. Each plan must ~~shall~~ include
1181 the most appropriate, least restrictive, and most cost-
1182 beneficial environment for accomplishment of the objectives for
1183 client progress and a specification of all services authorized.
1184 The plan must ~~shall~~ include provisions for the most appropriate
1185 level of care for the client. Within the specification of needs
1186 and services for each client, when residential care is
1187 necessary, the agency shall move toward placement of clients in
1188 residential facilities based within the client's community. The
1189 ultimate goal of each plan, whenever possible, shall be to
1190 enable the client to live a dignified life in the least
1191 restrictive setting, be that in the home or in the community.
1192 For children under 6 years of age, the family support plan shall
1193 be developed within the 45-day application period as specified
1194 in s. 393.065(1); for all applicants 6 years of age or older,
1195 the family or individual support plan shall be developed within
1196 the 60-day period as specified in that subsection.

1197 (1) The agency shall develop and specify by rule the core
1198 components of support plans ~~to be used by each district~~.

1199 (2)~~(a)~~ The family or individual support plan shall be
1200 integrated with the individual education plan (IEP) for all
1201 clients who are public school students entitled to a free
1202 appropriate public education under the Individuals with
1203 Disabilities Education Act, I.D.E.A., as amended. The family or

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 HB 1503, Engrossed 1

2006 Legislature

1204 individual support plan and IEP shall be implemented to maximize
 1205 the attainment of educational and habilitation goals.

1206 (a) If the IEP for a student enrolled in a public school
 1207 program indicates placement in a public or private residential
 1208 program is necessary to provide special education and related
 1209 services to a client, the local education agency shall provide
 1210 for the costs of that service in accordance with the
 1211 requirements of the Individuals with Disabilities Education Act,
 1212 I.D.E.A., as amended. This shall not preclude local education
 1213 agencies and the agency from sharing the residential service
 1214 costs of students who are clients and require residential
 1215 placement. ~~Under no circumstances shall clients entitled to a~~
 1216 ~~public education or their parents be assessed a fee by the~~
 1217 ~~agency under s. 402.33 for placement in a residential program.~~

1218 (b) For clients who are entering or exiting the school
 1219 system, an interdepartmental staffing team composed of
 1220 representatives of the agency and the local school system shall
 1221 develop a written transitional living and training plan with the
 1222 participation of the client or with the parent or guardian of
 1223 the client, or the client advocate, as appropriate.

1224 (3) Each family or individual support plan shall be
 1225 facilitated through case management designed solely to advance
 1226 the individual needs of the client.

1227 (4) In the development of the family or individual support
 1228 plan, a client advocate may be appointed by the support planning
 1229 team for a client who is a minor or for a client who is not
 1230 capable of express and informed consent when:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1231 (a) The parent or guardian cannot be identified;
 1232 (b) The whereabouts of the parent or guardian cannot be
 1233 discovered; or
 1234 (c) The state is the only legal representative of the
 1235 client.
 1236
 1237 Such appointment shall not be construed to extend the powers of
 1238 the client advocate to include any of those powers delegated by
 1239 law to a legal guardian.
 1240 (5) The agency shall place a client in the most
 1241 appropriate and least restrictive, and cost-beneficial,
 1242 residential facility according to his or her individual support
 1243 ~~habilitation~~ plan. ~~The parent or guardian of~~ The client ~~or~~, if
 1244 competent, the client's parent or guardian ~~client~~, or, when
 1245 appropriate, the client advocate, and the administrator of the
 1246 ~~residential~~ facility to which placement is proposed shall be
 1247 consulted in determining the appropriate placement for the
 1248 client. Considerations for placement shall be made in the
 1249 following order:
 1250 (a) Client's own home or the home of a family member or
 1251 direct service provider.
 1252 (b) Foster care facility.
 1253 (c) Group home facility.
 1254 (d) Intermediate care facility for the developmentally
 1255 disabled.
 1256 (e) Other facilities licensed by the agency which offer
 1257 special programs for people with developmental disabilities.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1258 (f) Developmental disabilities ~~services~~ institution.
 1259 (6) In developing a client's annual family or individual
 1260 support plan, the individual or family with the assistance of
 1261 the support planning team shall identify measurable objectives
 1262 for client progress and shall specify a time period expected for
 1263 achievement of each objective.
 1264 (7) The individual, family, and support coordinator shall
 1265 review progress in achieving the objectives specified in each
 1266 client's family or individual support plan, and shall revise the
 1267 plan annually, following consultation with the client, if
 1268 competent, or with the parent or guardian of the client, or,
 1269 when appropriate, the client advocate. The agency or designated
 1270 contractor shall annually report in writing to the client, if
 1271 competent, or to the parent or guardian of the client, or to the
 1272 client advocate, when appropriate, with respect to the client's
 1273 habilitative and medical progress.
 1274 (8) Any client, or any parent of a minor client, or
 1275 guardian, authorized guardian advocate, or client advocate for a
 1276 client, who is substantially affected by the client's initial
 1277 family or individual support plan, or the annual review thereof,
 1278 shall have the right to file a notice to challenge the decision
 1279 pursuant to ss. 120.569 and 120.57. Notice of such right to
 1280 appeal shall be included in all support plans provided by the
 1281 agency.
 1282 Section 15. Section 393.0654, Florida Statutes, is created
 1283 to read.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1284 393.0654 Direct service providers; private sector
 1285 services.--It is not a violation of s. 112.313(7) for a direct
 1286 service provider who is employed by the agency to own, operate,
 1287 or work in a private facility that is a service provider under
 1288 contract with the agency if:

1289 (1) The employee does not have any role in the agency's
 1290 placement recommendations or the client's decisionmaking process
 1291 regarding placement;

1292 (2) The direct service provider's employment with the
 1293 agency does not compromise the ability of the client to make a
 1294 voluntary choice among private providers for services;

1295 (3) The employee's employment outside the agency does not
 1296 create a conflict with the employee's public duties and does not
 1297 impede the full and faithful discharge of the employee's duties
 1298 as assigned by the agency; and

1299 (4) The service provider discloses the dual employment or
 1300 ownership status to the agency and all clients within the
 1301 provider's care. The disclosure must be given to the agency, the
 1302 client, and the client's guardian or guardian advocate, if
 1303 appropriate.

1304 Section 16. Section 393.0655, Florida Statutes, is amended
 1305 to read:

1306 393.0655 Screening of direct service providers.--

1307 (1) MINIMUM STANDARDS.--The agency shall require level 2
 1308 employment screening pursuant to chapter 435 for direct service
 1309 providers who are unrelated to their clients, including support
 1310 coordinators, and managers and supervisors of residential

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1311 facilities or comprehensive transitional education programs
 1312 licensed under this chapter ~~s. 393.067~~ and any other person,
 1313 including volunteers, who provide care or services, who have
 1314 access to a client's living areas, or who have access to a
 1315 client's funds or personal property. Background screening shall
 1316 include employment history checks as provided in s. 435.03(1)
 1317 and local criminal records checks through local law enforcement
 1318 agencies.

1319 (a) A volunteer who assists on an intermittent basis for
 1320 less than 40 hours per month does not have to be screened if the
 1321 volunteer is under the direct and constant visual supervision of
 1322 persons who meet the screening requirements of this section.

1323 (b) Licensed physicians, nurses, or other professionals
 1324 licensed and regulated by the Department of Health are not
 1325 subject to background screening pursuant to this section if they
 1326 are providing a service that is within their scope of licensed
 1327 practice.

1328 (c) A person selected by the family or the individual with
 1329 developmental disabilities and paid by the family or the
 1330 individual to provide supports or services is not required to
 1331 have a background screening under this section.

1332 (d) Persons 12 years of age or older, including family
 1333 members, residing with a ~~the~~ direct services provider who
 1334 provides services to clients in his or her own place of
 1335 residence, ~~including family members,~~ are subject to background
 1336 screening; however, such persons who are 12 to 18 years of age
 1337 shall be screened for delinquency records only.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1338 (e) A direct service provider who is awaiting the
 1339 completion of background screening is temporarily exempt from
 1340 the screening requirements under this section if the provider is
 1341 under the direct and constant visual supervision of persons who
 1342 meet the screening requirements of this section. Such exemption
 1343 expires 90 days after the direct service provider first provides
 1344 care or services to clients, has access to a client's living
 1345 areas, or has access to a client's funds or personal property.

1346 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may
 1347 grant exemptions from disqualification from working with
 1348 children or adults with developmental disabilities only as
 1349 provided in s. 435.07.

1350 (3) PAYMENT FOR PROCESSING OF FINGERPRINTS AND STATE
 1351 CRIMINAL RECORDS CHECKS.--The costs of processing fingerprints
 1352 and the state criminal records checks shall be borne by the
 1353 employer or by the employee or individual who is being screened.

1354 (4) ~~TERMINATION EXCLUSION FROM OWNING, OPERATING, OR BEING~~
 1355 ~~EMPLOYED BY A DIRECT SERVICE PROVIDER RESIDENTIAL FACILITY;~~
 1356 HEARINGS PROVIDED.--

1357 (a) The agency shall deny, suspend, terminate, or revoke a
 1358 license, certification, rate agreement, purchase order, or
 1359 contract, or pursue other remedies provided in s. 393.0673, s.
 1360 393.0675, or s. 393.0678 in addition to or in lieu of denial,
 1361 suspension, termination, or revocation for failure to comply
 1362 with this section.

1363 (b) When the agency has reasonable cause to believe that
 1364 grounds for denial or termination of employment exist, it shall

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1365 | notify, in writing, the employer and the person ~~direct service~~
 1366 | ~~provider~~ affected, stating the specific record that ~~which~~
 1367 | indicates noncompliance with the standards in this section.

1368 | (c) The procedures established for hearing under chapter
 1369 | 120 shall be available to the employer and the person affected
 1370 | ~~direct service provider~~ in order to present evidence relating
 1371 | either to the accuracy of the basis of exclusion or to the
 1372 | denial of an exemption from disqualification.

1373 | (d) Refusal on the part of an employer to dismiss a
 1374 | manager, supervisor, or direct service provider who has been
 1375 | found to be in noncompliance with standards of this section
 1376 | shall result in automatic denial, termination, or revocation of
 1377 | the license or, certification, rate agreement, purchase order,
 1378 | or contract, in addition to any other remedies pursued by the
 1379 | agency.

1380 | Section 17. Section 393.0657, Florida Statutes, is amended
 1381 | to read:

1382 | 393.0657 Persons not required to be refingerprinted or
 1383 | rescreened.--Persons who have undergone any portion of the
 1384 | background screening required under s. 393.0655 within the last
 1385 | 12 months are ~~Any provision of law to the contrary~~
 1386 | ~~notwithstanding, human resource personnel who have been~~
 1387 | ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~
 1388 | ~~402, and 409, and teachers who have been fingerprinted pursuant~~
 1389 | ~~to chapter 1012, who have not been unemployed for more than 90~~
 1390 | ~~days thereafter, and who under the penalty of perjury attest to~~
 1391 | ~~the completion of such fingerprinting or screening and to~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1392 ~~compliance with the provisions of this section and the standards~~
 1393 ~~for good moral character as contained in such provisions as ss.~~
 1394 ~~110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and~~
 1395 ~~409.175(6), shall not be required to repeat such screening be~~
 1396 ~~refingerprinted or rescreened in order to comply with the any~~
 1397 ~~direct service provider screening or fingerprinting~~
 1398 requirements. Such persons are responsible for providing
 1399 documentation of the screening and shall undergo screening for
 1400 any remaining background screening requirements that have never
 1401 been conducted or have not been completed within the last 12
 1402 months.

1403 Section 18. Section 393.066, Florida Statutes, is amended
 1404 to read:

1405 393.066 Community services and treatment ~~for persons who~~
 1406 ~~are developmentally disabled.--~~

1407 (1) The agency shall plan, develop, organize, and
 1408 implement its programs of services and treatment for persons
 1409 with developmental disabilities ~~who are developmentally disabled~~
 1410 to allow clients to live as independently as possible in their
 1411 own homes or communities and to achieve productive lives as
 1412 close to normal as possible. All elements of community-based
 1413 services shall be made available, and eligibility for these
 1414 services shall be consistent across the state. ~~In addition, all~~
 1415 ~~purchased services shall be approved by the agency.~~

1416 (2) All services needed shall be purchased instead of
 1417 provided directly by the agency, when such arrangement is more

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1418 | cost-efficient than having those services provided directly. All
 1419 | purchased services must be approved by the agency.

1420 | (3) Community-based services that are medically necessary
 1421 | to prevent institutionalization shall, to the extent of
 1422 | available resources, include:

1423 | (a) Adult day training ~~habilitation~~ services, ~~including~~
 1424 | ~~developmental training services.~~

1425 | (b) Family care services.

1426 | (c) Guardian advocate referral services.

1427 | (d) Medical/dental services, except that medical services
 1428 | shall not be provided to clients with spina bifida except as
 1429 | specifically appropriated by the Legislature.

1430 | (e) Parent training.

1431 | (f) Personal care services.

1432 | (g)~~(f)~~ Recreation.

1433 | (h)~~(g)~~ Residential facility services.

1434 | (i)~~(h)~~ Respite services.

1435 | (j)~~(i)~~ Social services.

1436 | (k)~~(j)~~ Specialized therapies.

1437 | (l)~~(k)~~ Supported employment, ~~including enclave, job coach,~~
 1438 | ~~mobile work crew, and follow along services.~~

1439 | (m)~~(l)~~ Supported living.

1440 | (n)~~(m)~~ Training, including behavioral-analysis services
 1441 | ~~behavioral programming.~~

1442 | (o)~~(n)~~ Transportation.

1443 | (p)~~(o)~~ Other habilitative and rehabilitative services as
 1444 | needed.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1445 (4) The agency shall utilize the services of private
 1446 businesses, not-for-profit organizations, and units of local
 1447 government whenever such services are more cost-efficient than
 1448 such services provided directly by the department, including
 1449 arrangements for provision of residential facilities.

1450 (5) In order to improve the potential for utilization of
 1451 more cost-effective, community-based residential facilities, the
 1452 agency shall promote the statewide development of day
 1453 habilitation services for clients who live with a direct service
 1454 provider in a community-based residential facility and who do
 1455 not require 24-hour-a-day care in a hospital or other health
 1456 care institution, but who may, in the absence of day
 1457 habilitation services, require admission to a developmental
 1458 disabilities institution. Each day service facility shall
 1459 provide a protective physical environment for clients, ensure
 1460 that direct service providers meet minimum screening standards
 1461 as required in s. 393.0655, make available to all day
 1462 habilitation service participants at least one meal on each day
 1463 of operation, provide facilities to enable participants to
 1464 obtain needed rest while attending the program, as appropriate,
 1465 and provide social and educational activities designed to
 1466 stimulate interest and provide socialization skills.

1467 (6) To promote independence and productivity, the agency
 1468 shall provide supports and services, within available resources,
 1469 to assist clients enrolled in Medicaid waivers who choose to
 1470 pursue gainful employment.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1471 (7) For the purpose of making needed community-based
 1472 residential facilities available at the least possible cost to
 1473 the state, the agency is authorized to lease privately owned
 1474 residential facilities under long-term rental agreements, if
 1475 such rental agreements are projected to be less costly to the
 1476 state over the useful life of the facility than state purchase
 1477 or state construction of such a facility.

1478 (8) The agency may adopt rules providing definitions,
 1479 eligibility criteria, and procedures for the purchase of
 1480 services ~~to ensure compliance with federal laws or regulations~~
 1481 ~~that apply to services~~ provided pursuant to this section.

1482 Section 19. Section 393.067, Florida Statutes, is amended
 1483 to read:

1484 393.067 Facility licensure of residential facilities and
 1485 ~~comprehensive transitional education programs.--~~

1486 (1) The agency shall provide through its licensing
 1487 authority and by rule license application procedures, ~~a system~~
 1488 ~~of~~ provider qualifications, facility and client care standards,
 1489 requirements for client records, requirements for staff
 1490 qualifications and training criteria for meeting standards, and
 1491 requirements for monitoring foster care for residential
 1492 facilities, group home facilities, residential habilitation
 1493 centers, and comprehensive transitional education programs that
 1494 serve agency clients.

1495 (2) The agency shall conduct annual inspections and
 1496 reviews of ~~residential~~ facilities and ~~comprehensive transitional~~
 1497 ~~education~~ programs licensed under this section annually.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1498 (3) An application for a license under this section must
 1499 ~~for a residential facility or a comprehensive transitional~~
 1500 ~~education program shall~~ be made to the agency on a form
 1501 furnished by it and shall be accompanied by the appropriate
 1502 license fee.

1503 (4) The application shall be under oath and shall contain
 1504 the following:

1505 (a) The name and address of the applicant, if an applicant
 1506 is an individual; if the applicant is a firm, partnership, or
 1507 association, the name and address of each member thereof; if the
 1508 applicant is a corporation, its name and address and the name
 1509 and address of each director and each officer thereof; and the
 1510 name by which the facility or program is to be known.

1511 (b) The location of the facility or program for which a
 1512 license is sought.

1513 (c) The name of the person or persons under whose
 1514 management or supervision the facility or program will be
 1515 conducted.

1516 (d) The number and type of residents or clients for which
 1517 maintenance, care, education, or treatment is to be provided by
 1518 the facility or program.

1519 (e) The number and location of the component centers or
 1520 units which will compose the comprehensive transitional
 1521 education program.

1522 (f) A description of the types of services and treatment
 1523 to be provided by the facility or program.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1524 (g) Information relating to the number, experience, and
 1525 training of the employees of the facility or program.

1526 (h) Certification that the staff of the facility or
 1527 program will receive training to detect and prevent sexual abuse
 1528 of residents and clients.

1529 (i) Such other information as the agency determines is
 1530 necessary to carry out the provisions of this chapter.

1531 ~~(5) The applicant shall submit evidence which establishes~~
 1532 ~~the good moral character of the manager or supervisor of the~~
 1533 ~~facility or program and the direct service providers in the~~
 1534 ~~facility or program and its component centers or units. A~~
 1535 ~~license may be issued if all the screening materials have been~~
 1536 ~~timely submitted; however, a license may not be issued or~~
 1537 ~~renewed if any of the direct service providers have failed the~~
 1538 ~~screening required by s. 393.0655.~~

1539 ~~(a)1. A licensed residential facility or comprehensive~~
 1540 ~~transitional education program which applies for renewal of its~~
 1541 ~~license shall submit to the agency a list of direct service~~
 1542 ~~providers who have worked on a continuous basis at the applicant~~
 1543 ~~facility or program since submitting fingerprints to the agency~~
 1544 ~~or the Department of Children and Family Services, identifying~~
 1545 ~~those direct service providers for whom a written assurance of~~
 1546 ~~compliance was provided by the agency or department and~~
 1547 ~~identifying those direct service providers who have recently~~
 1548 ~~begun working at the facility or program and are awaiting the~~
 1549 ~~results of the required fingerprint check along with the date of~~
 1550 ~~the submission of those fingerprints for processing. The agency~~

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

1551 ~~shall by rule determine the frequency of requests to the~~
1552 ~~Department of Law Enforcement to run state criminal records~~
1553 ~~checks for such direct service providers except for those direct~~
1554 ~~service providers awaiting the results of initial fingerprint~~
1555 ~~checks for employment at the applicant facility or program. The~~
1556 ~~agency shall review the records of the direct service providers~~
1557 ~~at the applicant facility or program with respect to the crimes~~
1558 ~~specified in s. 393.0655 and shall notify the facility or~~
1559 ~~program of its findings. When disposition information is missing~~
1560 ~~on a criminal record, it is the responsibility of the person~~
1561 ~~being screened, upon request of the agency, to obtain and supply~~
1562 ~~within 30 days the missing disposition information to the~~
1563 ~~agency. Failure to supply the missing information within 30 days~~
1564 ~~or to show reasonable efforts to obtain such information shall~~
1565 ~~result in automatic disqualification.~~

1566 ~~2. The applicant shall sign an affidavit under penalty of~~
1567 ~~perjury stating that all new direct service providers have been~~
1568 ~~fingerprinted and that the facility's or program's remaining~~
1569 ~~direct service providers have worked at the applicant facility~~
1570 ~~or program on a continuous basis since being initially screened~~
1571 ~~at that facility or program or have a written assurance of~~
1572 ~~compliance from the agency or department.~~

1573 ~~(5)(b)~~ As a prerequisite for issuance of an the initial or
1574 renewal license, the applicant, and any manager, supervisor, and
1575 staff member of the direct service provider of a facility or
1576 program licensed under this section, must have submitted to
1577 background screening as required under s. 393.0655. A license

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HB 1503, Engrossed 1

2006 Legislature

1578 may not be issued or renewed if the applicant or any manager,
1579 supervisor, or staff member of the direct service provider has
1580 failed background screenings as required under s. 393.0655. The
1581 agency shall determine by rule the frequency of background
1582 screening. The applicant shall submit with each initial or
1583 renewal application a signed affidavit under penalty of perjury
1584 stating that the applicant and any manager, supervisor, or staff
1585 member of the direct service provider is in compliance with all
1586 requirements for background screening. ~~to a residential facility~~
1587 ~~or comprehensive transitional education program.~~

1588 ~~1. The applicant shall submit to the agency a complete set~~
1589 ~~of fingerprints, taken by an authorized law enforcement agency~~
1590 ~~or an employee of the agency who is trained to take~~
1591 ~~fingerprints, for the manager, supervisor, or direct service~~
1592 ~~providers of the facility or program;~~

1593 ~~2. The agency shall submit the fingerprints to the~~
1594 ~~Department of Law Enforcement for state processing and for~~
1595 ~~federal processing by the Federal Bureau of Investigation; and~~

1596 ~~3. The agency shall review the record of the manager or~~
1597 ~~supervisor with respect to the crimes specified in s.~~
1598 ~~393.0655(1) and shall notify the applicant of its findings. When~~
1599 ~~disposition information is missing on a criminal record, it is~~
1600 ~~the responsibility of the manager or supervisor, upon request of~~
1601 ~~the agency, to obtain and supply within 30 days the missing~~
1602 ~~disposition information to the agency. Failure to supply the~~
1603 ~~missing information within 30 days or to show reasonable efforts~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1604 ~~to obtain such information shall result in automatic~~
 1605 ~~disqualification.~~

1606 ~~(c) The agency or a residential facility or comprehensive~~
 1607 ~~transitional education program may not use the criminal records~~
 1608 ~~or juvenile records of a person obtained under this subsection~~
 1609 ~~for any purpose other than determining if that person meets the~~
 1610 ~~minimum standards for good moral character for a manager or~~
 1611 ~~supervisor of, or direct service provider in, such a facility or~~
 1612 ~~program. The criminal records or juvenile records obtained by~~
 1613 ~~the agency or a residential facility or comprehensive~~
 1614 ~~transitional education program for determining the moral~~
 1615 ~~character of a manager, supervisor, or direct service provider~~
 1616 ~~are exempt from s. 119.07(1).~~

1617 ~~(6) Each applicant for licensure as an intermediate care~~
 1618 ~~facility for the developmentally disabled must comply with the~~
 1619 ~~following requirements:~~

1620 ~~(a) Upon receipt of a completed, signed, and dated~~
 1621 ~~application, the agency shall require background screening, in~~
 1622 ~~accordance with the level 2 standards for screening set forth in~~
 1623 ~~chapter 435, of the managing employee, or other similarly titled~~
 1624 ~~individual who is responsible for the daily operation of the~~
 1625 ~~facility, and of the financial officer, or other similarly~~
 1626 ~~titled individual who is responsible for the financial operation~~
 1627 ~~of the center, including billings for resident care and~~
 1628 ~~services. The applicant must comply with the procedures for~~
 1629 ~~level 2 background screening as set forth in chapter 435, as~~
 1630 ~~well as the requirements of s. 435.03(3).~~

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HB 1503, Engrossed 1

2006 Legislature

1631 ~~(b) The agency may require background screening of any~~
1632 ~~other individual who is an applicant if the agency has probable~~
1633 ~~cause to believe that he or she has been convicted of a crime or~~
1634 ~~has committed any other offense prohibited under the level 2~~
1635 ~~standards for screening set forth in chapter 435.~~

1636 ~~(c) Proof of compliance with the level 2 background~~
1637 ~~screening requirements of chapter 435 which has been submitted~~
1638 ~~within the previous 5 years in compliance with any other health~~
1639 ~~care licensure requirements of this state is acceptable in~~
1640 ~~fulfillment of the requirements of paragraph (a).~~

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

1658 ~~the person may not continue to serve if the report indicates any~~
1659 ~~violation of background screening standards and a~~
1660 ~~disqualification exemption has not been requested of and granted~~
1661 ~~by the agency as set forth in chapter 435.~~

1662 ~~(e) Each applicant must submit to the agency, with its~~
1663 ~~application, a description and explanation of any exclusions,~~
1664 ~~permanent suspensions, or terminations of the applicant from the~~
1665 ~~Medicare or Medicaid programs. Proof of compliance with the~~
1666 ~~requirements for disclosure of ownership and control interests~~
1667 ~~under the Medicaid or Medicare programs shall be accepted in~~
1668 ~~lieu of this submission.~~

1669 ~~(f) Each applicant must submit to the agency a description~~
1670 ~~and explanation of any conviction of an offense prohibited under~~
1671 ~~the level 2 standards of chapter 435 by a member of the board of~~
1672 ~~directors of the applicant, its officers, or any individual~~
1673 ~~owning 5 percent or more of the applicant. This requirement does~~
1674 ~~not apply to a director of a not-for-profit corporation or~~
1675 ~~organization if the director serves solely in a voluntary~~
1676 ~~capacity for the corporation or organization, does not regularly~~
1677 ~~take part in the day-to-day operational decisions of the~~
1678 ~~corporation or organization, receives no remuneration for his or~~
1679 ~~her services on the corporation or organization's board of~~
1680 ~~directors, and has no financial interest and has no family~~
1681 ~~members with a financial interest in the corporation or~~
1682 ~~organization, provided that the director and the not-for-profit~~
1683 ~~corporation or organization include in the application a~~

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

1684 ~~statement affirming that the director's relationship to the~~
1685 ~~corporation satisfies the requirements of this paragraph.~~

1686 ~~(g) A license may not be granted to an applicant if the~~
1687 ~~applicant or managing employee has been found guilty of,~~
1688 ~~regardless of adjudication, or has entered a plea of nolo~~
1689 ~~contendere or guilty to, any offense prohibited under the level~~
1690 ~~2 standards for screening set forth in chapter 435, unless an~~
1691 ~~exemption from disqualification has been granted by the agency~~
1692 ~~as set forth in chapter 435.~~

1693 ~~(h) The agency may deny or revoke licensure if the~~
1694 ~~applicant:~~

1695 ~~1. Has falsely represented a material fact in the~~
1696 ~~application required by paragraph (e) or paragraph (f), or has~~
1697 ~~omitted any material fact from the application required by~~
1698 ~~paragraph (e) or paragraph (f); or~~

1699 ~~2. Has had prior action taken against the applicant under~~
1700 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1701 ~~(i) An application for license renewal must contain the~~
1702 ~~information required under paragraphs (e) and (f).~~

1703 ~~(6)(7)~~ The applicant shall furnish satisfactory proof of
1704 financial ability to operate and conduct the facility or program
1705 in accordance with the requirements of this chapter and adopted
1706 ~~all rules promulgated hereunder.~~

1707 ~~(7)(8)~~ The agency shall adopt rules establishing minimum
1708 standards for licensure of residential facilities and
1709 ~~comprehensive transitional education programs~~ licensed under
1710 this section, including rules requiring facilities and programs

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 HB 1503, Engrossed 1

2006 Legislature

1711 to train staff to detect and prevent sexual abuse of residents
 1712 and clients, minimum standards of quality and adequacy of client
 1713 care, incident-reporting requirements, and uniform firesafety
 1714 standards established by the State Fire Marshal which are
 1715 appropriate to the size of the facility or of the component
 1716 centers or units of the program.

1717 (8)(9) The agency ~~and the Agency for Health Care~~
 1718 ~~Administration,~~ after consultation with the Department of
 1719 Community Affairs, shall adopt rules for foster care residential
 1720 facilities, group home facilities, and residential habilitation
 1721 centers which establish under the respective regulatory
 1722 ~~jurisdiction of each establishing~~ minimum standards for the
 1723 preparation and annual update of a comprehensive emergency
 1724 management plan. At a minimum, the rules must provide for plan
 1725 components that address emergency evacuation transportation;
 1726 adequate sheltering arrangements; postdisaster activities,
 1727 including emergency power, food, and water; postdisaster
 1728 transportation; supplies; staffing; emergency equipment;
 1729 individual identification of residents and transfer of records;
 1730 and responding to family inquiries. The comprehensive emergency
 1731 management plan for all comprehensive transitional education
 1732 programs and for homes serving individuals who have complex
 1733 medical conditions is subject to review and approval by the
 1734 local emergency management agency. During its review, the local
 1735 emergency management agency shall ensure that the agency and the
 1736 Department of Community Affairs ~~following agencies,~~ at a
 1737 minimum, are given the opportunity to review the plan: ~~the~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1738 ~~Agency for Health Care Administration, the Agency for Persons~~
 1739 ~~with Disabilities, and the Department of Community Affairs.~~
 1740 Also, appropriate volunteer organizations must be given the
 1741 opportunity to review the plan. The local emergency management
 1742 agency shall complete its review within 60 days and either
 1743 approve the plan or advise the facility of necessary revisions.
 1744 (9)~~(10)~~ The agency may conduct unannounced inspections to
 1745 determine compliance by foster care residential facilities,
 1746 group home facilities, residential habilitation centers, and
 1747 comprehensive transitional education programs with the
 1748 applicable provisions of this chapter and the rules adopted
 1749 pursuant hereto, including the rules adopted for training staff
 1750 of a facility or a program to detect and prevent sexual abuse of
 1751 residents and clients. The facility or program shall make copies
 1752 of inspection reports available to the public upon request.
 1753 ~~(11) An alternative living center and an independent~~
 1754 ~~living education center, as defined in s. 393.063, shall be~~
 1755 ~~subject to the provisions of s. 419.001, except that such~~
 1756 ~~centers shall be exempt from the 1,000 foot radius requirement~~
 1757 ~~of s. 419.001(2) if:~~
 1758 ~~(a) Such centers are located on a site zoned in a manner~~
 1759 ~~so that all the component centers of a comprehensive transition~~
 1760 ~~education center may be located thereon; or~~
 1761 ~~(b) There are no more than three such centers within said~~
 1762 ~~radius of 1,000 feet.~~
 1763 (10)~~(12)~~ Each ~~residential~~ facility or comprehensive
 1764 ~~transitional education~~ program licensed under this section by

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1765 ~~the agency~~ shall forward annually to the agency a true and
 1766 accurate sworn statement of its costs of providing care to
 1767 clients funded by the agency.

1768 (11)~~(13)~~ The agency may audit the records of any
 1769 ~~residential facility or comprehensive transitional education~~
 1770 program that it has reason to believe may not be in full
 1771 compliance with the provisions of this section; provided that,
 1772 any financial audit of such facility or program shall be limited
 1773 to the records of clients funded by the agency.

1774 (12)~~(14)~~ The agency shall establish, for the purpose of
 1775 control of licensure costs, a uniform management information
 1776 system and a uniform reporting system with uniform definitions
 1777 and reporting categories.

1778 (13)~~(15)~~ Facilities and programs licensed pursuant to this
 1779 section shall adhere to all rights specified in s. 393.13,
 1780 including those enumerated in s. 393.13(4).

1781 (14)~~(16)~~ An ~~No~~ unlicensed ~~residential~~ facility or
 1782 ~~comprehensive transitional education~~ program may not ~~shall~~
 1783 receive state funds. A license for the operation of a facility
 1784 or program shall not be renewed if the licensee has any
 1785 outstanding fines assessed pursuant to this chapter wherein
 1786 final adjudication of such fines has been entered.

1787 (15)~~(17)~~ The agency is ~~shall~~ not ~~be~~ required to contract
 1788 with new facilities licensed after October 1, 1989, pursuant to
 1789 this chapter. Pursuant to chapter 287, the agency shall continue
 1790 to contract within available resources for residential services
 1791 with facilities licensed prior to October 1, 1989, if such

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1792 facilities comply with the provisions of this chapter and all
 1793 other applicable laws and regulations.

1794 Section 20. Section 393.0673, Florida Statutes, is amended
 1795 to read:

1796 393.0673 Denial, suspension, revocation of license;
 1797 moratorium on admissions; administrative fines; procedures.--

1798 (1) The agency may deny, revoke, or suspend a license or
 1799 impose an administrative fine, not to exceed \$1,000 per
 1800 violation per day, if the applicant or licensee:

1801 (a) Has falsely represented, or omitted a material fact in
 1802 its license application submitted under s. 393.067.

1803 (b) Has had prior action taken against it under the
 1804 Medicaid or Medicare program.

1805 (c) Has failed to comply with the applicable requirements
 1806 of this chapter or rules applicable to the applicant or licensee
 1807 for a violation of any provision of s. 393.0655 or s. 393.067 or
 1808 rules adopted pursuant thereto.

1809 (2) All hearings shall be held within the county in which
 1810 the licensee or applicant operates or applies for a license to
 1811 operate a facility as defined herein.

1812 ~~(3)-(2)~~ The agency, as a part of any final order issued by
 1813 it under ~~the provisions of~~ this chapter, may impose such fine as
 1814 it deems proper, except that such fine may not exceed \$1,000 for
 1815 each violation. Each day a violation of this chapter occurs
 1816 constitutes a separate violation and is subject to a separate
 1817 fine, but in no event may the aggregate amount of any fine
 1818 exceed \$10,000. Fines paid by any facility licensee under the

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1819 provisions of this subsection shall be deposited in the Resident
 1820 Protection Trust Fund and expended as provided in s. 400.063.

1821 ~~(4)(3)~~ The agency may issue an order immediately
 1822 suspending or revoking a license when it determines that any
 1823 condition in the facility presents a danger to the health,
 1824 safety, or welfare of the residents in the facility.

1825 ~~(5)(4)~~ The agency may impose an immediate moratorium on
 1826 admissions to any facility when the department determines that
 1827 any condition in the facility presents a threat to the health,
 1828 safety, or welfare of the residents in the facility.

1829 (6) The agency shall establish by rule criteria for
 1830 evaluating the severity of violations and for determining the
 1831 amount of fines imposed.

1832 Section 21. Subsection (1) of section 393.0674, Florida
 1833 Statutes, is amended to read:

1834 393.0674 Penalties.--

1835 (1) It is a misdemeanor of the first degree, punishable as
 1836 provided in s. 775.082 or s. 775.083, for any person willfully,
 1837 knowingly, or intentionally to:

1838 (a) Fail, by false statement, misrepresentation,
 1839 impersonation, or other fraudulent means, to disclose in any
 1840 application for voluntary or paid employment a material fact
 1841 used in making a determination as to such person's
 1842 qualifications to be a direct service provider;

1843 (b) Provide or attempt to provide supports or services
 1844 with direct service providers who are not in compliance
 1845 ~~noncompliance~~ with the background screening requirements ~~minimum~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1846 | ~~standards for good moral character as contained~~ in this chapter;
 1847 | or

1848 | (c) Use information from the criminal records or central
 1849 | abuse hotline obtained under s. 393.0655, s. 393.066, or s.
 1850 | 393.067 for any purpose other than screening that person for
 1851 | employment as specified in those sections or release such
 1852 | information to any other person for any purpose other than
 1853 | screening for employment as specified in those sections.

1854 | Section 22. Subsection (3) of section 393.0675, Florida
 1855 | Statutes, is amended to read:

1856 | 393.0675 Injunctive proceedings authorized.--

1857 | (3) The agency may institute proceedings for an injunction
 1858 | in a court of competent jurisdiction to terminate the operation
 1859 | of a provider of supports or services if such provider has
 1860 | willfully and knowingly refused to comply with the screening
 1861 | requirement for direct service providers or has refused to
 1862 | terminate direct service providers found not to be in compliance
 1863 | with such ~~the requirements for good moral character~~.

1864 | Section 23. Subsection (1) of section 393.0678, Florida
 1865 | Statutes, is amended to read:

1866 | 393.0678 Receivership proceedings.--

1867 | (1) The agency may petition a court of competent
 1868 | jurisdiction for the appointment of a receiver for ~~an~~
 1869 | ~~intermediate care facility for the developmentally disabled,~~ a
 1870 | residential habilitation center, or a group home facility owned
 1871 | and operated by a corporation or partnership when any of the
 1872 | following conditions exist:

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 HB 1503, Engrossed 1

2006 Legislature

1873 (a) Any person is operating a facility without a license
 1874 and refuses to make application for a license as required by s.
 1875 393.067 ~~or, in the case of an intermediate care facility for the~~
 1876 ~~developmentally disabled, as required by ss. 393.067 and~~
 1877 ~~400.062.~~

1878 (b) The licensee is closing the facility or has informed
 1879 the department that it intends to close the facility; and
 1880 adequate arrangements have not been made for relocation of the
 1881 residents within 7 days, exclusive of weekends and holidays, of
 1882 the closing of the facility.

1883 (c) The agency determines that conditions exist in the
 1884 facility which present an imminent danger to the health, safety,
 1885 or welfare of the residents of the facility or which present a
 1886 substantial probability that death or serious physical harm
 1887 would result therefrom. Whenever possible, the agency shall
 1888 facilitate the continued operation of the program.

1889 (d) The licensee cannot meet its financial obligations to
 1890 provide food, shelter, care, and utilities. Evidence such as the
 1891 issuance of bad checks or the accumulation of delinquent bills
 1892 for such items as personnel salaries, food, drugs, or utilities
 1893 constitutes prima facie evidence that the ownership of the
 1894 facility lacks the financial ability to operate the home in
 1895 accordance with the requirements of this chapter and all rules
 1896 promulgated thereunder.

1897 Section 24. Subsections (1), (2), (3), (5), and (7) of
 1898 section 393.068, Florida Statutes, are amended to read:

1899 393.068 Family care program.--

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1900 (1) The family care program is established for the purpose
 1901 of providing services and support to families and individuals
 1902 with developmental disabilities in order to maintain the
 1903 individual in the home environment and avoid costly out-of-home
 1904 residential placement. Services and support available to
 1905 families and individuals with developmental disabilities shall
 1906 emphasize community living and self-determination and enable
 1907 individuals with developmental disabilities to enjoy typical
 1908 lifestyles. One way to accomplish this is to recognize that
 1909 families are the greatest resource available to individuals who
 1910 have developmental disabilities and must be supported in their
 1911 role as primary care givers.

1912 (2) Services and support authorized under the family care
 1913 ~~this~~ program shall, to the extent of available resources,
 1914 include the services listed under s. 393.066 and, in addition,
 1915 shall include, but not be limited to:

- 1916 (a) Attendant care.
- 1917 (b) Barrier-free modifications to the home.
- 1918 (c) Home visitation by agency workers.
- 1919 (d) In-home subsidies.
- 1920 (e) Low-interest loans.
- 1921 (f) Modifications for vehicles used to transport the
 1922 individual with a developmental disability.
- 1923 (g) Facilitated communication.
- 1924 (h) Family counseling.
- 1925 (i) Equipment and supplies.
- 1926 (j) Self-advocacy training.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

1927 (k) Roommate services.

1928 (l) Integrated community activities.

1929 (m) Emergency services.

1930 (n) Support coordination.

1931 ~~(o) Supported employment.~~

1932 (o) ~~(p)~~ Other support services as identified by the family
 1933 or individual.

1934 (3) When it is determined by the agency to be more cost-
 1935 effective and in the best interest of the client to maintain
 1936 such client in the home of a direct service provider, the parent
 1937 or guardian of the client or, if competent, the client may
 1938 enroll the client in the family care program. The direct service
 1939 provider of a client enrolled in the family care program shall
 1940 be reimbursed according to a rate schedule set by the agency,
 1941 except that ~~in-home subsidies cited in paragraph (2)(d)~~ shall
 1942 be provided in accordance with ~~according to~~ s. 393.0695 ~~and are~~
 1943 ~~not subject to any other payment method or rate schedule~~
 1944 ~~provided for in this section.~~

1945 (5) The agency may contract for the provision of any
 1946 portion of the services required by the program, except for in-
 1947 home subsidies ~~cited in paragraph (2)(d)~~, which shall be
 1948 provided pursuant to s. 393.0695. ~~Otherwise, purchase of service~~
 1949 ~~contracts shall be used~~ whenever the services so provided are
 1950 more cost-efficient than those provided by the agency.

1951 (7) To provide a range of personal care services for the
 1952 client, the use of volunteers shall be maximized. The agency
 1953 shall assure appropriate insurance coverage to protect

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

1954 | volunteers from personal liability while acting within the scope
 1955 | of their volunteer assignments under the program.

1956 | Section 25. Subsection (3) of section 393.0695, Florida
 1957 | Statutes, is amended, and subsection (5) is added to that
 1958 | section, to read:

1959 | 393.0695 Provision of in-home subsidies.--

1960 | (3) In-home subsidies must be based on an individual
 1961 | determination of need and must not exceed maximum amounts set by
 1962 | the agency and reassessed by the agency quarterly ~~annually~~.

1963 | (5) The agency shall adopt rules to administer this
 1964 | section, including standards and procedures governing
 1965 | eligibility for services, selection of housing, selection of
 1966 | providers, and planning for services, and requirements for
 1967 | ongoing monitoring.

1968 | Section 26. Subsection (2) of section 393.075, Florida
 1969 | Statutes, is amended to read:

1970 | 393.075 General liability coverage.--

1971 | (2) The Division of Risk Management of the Department of
 1972 | Financial Services shall provide coverage through the agency to
 1973 | any person who owns or operates a foster care facility or group
 1974 | home facility solely for the agency, who cares for children
 1975 | placed by ~~developmental services staff of~~ the agency, and who is
 1976 | licensed pursuant to s. 393.067 to provide such supervision and
 1977 | care in his or her place of residence. The coverage shall be
 1978 | provided from the general liability account of the State Risk
 1979 | Management Trust Fund. The coverage is limited to general
 1980 | liability claims arising from the provision of supervision and

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 HB 1503, Engrossed 1

2006 Legislature

1981 care of children in a foster care facility or group home
 1982 facility pursuant to an agreement with the agency and pursuant
 1983 to guidelines established through policy, rule, or statute.
 1984 Coverage shall be subject to the limits provided in ss. 284.38
 1985 and 284.385, and the exclusions set forth therein, together with
 1986 other exclusions as may be set forth in the certificate of
 1987 coverage issued by the trust fund. A person covered under the
 1988 general liability account pursuant to this subsection shall
 1989 immediately notify the Division of Risk Management of the
 1990 Department of Financial Services of any potential or actual
 1991 claim.

1992 Section 27. Section 393.11, Florida Statutes, is amended
 1993 to read:

1994 393.11 Involuntary admission to residential services.--

1995 (1) JURISDICTION.-- When a person is mentally retarded and
 1996 requires involuntary admission to residential services provided
 1997 by the agency, the circuit court of the county in which the
 1998 person resides shall have jurisdiction to conduct a hearing and
 1999 enter an order involuntarily admitting the person in order that
 2000 the person may receive the care, treatment, habilitation, and
 2001 rehabilitation which the person needs. For the purpose of
 2002 identifying mental retardation, diagnostic capability shall be
 2003 established by the agency. Except as otherwise specified, the
 2004 proceedings under this section shall be governed by the Florida
 2005 Rules of Civil Procedure.

2006 (2) PETITION.--

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 HB 1503, Engrossed 1

2006 Legislature

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:

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.
 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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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,
 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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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, including the agency, may appeal to the
 2287 appropriate district court of appeal within the time and in the
 2288 manner prescribed by the 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~~
 2295 ~~developmental services program of the agency,~~ or the person's
 2296 parent or legal guardian in his or her behalf, is entitled to

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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~~
 2323 | ~~are developmentally disabled~~ must be designed to meet the needs

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

2378 rehabilitative services suited to the needs of the individual
 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.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

2432 refuse treatment, subject to the provisions of s. 393.12(2)(a)
 2433 or chapter 744.

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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.

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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~~
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~~.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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:

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.
 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

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 HB 1503, Engrossed 1

2006 Legislature

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,~~

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).~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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~~
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.~~

2823 ~~(2)(3)~~ 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.~~

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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

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HB 1503, Engrossed 1

2006 Legislature

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
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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.
 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;

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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:

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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:

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:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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~~
 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~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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) "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.~~

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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~~
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.~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

- 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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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:

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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"
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

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 HB 1503, Engrossed 1

2006 Legislature

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~~
 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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 3711 purpose. The county commissioners may make periodic inspections
 3712 to assure that the services or facilities provided under this

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 3739 are implemented by the district school board, educational

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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~~

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

3794 | rules ~~to which shall~~ assist in the orderly transfer of the
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

3820 provides to its clients either directly or through its agencies
 3821 or contractors, except for:

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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,
 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.--

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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
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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.~~

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.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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.

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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:

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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:

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

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,~~
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:

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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
 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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.

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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

- 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:
- 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.

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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.--

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

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

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. Part III of chapter 282, Florida Statutes,
 4363 | consisting of sections 282.601, 282.602, 282.603, 282.604,
 4364 | 282.605, and 282.606, is created to read:

4365 | PART III

4366 | ACCESSIBILITY OF INFORMATION AND TECHNOLOGY

4367 |
 4368 | 282.601 Accessibility of electronic information and
 4369 | information technology.--

4370 | (1) In order to improve the accessibility of electronic
 4371 | information and information technology and increase the
 4372 | successful education, employment, access to governmental
 4373 | information and services, and involvement in community life, the
 4374 | executive, legislative, and judicial branches of state
 4375 | government shall, when developing, competitively procuring,
 4376 | maintaining, or using electronic information or information
 4377 | technology acquired on or after July 1, 2006, ensure that state
 4378 | employees with disabilities have access to and are provided with
 4379 | information and data comparable to the access and use by state
 4380 | employees who are not individuals with disabilities, unless an
 4381 | undue burden would be imposed on the agency.

4382 | (2) Individuals with disabilities who are members of the
 4383 | public seeking information or services from state agencies that

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

4384 are subject to this part shall be provided with access to and
4385 use of information and data comparable to that provided to the
4386 public who are not individuals with disabilities, unless an
4387 undue burden would be imposed on the agency.

4388 282.602 Definitions.--As used in this part, the term:

4389 (1) "Accessible electronic information and information
4390 technology" means electronic information and information
4391 technology that conforms to the standards for accessible
4392 electronic information and information technology as set forth
4393 by s. 508 of the Rehabilitation Act of 1973, as amended, and 29
4394 U.S.C. s. 794(d), including the regulations set forth under 36
4395 C.F.R. part 1194.

4396 (2) "Alternate methods" means a different means of
4397 providing information to people with disabilities, including
4398 product documentation. The term includes, but is not limited to,
4399 voice, facsimile, relay service, TTY, Internet posting,
4400 captioning, text-to-speech synthesis, and audio description.

4401 (3) "Electronic information and information technology"
4402 includes information technology and any equipment or
4403 interconnected system or subsystem of equipment that is used in
4404 creating, converting, or duplicating data or information. The
4405 term includes, but is not limited to, telecommunications
4406 products such as telephones, information kiosks and transaction
4407 machines, Internet websites, multimedia systems, and office
4408 equipment such as copiers and facsimile machines. The term does
4409 not include any equipment that contains embedded information
4410 technology that is an integral part of the product if the

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

4411 principal function of the technology is not the acquisition,
 4412 storage, manipulation, management, movement, control, display,
 4413 switching, interchange, transmission, or reception of data or
 4414 information.

4415 (4) "Information technology" means any equipment or
 4416 interconnected system or subsystem of equipment that is used in
 4417 the automatic acquisition, storage, manipulation, management,
 4418 movement, control, display, switching, interchange,
 4419 transmission, or reception of data or information. The term
 4420 includes computers, ancillary equipment, software, firmware and
 4421 similar procedures, services, and support services, and related
 4422 resources.

4423 (5) "Undue burden" means significant difficulty or
 4424 expense. In determining whether an action would result in an
 4425 undue burden, a state agency shall consider all agency resources
 4426 that are available to the program or component for which the
 4427 product is being developed, procured, maintained, or used.

4428 (6) "State agency" means any agency of the executive,
 4429 legislative, or judicial branch of state government.

4430 282.603 Access to electronic and information technology
 4431 for persons with disabilities; undue burden; limitations.--

4432 (1) Each state agency shall develop, procure, maintain,
 4433 and use accessible electronic information and information
 4434 technology acquired on or after July 1, 2006, that conforms to
 4435 the applicable provisions set forth by s. 508 of the
 4436 Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d),
 4437 including the regulations set forth under 36 C.F.R. part 1194,

ENROLLED
 HB 1503, Engrossed 1

2006 Legislature

4438 except when compliance with this section imposes an undue
 4439 burden; however, in such instance, a state agency must provide
 4440 individuals with disabilities with the information and data
 4441 involved by an alternative method of access that allows the
 4442 individual to use the information and data.

4443 (2) This section does not require a state agency to
 4444 install specific accessibility-related software or attach an
 4445 assistive-technology device at a work station of a state
 4446 employee who is not an individual with a disability.

4447 (3) This section does not require a state agency, when
 4448 providing the public with access to information or data through
 4449 electronic information technology, to make products owned by the
 4450 state agency available for access and use by individuals with
 4451 disabilities at a location other than the location at which the
 4452 electronic information and information technology are normally
 4453 provided to the public. This section does not require a state
 4454 agency to purchase products for access and use by individuals
 4455 with disabilities at a location other than at the location where
 4456 the electronic information and information technology are
 4457 normally provided to the public.

4458 282.604 Adoption of rules.--The Department of Management
 4459 Services shall, with input from stakeholders, adopt rules
 4460 pursuant to ss. 120.536(1) and 120.54 for the development,
 4461 procurement, maintenance, and use of accessible electronic
 4462 information technology by governmental units.

4463 282.605 Exceptions.--

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

4464 (1) This part does not apply to electronic information and
4465 information technology of the Department of Military Affairs or
4466 the Florida National Guard if the function, operation, or use of
4467 the information or technology involves intelligence activities
4468 or cryptologic activities related to national security, the
4469 command and control of military forces, equipment that is an
4470 integral part of a weapon or weapons system, or systems that are
4471 critical to the direct fulfillment of military or intelligence
4472 missions. Systems that are critical to the direct fulfillment of
4473 military or intelligence missions do not include a system that
4474 is used for routine administrative and business applications,
4475 including, but not limited to, payroll, finance, logistics, and
4476 personnel-management applications.

4477 (2) This part does not apply to electronic information and
4478 information technology of a state agency if the function,
4479 operation, or use of the information or technology involves
4480 criminal intelligence activities. Such activities do not include
4481 information or technology that is used for routine
4482 administrative and business applications, including, but not
4483 limited to, payroll, finance, logistics, and personnel-
4484 management applications.

4485 (3) This part does not apply to electronic information and
4486 information technology that is acquired by a contractor and that
4487 is incidental to the contract.

4488 (4) This part applies to competitive solicitations issued
4489 or new systems developed by a state agency on or after July 1,
4490 2006.

ENROLLED

HB 1503, Engrossed 1

2006 Legislature

4491 282.606 Intent.--It is the intent of the Legislature that,
4492 in construing this part, due consideration and great weight be
4493 given to the interpretations of the federal courts relating to
4494 comparable provisions of s. 508 of the Rehabilitation Act of
4495 1973, as amended, and 29 U.S.C. s. 794(d), including the
4496 regulations set forth under 36 C.F.R. part 1194, as of July 1,
4497 2006.

4498 Section 74. This act shall take effect July 1, 2006.