

Bill No. SB 2012

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CHAMBER ACTION

Senate

House

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The Committee on Children and Families (Campbell) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (b) of subsection (7) of section 39.001, Florida Statutes, is amended to read:

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

(7) PLAN FOR COMPREHENSIVE APPROACH.--

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

- 1. The department shall establish an interprogram task force comprised of the Program Director for Family Safety, or a designee, a representative from the Child Care Services Program Office, a representative from the Family Safety Program Office, a representative from the Mental Health Program Office, a representative from the Substance Abuse Program Office, a representative from the Agency for Persons

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1 with Disabilities ~~Developmental Disabilities Program Office,~~
2 and a representative from the Division of Children's Medical
3 Services Network ~~Prevention and Intervention~~ of the Department
4 of Health. Representatives of the Department of Law
5 Enforcement and of the Department of Education shall serve as
6 ex officio members of the interprogram task force. The
7 interprogram task force shall be responsible for:

8 a. Developing a plan of action for better coordination
9 and integration of the goals, activities, and funding
10 pertaining to the prevention of child abuse, abandonment, and
11 neglect conducted by the department in order to maximize staff
12 and resources at the state level. The plan of action shall be
13 included in the state plan.

14 b. Providing a basic format to be utilized by the
15 districts in the preparation of local plans of action in order
16 to provide for uniformity in the district plans and to provide
17 for greater ease in compiling information for the state plan.

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

20 d. Examining the local plans to determine if all the
21 requirements of the local plans have been met and, if they
22 have not, informing the districts of the deficiencies and
23 requesting the additional information needed.

24 e. Preparing the state plan for submission to the
25 Legislature and the Governor. Such preparation shall include
26 the collapsing of information obtained from the local plans,
27 the cooperative plans with the Department of Education, and
28 the plan of action for coordination and integration of
29 departmental activities into one comprehensive plan. The
30 comprehensive plan shall include a section reflecting general
31 conditions and needs, an analysis of variations based on

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1 population or geographic areas, identified problems, and
 2 recommendations for change. In essence, the plan shall provide
 3 an analysis and summary of each element of the local plans to
 4 provide a statewide perspective. The plan shall also include
 5 each separate local plan of action.

6 f. Working with the specified state agency in
 7 fulfilling the requirements of subparagraphs 2., 3., 4., and
 8 5.

9 2. The department, the Department of Education, and
 10 the Department of Health shall work together in developing
 11 ways to inform and instruct parents of school children and
 12 appropriate district school personnel in all school districts
 13 in the detection of child abuse, abandonment, and neglect and
 14 in the proper action that should be taken in a suspected case
 15 of child abuse, abandonment, or neglect, and in caring for a
 16 child's needs after a report is made. The plan for
 17 accomplishing this end shall be included in the state plan.

18 3. The department, the Department of Law Enforcement,
 19 and the Department of Health shall work together in developing
 20 ways to inform and instruct appropriate local law enforcement
 21 personnel in the detection of child abuse, abandonment, and
 22 neglect and in the proper action that should be taken in a
 23 suspected case of child abuse, abandonment, or neglect.

24 4. Within existing appropriations, the department
 25 shall work with other appropriate public and private agencies
 26 to emphasize efforts to educate the general public about the
 27 problem of and ways to detect child abuse, abandonment, and
 28 neglect and in the proper action that should be taken in a
 29 suspected case of child abuse, abandonment, or neglect. The
 30 plan for accomplishing this end shall be included in the state
 31 plan.

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

13 6. Each district of the department shall develop a
14 plan for its specific geographical area. The plan developed at
15 the district level shall be submitted to the interprogram task
16 force for utilization in preparing the state plan. The
17 district local plan of action shall be prepared with the
18 involvement and assistance of the local agencies and
19 organizations listed in paragraph (a), as well as
20 representatives from those departmental district offices
21 participating in the treatment and prevention of child abuse,
22 abandonment, and neglect. In order to accomplish this, the
23 district administrator in each district shall establish a task
24 force on the prevention of child abuse, abandonment, and
25 neglect. The district administrator shall appoint the members
26 of the task force in accordance with the membership
27 requirements of this section. In addition, the district
28 administrator shall ensure that each subdistrict is
29 represented on the task force; and, if the district does not
30 have subdistricts, the district administrator shall ensure
31 that both urban and rural areas are represented on the task

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1 force. The task force shall develop a written statement
 2 clearly identifying its operating procedures, purpose, overall
 3 responsibilities, and method of meeting responsibilities. The
 4 district plan of action to be prepared by the task force shall
 5 include, but shall not be limited to:

6 a. Documentation of the magnitude of the problems of
 7 child abuse, including sexual abuse, physical abuse, and
 8 emotional abuse, and child abandonment and neglect in its
 9 geographical area.

10 b. A description of programs currently serving abused,
 11 abandoned, and neglected children and their families and a
 12 description of programs for the prevention of child abuse,
 13 abandonment, and neglect, including information on the impact,
 14 cost-effectiveness, and sources of funding of such programs.

15 c. A continuum of programs and services necessary for
 16 a comprehensive approach to the prevention of all types of
 17 child abuse, abandonment, and neglect as well as a brief
 18 description of such programs and services.

19 d. A description, documentation, and priority ranking
 20 of local needs related to child abuse, abandonment, and
 21 neglect prevention based upon the continuum of programs and
 22 services.

23 e. A plan for steps to be taken in meeting identified
 24 needs, including the coordination and integration of services
 25 to avoid unnecessary duplication and cost, and for alternative
 26 funding strategies for meeting needs through the reallocation
 27 of existing resources, utilization of volunteers, contracting
 28 with local universities for services, and local government or
 29 private agency funding.

30 f. A description of barriers to the accomplishment of
 31 a comprehensive approach to the prevention of child abuse,

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1 abandonment, and neglect.

2 g. Recommendations for changes that can be
3 accomplished only at the state program level or by legislative
4 action.

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

7 39.202 Confidentiality of reports and records in cases
8 of child abuse or neglect.--

9 (2) Except as provided in subsection (4), access to
10 such records, excluding the name of the reporter which shall
11 be released only as provided in subsection (5), shall be
12 granted only to the following persons, officials, and
13 agencies:

14 (a) Employees, authorized agents, or contract
15 providers of the department, the Department of Health, the
16 Agency for Persons with Disabilities, or county agencies
17 responsible for carrying out:

- 18 1. Child or adult protective investigations;
- 19 2. Ongoing child or adult protective services;
- 20 3. Healthy Start services; or
- 21 4. Licensure or approval of adoptive homes, foster
22 homes, ~~or~~ child care facilities, facilities licensed under
23 chapter 393, or family day care homes or informal child care
24 providers who receive subsidized child care funding, or other
25 homes used to provide for the care and welfare of children.
- 26 5. Services for victims of domestic violence when
27 provided by certified domestic violence centers working at the
28 department's request as case consultants or with shared
29 clients.

30
31 Also, employees or agents of the Department of Juvenile

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1 Justice responsible for the provision of services to children,
2 pursuant to chapters 984 and 985.

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

5 1. Administration or supervision of the department's
6 program for the prevention, investigation, or treatment of
7 child abuse, abandonment, or neglect, or abuse, neglect, or
8 exploitation of a vulnerable adult, when carrying out his or
9 her official function;

10 2. Taking appropriate administrative action concerning
11 an employee of the department or the agency who is alleged to
12 have perpetrated child abuse, abandonment, or neglect, or
13 abuse, neglect, or exploitation of a vulnerable adult; or

14 3. Employing and continuing employment of personnel of
15 the department or the agency.

16 Section 3. Subsection (5) of section 39.407, Florida
17 Statutes, is amended to read:

18 39.407 Medical, psychiatric, and psychological
19 examination and treatment of child; physical or mental
20 examination of parent or person requesting custody of child.--

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

24 The judge may also order such child to receive mental health
25 ~~or developmental disabilities~~ services from a psychiatrist,
26 psychologist, or other appropriate service provider. Except
27 as provided in subsection (6), if it is necessary to place the
28 child in a residential facility for such services, the
29 procedures and criteria established in s. 394.467 ~~or chapter~~
30 ~~393~~ shall be used, ~~whichever is applicable~~. A child may be
31 provided ~~developmental disabilities~~ or mental health services

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1 in emergency situations, pursuant to the procedures and
2 criteria contained in s. 394.463(1) ~~or chapter 393, whichever~~
3 ~~is applicable.~~

4 Section 4. Section 287.155, Florida Statutes, is
5 amended to read:

6 287.155 Motor vehicles; purchase by Division of
7 Universities, Department of Children and Family Services,
8 Agency for Persons with Disabilities, Department of Health,
9 Department of Juvenile Justice, and Department of
10 Corrections.--

11 (1) The Division of Universities of the Department of
12 Education, the Department of Children and Family Services, the
13 Agency for Persons with Disabilities, the Department of
14 Health, the Department of Juvenile Justice, and the Department
15 of Corrections may ~~are hereby authorized~~, subject to the
16 approval of the Department of Management Services, ~~to~~ purchase
17 automobiles, trucks, tractors, and other automotive equipment
18 for the use of institutions under the management of the
19 Division of Universities, the Department of Children and
20 Family Services, the Agency for Persons with Disabilities, the
21 Department of Health, and the Department of Corrections, and
22 for the use of residential facilities managed or contracted by
23 the Department of Juvenile Justice.

24 (2) The Department of Corrections shall, prior to
25 purchasing motor vehicles, seek to procure the motor vehicles
26 from those vehicles renovated pursuant to correctional work
27 programs of the Department of Corrections, and for the use of
28 residential facilities managed or contracted by the Department
29 of Juvenile Justice.

30 (3) The Department of Health is authorized, subject to
31 the approval of the Department of Management Services, to

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1 purchase automobiles, trucks, and other automotive equipment
2 for use by county health departments.

3 Section 5. Paragraph (a) of subsection (3) of section
4 381.0072, Florida Statutes, is amended to read:

5 381.0072 Food service protection.--It shall be the
6 duty of the Department of Health to adopt and enforce
7 sanitation rules consistent with law to ensure the protection
8 of the public from food-borne illness. These rules shall
9 provide the standards and requirements for the storage,
10 preparation, serving, or display of food in food service
11 establishments as defined in this section and which are not
12 permitted or licensed under chapter 500 or chapter 509.

13 (3) LICENSES REQUIRED.--

14 (a) Licenses; annual renewals.--Each food service
15 establishment regulated under this section shall obtain a
16 license from the department annually. Food service
17 establishment licenses shall expire annually and are ~~shall~~ not
18 ~~be~~ transferable from one place or individual to another.

19 However, those facilities licensed by the department's Office
20 of Licensure and Certification, the Child Care Services
21 Program Office, or the Agency for Persons with ~~Developmental~~
22 ~~Disabilities Program Office~~ are exempt from this subsection.

23 It shall be a misdemeanor of the second degree, punishable as
24 provided in s. 381.0061, s. 775.082, or s. 775.083, for such
25 an establishment to operate without this license. The
26 department may refuse a license, or a renewal thereof, to any
27 establishment that is not constructed or maintained in
28 accordance with law and with the rules of the department.
29 Annual application for renewal is ~~shall~~ not ~~be~~ required.

30 Section 6. Subsection (5) of section 383.14, Florida
31 Statutes, is amended to read:

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1 383.14 Screening for metabolic disorders, other
2 hereditary and congenital disorders, and environmental risk
3 factors.--

4 (5) ADVISORY COUNCIL.--There is established a Genetics
5 and Newborn Screening Advisory Council made up of 15 members
6 appointed by the Secretary of Health. The council shall be
7 composed of two consumer members, three practicing
8 pediatricians, at least one of whom must be a pediatric
9 hematologist, one representative from each of the four medical
10 schools in the state, the Secretary of Health or his or her
11 designee, one representative from the Department of Health
12 representing Children's Medical Services, one representative
13 from the Florida Hospital Association, one individual with
14 experience in newborn screening programs, one individual
15 representing audiologists, and one representative from the
16 Agency for Persons with Disabilities ~~Developmental~~
17 ~~Disabilities Program Office of the Department of Children and~~
18 ~~Family Services~~. All appointments shall be for a term of 4
19 years. The chairperson of the council shall be elected from
20 the membership of the council and shall serve for a period of
21 2 years. The council shall meet at least semiannually or upon
22 the call of the chairperson. The council may establish ad hoc
23 or temporary technical advisory groups to assist the council
24 with specific topics which come before the council. Council
25 members shall serve without pay. Pursuant to the provisions of
26 s. 112.061, the council members are entitled to be reimbursed
27 for per diem and travel expenses. It is the purpose of the
28 council to advise the department about:

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

31 (b) Procedures for collection and transmission of

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1 specimens and recording of results.

2 (c) Methods whereby screening programs and genetics
3 services for children now provided or proposed to be offered
4 in the state may be more effectively evaluated, coordinated,
5 and consolidated.

6 Section 7. Section 393.061, Florida Statutes, is
7 repealed.

8 Section 8. Section 393.062, Florida Statutes, is
9 amended to read:

10 393.062 Legislative findings and declaration of
11 intent.--The Legislature finds and declares that existing
12 state programs for the treatment of individuals with
13 developmental disabilities ~~who are developmentally disabled,~~
14 which often unnecessarily place clients in institutions, are
15 unreasonably costly, are ineffective in bringing the
16 individual client to his or her maximum potential, and are in
17 fact debilitating to many ~~a great majority of~~ clients. A
18 redirection in state treatment programs for individuals with
19 developmental disabilities ~~who are developmentally disabled~~ is
20 necessary if any significant amelioration of the problems
21 faced by such individuals is ever to take place. Such
22 redirection should place primary emphasis on programs that
23 ~~have the potential to prevent or reduce the severity of~~
24 ~~developmental disabilities. Further, the legislature declares~~
25 ~~that~~ greatest priority shall be given to the development and
26 implementation of community-based ~~residential placements,~~
27 services ~~that,~~ and treatment programs for individuals who are
28 ~~developmentally disabled which~~ will enable ~~such~~ individuals
29 with developmental disabilities to achieve their greatest
30 potential for independent and productive living, ~~which will~~
31 enable them to live in their own homes or in residences

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1 | located in their own communities, and ~~which will~~ permit them
2 | to be diverted or removed from unnecessary institutional
3 | placements. This goal ~~The Legislature finds that the~~
4 | ~~eligibility criteria for intermediate care facilities for the~~
5 | ~~developmentally disabled which are specified in the Medicaid~~
6 | ~~state plan in effect on the effective date of this act are~~
7 | ~~essential to the system of residential services. The~~
8 | ~~Legislature declares that the goal of this act, to improve the~~
9 | ~~quality of life of all developmentally disabled persons by the~~
10 | ~~development and implementation of community-based residential~~
11 | ~~placements, services, and treatment, cannot be met without~~
12 | ensuring the availability of community residential
13 | opportunities ~~for developmentally disabled persons in the~~
14 | residential areas of this state. The Legislature, therefore,
15 | declares that all persons with developmental disabilities who
16 | live in licensed community homes shall have a family living
17 | environment comparable to other Floridians and. ~~The~~
18 | ~~Legislature intends~~ that such residences shall be considered
19 | and treated as a functional equivalent of a family unit and
20 | not as an institution, business, or boarding home. The
21 | Legislature further declares that, in developing
22 | community-based programs and services for individuals with
23 | developmental disabilities ~~who are developmentally disabled,~~
24 | private businesses, not-for-profit corporations, units of
25 | local government, and other organizations capable of providing
26 | needed services to clients in a cost-efficient manner shall be
27 | given preference in lieu of operation of programs directly by
28 | state agencies. Finally, it is the intent of the Legislature
29 | that all caretakers unrelated to individuals with
30 | developmental disabilities receiving care shall be of good
31 | moral character.

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1 Section 9. Section 393.063, Florida Statutes, is
2 amended to read:

3 393.063 Definitions.--For the purposes of this
4 chapter, the term:

5 (1) "Agency" means the Agency for Persons with
6 Disabilities.

7 (2) "Autism" means a pervasive, neurologically based
8 developmental disability of extended duration which causes
9 severe learning, communication, and behavior disorders with
10 age of onset during infancy or childhood. Individuals with
11 autism exhibit impairment in reciprocal social interaction,
12 impairment in verbal and nonverbal communication and
13 imaginative ability, and a markedly restricted repertoire of
14 activities and interests.

15 (3) "Cerebral palsy" means a group of disabling
16 symptoms of extended duration which results from damage to the
17 developing brain that may occur before, during, or after birth
18 and that results in the loss or impairment of control over
19 voluntary muscles. For the purposes of this definition,
20 cerebral palsy does not include those symptoms or impairments
21 resulting solely from a stroke.

22 (4) "Client" means any person determined eligible by
23 the agency for services under this chapter.

24 (5) "Client advocate" means a friend or relative of
25 the client, or of the client's immediate family, who advocates
26 for the best interests of the client in any proceedings under
27 this chapter in which the client or his or her family has the
28 right or duty to participate.

29 (6) "Comprehensive assessment" means the process used
30 to determine eligibility for services under this chapter.

31 (7) "Comprehensive transitional education program"

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1 ~~means the program established in s. 393.18. a group of jointly~~
2 ~~operating centers or units, the collective purpose of which is~~
3 ~~to provide a sequential series of educational care, training,~~
4 ~~treatment, habilitation, and rehabilitation services to~~
5 ~~persons who have developmental disabilities and who have~~
6 ~~severe or moderate maladaptive behaviors. However, nothing in~~
7 ~~this subsection shall require such programs to provide~~
8 ~~services only to persons with developmental disabilities. All~~
9 ~~such services shall be temporary in nature and delivered in a~~
10 ~~structured residential setting with the primary goal of~~
11 ~~incorporating the normalization principle to establish~~
12 ~~permanent residence for persons with maladaptive behaviors in~~
13 ~~facilities not associated with the comprehensive transitional~~
14 ~~education program. The staff shall include psychologists and~~
15 ~~teachers who shall be available to provide services in each~~
16 ~~component center or unit of the program. The psychologists~~
17 ~~shall be individuals who are licensed in this state and~~
18 ~~certified as behavior analysts in this state, or individuals~~
19 ~~who are certified as behavior analysts pursuant to s. 393.17.~~

20 ~~(a) Comprehensive transitional education programs~~
21 ~~shall include a minimum of two component centers or units, one~~
22 ~~of which shall be either an intensive treatment and~~
23 ~~educational center or a transitional training and educational~~
24 ~~center, which provide services to persons with maladaptive~~
25 ~~behaviors in the following sequential order:~~

26 ~~1. Intensive treatment and educational center. This~~
27 ~~component is a self-contained residential unit providing~~
28 ~~intensive psychological and educational programming for~~
29 ~~persons with severe maladaptive behaviors, whose behaviors~~
30 ~~preclude placement in a less restrictive environment due to~~
31 ~~the threat of danger or injury to themselves or others.~~

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1 ~~2. Transitional training and educational center. This~~
 2 ~~component is a residential unit for persons with moderate~~
 3 ~~maladaptive behaviors, providing concentrated psychological~~
 4 ~~and educational programming emphasizing a transition toward a~~
 5 ~~less restrictive environment.~~

6 ~~3. Community transition residence. This component is a~~
 7 ~~residential center providing educational programs and such~~
 8 ~~support services, training, and care as are needed to assist~~
 9 ~~persons with maladaptive behaviors to avoid regression to more~~
 10 ~~restrictive environments while preparing them for more~~
 11 ~~independent living. Continuous shift staff shall be required~~
 12 ~~for this component.~~

13 ~~4. Alternative living center. This component is a~~
 14 ~~residential unit providing an educational and family living~~
 15 ~~environment for persons with maladaptive behaviors, in a~~
 16 ~~moderately unrestricted setting. Residential staff shall be~~
 17 ~~required for this component.~~

18 ~~5. Independent living education center. This component~~
 19 ~~is a facility providing a family living environment for~~
 20 ~~persons with maladaptive behaviors, in a largely unrestricted~~
 21 ~~setting which includes education and monitoring appropriate to~~
 22 ~~support the development of independent living skills.~~

23 ~~(b) Centers or units that are components of a~~
 24 ~~comprehensive transitional education program are subject to~~
 25 ~~the license issued to the comprehensive transitional education~~
 26 ~~program and may be located on either single or multiple sites.~~

27 ~~(c) Comprehensive transitional education programs~~
 28 ~~shall develop individual education plans for each person with~~
 29 ~~maladaptive behaviors who receives services therein. Such~~
 30 ~~individual education plans shall be developed in accordance~~
 31 ~~with the criteria specified in 20 U.S.C. ss. 401 et seq., and~~

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1 ~~34 C.F.R. part 300.~~

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

5 ~~(e) This subsection shall authorize licensure for~~
6 ~~comprehensive transitional education programs which by July 1,~~
7 ~~1989:~~

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

9 ~~2. Own a fee simple interest in real property for~~
10 ~~which a county or city government has approved zoning allowing~~
11 ~~for the placement of the facilities described in this~~
12 ~~subsection, and have registered an intent with the department~~
13 ~~to operate a comprehensive transitional education program.~~
14 ~~However, nothing shall prohibit the assignment by such a~~
15 ~~registrant to another entity at a different site within the~~
16 ~~state, so long as there is compliance with all criteria of the~~
17 ~~comprehensive transitional education program and local zoning~~
18 ~~requirements and provided that each residential facility~~
19 ~~within the component centers or units of the program~~
20 ~~authorized under this subparagraph shall not exceed a capacity~~
21 ~~of 15 persons.~~

22 ~~(8) "Day habilitation facility" means any~~
23 ~~nonresidential facility which provides day habilitation~~
24 ~~services.~~

25 ~~(9) "Day habilitation service" means assistance with~~
26 ~~the acquisition, retention, or improvement in self-help,~~
27 ~~socialization, and adaptive skills which takes place in a~~
28 ~~nonresidential setting, separate from the home or facility in~~
29 ~~which the individual resides. Day habilitation services shall~~
30 ~~focus on enabling the individual to attain or maintain his or~~
31 ~~her maximum functional level and shall be coordinated with any~~

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1 ~~physical, occupational, or speech therapies listed in the plan~~
2 ~~of care.~~

3 ~~(8)(10)~~ "Developmental disability" means a disorder or
4 syndrome that is attributable to retardation, cerebral palsy,
5 autism, spina bifida, or Prader-Willi syndrome; that manifests
6 before the age of 18; and that constitutes a substantial
7 handicap that can reasonably be expected to continue
8 indefinitely.

9 ~~(9)(11)~~ "Developmental disabilities institution" means
10 a state-owned and state-operated facility, formerly known as a
11 "Sunland Center," providing for the care, habilitation, and
12 rehabilitation of clients with developmental disabilities.

13 ~~(10)(12)~~ "Direct service provider," ~~also known as~~
14 ~~"caregiver" in chapters 39 and 415 or "caretaker" in~~
15 ~~provisions relating to employment security checks,~~ means a
16 person 18 years of age or older who has direct face-to-face
17 contact with a client while providing services to the client
18 ~~individuals with developmental disabilities,~~ or has access to
19 a client's living areas or to a client's funds or personal
20 property, and is not a relative of the client ~~such~~
21 ~~individuals.~~

22 ~~(11)(13)~~ "Domicile" means the place where a client
23 legally resides, which place is his or her permanent home.
24 Domicile may be established as provided in s. 222.17. Domicile
25 may not be established in Florida by a minor who has no parent
26 domiciled in Florida, or by a minor who has no legal guardian
27 domiciled in Florida, or by any alien not classified as a
28 resident alien.

29 ~~(14)~~ ~~"Enclave" means a work station in public or~~
30 ~~private business or industry where a small group of persons~~
31 ~~with developmental disabilities is employed and receives~~

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1 ~~training and support services or follow-along services among~~
2 ~~nonhandicapped workers.~~

3 ~~(15) "Epilepsy" means a chronic brain disorder of~~
4 ~~various causes which is characterized by recurrent seizures~~
5 ~~due to excessive discharge of cerebral neurons. When found~~
6 ~~concurrently with retardation, autism, or cerebral palsy,~~
7 ~~epilepsy is considered a secondary disability for which the~~
8 ~~client is eligible to receive services to ameliorate this~~
9 ~~condition pursuant to this chapter.~~

10 ~~(12)(16)~~ "Express and informed consent" means consent
11 voluntarily given in writing with sufficient knowledge and
12 comprehension of the subject matter ~~involved~~ to enable the
13 person giving consent to make a knowing ~~an understanding and~~
14 ~~enlightened~~ decision without any element of force, fraud,
15 deceit, duress, or other form of constraint or coercion.

16 ~~(13)(17)~~ "Family care program" means the program
17 established in s. 393.068.

18 ~~(18) "Follow-along services" means those support~~
19 ~~services provided to persons with developmental disabilities~~
20 ~~in all supported employment programs and may include, but are~~
21 ~~not limited to, family support, assistance in meeting~~
22 ~~transportation and medical needs, employer intervention,~~
23 ~~performance evaluation, advocacy, replacement, retraining or~~
24 ~~promotional assistance, or other similar support services.~~

25 ~~(14)(19)~~ "Foster care facility" means a residential
26 facility licensed under this chapter which provides a family
27 living environment including supervision and care necessary to
28 meet the physical, emotional, and social needs of its
29 residents. The capacity of such a facility may ~~shall~~ not be
30 more than three residents.

31 ~~(15)(20)~~ "Group home facility" means a residential

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1 facility licensed under this chapter which provides a family
 2 living environment including supervision and care necessary to
 3 meet the physical, emotional, and social needs of its
 4 residents. The capacity of such a facility shall be at least 4
 5 but not more than 15 residents. ~~For the purposes of this~~
 6 ~~chapter, group home facilities shall not be considered~~
 7 ~~commercial enterprises.~~

8 ~~(16)(21)~~ "Guardian advocate" means a person appointed
 9 by a written order of the court to represent a person with
 10 developmental disabilities under s. 393.12.

11 ~~(17)(22)~~ "Habilitation" means the process by which a
 12 client is assisted to acquire and maintain those life skills
 13 which enable the client to cope more effectively with the
 14 demands of his or her condition and environment and to raise
 15 the level of his or her physical, mental, and social
 16 efficiency. It includes, but is not limited to, programs of
 17 formal structured education and treatment.

18 ~~(18)(23)~~ "High-risk child" means, for the purposes of
 19 this chapter, a child from 3 ~~birth~~ to 5 years of age with one
 20 or more of the following characteristics:

21 (a) A developmental delay in cognition, language, or
 22 physical development.

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

26 (c) A child with a parent or guardian with
 27 developmental disabilities who requires assistance in meeting
 28 the child's developmental needs.

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

31 ~~(19)(24)~~ "Intermediate care facility for the

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1 developmentally disabled" or "ICF/DD" means a residential
2 facility licensed and certified pursuant to part XI of chapter
3 400.

4 ~~(25) "Job coach" means a person who provides~~
5 ~~employment related training at a worksite to individuals with~~
6 ~~developmental disabilities.~~

7 ~~(20)(26)~~ "Medical/dental services" means medically
8 necessary ~~those~~ services which are provided or ordered for a
9 client by a person licensed under ~~pursuant to the provisions~~
10 ~~of~~ chapter 458, chapter 459, or chapter 466. Such services may
11 include, but are not limited to, prescription drugs,
12 specialized therapies, nursing supervision, hospitalization,
13 dietary services, prosthetic devices, surgery, specialized
14 equipment and supplies, adaptive equipment, and other services
15 as required to prevent or alleviate a medical or dental
16 condition.

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

20 ~~(28) "Normalization principle" means the principle of~~
21 ~~letting the client obtain an existence as close to the normal~~
22 ~~as possible, making available to the client patterns and~~
23 ~~conditions of everyday life which are as close as possible to~~
24 ~~the norm and patterns of the mainstream of society.~~

25 ~~(29) "Personal services" include, but are not limited~~
26 ~~to, such services as: individual assistance with or~~
27 ~~supervision of essential activities of daily living for~~
28 ~~self care, including ambulation, bathing, dressing, eating,~~
29 ~~grooming, and toileting, and other similar services that the~~
30 ~~agency may define by rule. "Personal services" shall not be~~
31 ~~construed to mean the provision of medical, nursing, dental,~~

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1 ~~or mental health services by the staff of a facility, except~~
2 ~~as provided in this chapter. In addition, an emergency~~
3 ~~response device installed in the apartment or living area of a~~
4 ~~resident shall not be classified as a personal service.~~

5 ~~(21)(30)~~ "Prader-Willi syndrome" means an inherited
6 condition typified by neonatal hypotonia with failure to
7 thrive, hyperphagia or an excessive drive to eat which leads
8 to obesity usually at 18 to 36 months of age, mild to moderate
9 mental retardation, hypogonadism, short stature, mild facial
10 dysmorphism, and a characteristic neurobehavior.

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

15 ~~(22)(32)~~ "Relative" means an individual who is
16 connected by affinity or consanguinity to the client and who
17 is 18 years of age or older ~~more~~.

18 ~~(23)(33)~~ "Resident" means any person with
19 developmental disabilities ~~who is developmentally disabled~~
20 residing at a residential facility ~~in the state~~, whether or
21 not such person is a client of the agency.

22 ~~(24)(34)~~ "Residential facility" means a facility
23 providing room and board and personal care for persons with
24 developmental disabilities.

25 ~~(25)(35)~~ "Residential habilitation" means supervision
26 and training ~~assistance provided with the~~ acquisition,
27 retention, or improvement in skills related to activities of
28 daily living, such as personal hygiene skills ~~grooming and~~
29 cleanliness, homemaking skills ~~bedmaking and household chores,~~
30 ~~eating and the preparation of food, and th~~ social and
31 adaptive skills necessary to enable the individual to reside

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1 in the community ~~a noninstitutional setting.~~

2 (26)(36) "Residential habilitation center" means a
3 community residential facility licensed under this chapter
4 which that provides ~~residential~~ habilitation services. The
5 capacity of such a facility shall not be fewer than nine
6 residents. After October 1, 1989, ~~no~~ new residential
7 habilitation centers may not ~~shall~~ be licensed and the
8 licensed capacity ~~shall not be increased~~ for any existing
9 residential habilitation center may not be increased.

10 (27)(37) "Respite service" means appropriate,
11 short-term, temporary care that is provided to a person with
12 developmental disabilities to meet the planned or emergency
13 needs of the person or the family or other direct service
14 provider.

15 (28) "Restraint" means a physical device, method, or
16 drug used to control dangerous behavior.

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

22 (b) A drug used as a restraint is a medication used to
23 control the person's behavior or to restrict his or her
24 freedom of movement and is not a standard treatment for the
25 person's medical or psychiatric condition. Physically holding
26 a person during a procedure to forcibly administer
27 psychotropic medication is a physical restraint.

28 (c) Restraint does not include physical devices, such
29 as orthopedically prescribed appliances, surgical dressings
30 and bandages, supportive body bands, or other physical holding
31 when necessary for routine physical examinations and tests;

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1 for purposes of orthopedic, surgical, or other similar medical
 2 treatment; when used to provide support for the achievement of
 3 functional body position or proper balance; or when used to
 4 protect a person from falling out of bed.

5 (29)(38) "Retardation" means significantly subaverage
 6 general intellectual functioning existing concurrently with
 7 deficits in adaptive behavior ~~and manifested during the period~~
 8 ~~from conception to age 18.~~ "Significantly subaverage general
 9 intellectual functioning," for the purpose of this definition,
 10 means performance which is two or more standard deviations
 11 from the mean score on a standardized intelligence test
 12 specified in the rules of the agency. "Adaptive behavior," for
 13 the purpose of this definition, means the effectiveness or
 14 degree with which an individual meets the standards of
 15 personal independence and social responsibility expected of
 16 his or her age, cultural group, and community.

17 (30) "Seclusion" means the involuntary isolation of a
 18 person in a room or area from which the person is prevented
 19 from leaving. The prevention may be by physical barrier or by
 20 a staff member who is acting in a manner, or who is physically
 21 situated, so as to prevent the person from leaving the room or
 22 area. For the purposes of this chapter, the term does not mean
 23 isolation due to the medical condition or symptoms of the
 24 person.

25 (31) "Self-determination" means an individual's
 26 freedom to exercise the same rights as all other citizens,
 27 authority to exercise control over funds needed for one's own
 28 support, including prioritizing these funds when necessary,
 29 responsibility for the wise use of public funds, and self
 30 advocacy to speak and advocate for oneself in order to gain
 31 independence and ensure that individuals with a developmental

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1 disability are treated equally.

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

8 (32)~~(40)~~ "Specialized therapies" means those
9 treatments or activities prescribed by and provided by an
10 appropriately trained, licensed, or certified professional or
11 staff person and may include, but are not limited to, physical
12 therapy, speech therapy, respiratory therapy, occupational
13 therapy, behavior therapy, physical management services, and
14 related specialized equipment and supplies.

15 (33)~~(41)~~ "Spina bifida" means, for purposes of this
16 chapter, a person with a medical diagnosis of spina bifida
17 cystica or myelomeningocele.

18 (34)~~(42)~~ "Support coordinator" means a person who is
19 designated by the agency to assist individuals and families in
20 identifying their capacities, needs, and resources, as well as
21 finding and gaining access to necessary supports and services;
22 coordinating the delivery of supports and services; advocating
23 on behalf of the individual and family; maintaining relevant
24 records; and monitoring and evaluating the delivery of
25 supports and services to determine the extent to which they
26 meet the needs and expectations identified by the individual,
27 family, and others who participated in the development of the
28 support plan.

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

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1 ~~(35)(44)~~ "Supported employment" means employment
 2 located or provided in ~~a normal employment setting which~~
 3 ~~provides at least 20 hours employment per week in an~~
 4 integrated work setting, with earnings paid on a commensurate
 5 wage basis, and for which continued support is needed for job
 6 maintenance.

7 ~~(36)(45)~~ "Supported living" means a category of
 8 individually determined services designed and coordinated in
 9 such a manner as to provide assistance to adult clients who
 10 require ongoing supports to live as independently as possible
 11 in their own homes, to be integrated into the community, and
 12 to participate in community life to the fullest extent
 13 possible.

14 ~~(37)(46)~~ "Training" means a planned approach to
 15 assisting a client to attain or maintain his or her maximum
 16 potential and includes services ranging from sensory
 17 stimulation to instruction in skills for independent living
 18 and employment.

19 ~~(38)(47)~~ "Treatment" means the prevention,
 20 amelioration, or cure of a client's physical and mental
 21 disabilities or illnesses.

22 Section 10. Subsections (1), (2), and (4) of section
 23 393.064, Florida Statutes, are amended to read:

24 393.064 Prevention.--

25 (1) The agency shall give priority to the development,
 26 planning, and implementation of programs which have the
 27 potential to prevent, correct, cure, or reduce the severity of
 28 developmental disabilities. The agency shall direct an
 29 interagency and interprogram effort for the continued
 30 development of a prevention plan and program. The agency shall
 31 identify, through demonstration projects, through program

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1 evaluation, and through monitoring of programs and projects
 2 conducted outside of the agency, any medical, social,
 3 economic, or educational methods, techniques, or procedures
 4 that have the potential to effectively ameliorate, correct, or
 5 cure developmental disabilities. The agency ~~program~~ shall
 6 determine the costs and benefits that would be associated with
 7 such prevention efforts and shall implement, or recommend the
 8 implementation of, those methods, techniques, or procedures
 9 which are found likely to be cost-beneficial.

10 (2) Prevention services provided by the agency shall
 11 ~~developmental services program~~ include services to high-risk
 12 ~~and developmentally disabled~~ children from 3 ~~birth~~ to 5 years
 13 of age, and their families, to meet the intent of chapter 411.
 14 Except for services for children from birth to age 3 years
 15 which ~~Such services shall include individual evaluations or~~
 16 ~~assessments necessary to diagnose a developmental disability~~
 17 ~~or high-risk condition and to determine appropriate individual~~
 18 ~~family and support services, unless evaluations or assessments~~
 19 are the responsibility of the Division of Children's Medical
 20 Services in the Department of Health ~~Prevention and~~
 21 ~~intervention for children ages birth to 3 years eligible for~~
 22 ~~services under this chapter~~ or part H of the Individuals with
 23 Disabilities Education Act, such services ~~and~~ may include:

24 (a) Individual evaluations or assessments necessary to
 25 diagnose a developmental disability or high-risk condition and
 26 to determine appropriate, individual family and support
 27 services.

28 (b)(a) Early intervention services, including
 29 developmental training and specialized therapies. ~~Early~~
 30 ~~intervention services, which are the responsibility of the~~
 31 ~~Division of Children's Medical Services Prevention and~~

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1 ~~Intervention for children ages birth to 3 years who are~~
 2 ~~eligible for services under this chapter or under part H of~~
 3 ~~the Individuals with Disabilities Education Act, shall not be~~
 4 ~~provided through the developmental services program unless~~
 5 ~~funding is specifically appropriated to the developmental~~
 6 ~~services program for this purpose.~~

7 (c)(b) Support services, such as respite care, parent
 8 education and training, parent-to-parent counseling, homemaker
 9 services, and other services which allow families to maintain
 10 and provide quality care to children in their homes. ~~The~~
 11 ~~Division of Children's Medical Services Prevention and~~
 12 ~~Intervention is responsible for the provision of services to~~
 13 ~~children from birth to 3 years who are eligible for services~~
 14 ~~under this chapter.~~

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

19 (a) Research into the etiology of developmental
 20 disabilities.

21 (b) Ensuring that new knowledge is rapidly
 22 disseminated throughout ~~the developmental services program of~~
 23 the agency.

24 (c) Diagnosis of unusual conditions and syndromes
 25 associated with developmental disabilities in clients
 26 identified throughout ~~the developmental~~ disabilities ~~services~~
 27 programs.

28 (d) Evaluation of families of clients with
 29 developmental disabilities of genetic origin in order to
 30 provide them with genetic counseling aimed at preventing the
 31 recurrence of the disorder in other family members.

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1 (e) Ensuring that health professionals in the
 2 developmental disabilities ~~services~~ institution at Gainesville
 3 have access to information systems that will allow them to
 4 remain updated on newer knowledge and maintain their
 5 postgraduate education standards.

6 (f) Enhancing staff training for professionals
 7 throughout the agency in the areas of genetics and
 8 developmental disabilities.

9 Section 11. Section 393.0641, Florida Statutes, is
 10 amended to read:

11 393.0641 Program for the prevention and treatment of
 12 severe self-injurious behavior.--

13 (1) Contingent upon specific appropriations, there is
 14 created a diagnostic, treatment, training, and research
 15 program for clients exhibiting severe self-injurious behavior.

16 As used in this section, the term "severe self-injurious
 17 behavior" means any chronic behavior that results in injury to
 18 the person's own body, including, but not limited to,
 19 self-hitting, head banging, self-biting, scratching, and the
 20 ingestion of harmful or potentially harmful nutritive or
 21 nonnutritive substances.

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

23 (a) Serve as a resource center for information,
 24 training, and program development.

25 (b) Research the diagnosis and treatment of severe
 26 self-injurious behavior, and related disorders, and develop
 27 methods of prevention and treatment of self-injurious
 28 behavior.

29 (c) Identify individuals in critical need.

30 (d) Develop treatment programs which are meaningful to
 31 individuals with developmental disabilities, in critical need,

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1 while safeguarding and respecting the legal and human rights
2 of the individuals.

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

5 (f) Collect data on the type, severity, incidence, and
6 demographics of individuals with severe self-injurious
7 behavior, and disseminate the data.

8 ~~(3)(2)~~ The ~~This~~ program shall adhere to the provisions
9 of s. 393.13.

10 ~~(4)(3)~~ The agency may contract for the provision of
11 any portion or all of the services required by the program.

12 ~~(5)(4)~~ The agency may ~~has the authority to~~ license
13 this program and ~~shall~~ adopt rules to administer ~~implement~~ the
14 program.

15 Section 12. Subsections (1) and (4) of section
16 393.065, Florida Statutes, are amended, and subsection (5) is
17 added to that section, to read:

18 393.065 Application and eligibility determination.--

19 (1) Application for services shall be made in writing
20 to the agency, in the service area ~~district~~ in which the
21 applicant resides. ~~The agency~~ ~~Employees of the agency's~~
22 ~~developmental services program~~ shall review each applicant for
23 eligibility within 45 days after the date the application is
24 signed for children under 6 years of age and within 60 days
25 after the date the application is signed for all other
26 applicants. When necessary to definitively identify individual
27 conditions or needs, the agency shall provide a comprehensive
28 assessment. Only applicants ~~individuals~~ whose domicile is in
29 Florida are eligible for services. Information accumulated by
30 other agencies, including professional reports and collateral
31 data, shall be considered in this process when available.

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1 (4) The agency shall assess the level of need and
2 medical necessity for prospective residents of
3 intermediate-care facilities for the developmentally disabled
4 ~~after October 1, 1999~~. The agency may enter into an agreement
5 with the Department of Elderly Affairs for its Comprehensive
6 Assessment and Review for Long-Term-Care Services (CARES)
7 program to conduct assessments to determine the level of need
8 and medical necessity for long-term-care services under this
9 chapter. To the extent permissible under federal law, the
10 assessments shall ~~must~~ be funded under Title XIX of the Social
11 Security Act.

12 (5) The agency may adopt rules specifying application
13 procedures and eligibility criteria as needed to administer
14 this section.

15 Section 13. Section 393.0651, Florida Statutes, is
16 amended to read:

17 393.0651 Family or individual support plan.--The
18 agency shall provide directly or contract for the development
19 of a ~~an appropriate~~ family support plan for children ages 3
20 ~~birth~~ to 18 years of age and an individual support plan for
21 each client. ~~The parent or guardian of~~ The client ~~or~~, if
22 competent, the client's parent or guardian ~~client~~, or, when
23 appropriate, the client advocate, shall be consulted in the
24 development of the plan and shall receive a copy of the plan.
25 Each plan must ~~shall~~ include the most appropriate, least
26 restrictive, and most cost-beneficial environment for
27 accomplishment of the objectives for client progress and a
28 specification of all services authorized. The plan must ~~shall~~
29 include provisions for the most appropriate level of care for
30 the client. Within the specification of needs and services for
31 each client, when residential care is necessary, the agency

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1 shall move toward placement of clients in residential
 2 facilities based within the client's community. The ultimate
 3 goal of each plan, whenever possible, shall be to enable the
 4 client to live a dignified life in the least restrictive
 5 setting, be that in the home or in the community. For children
 6 under 6 years of age, the family support plan shall be
 7 developed within the 45-day application period as specified in
 8 s. 393.065(1); for all applicants 6 years of age or older, the
 9 family or individual support plan shall be developed within
 10 the 60-day period as specified in that subsection.

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

13 (2)~~(a)~~ The family or individual support plan shall be
 14 integrated with the individual education plan (IEP) for all
 15 clients who are public school students entitled to a free
 16 appropriate public education under the Individuals with
 17 Disabilities Education Act, I.D.E.A., as amended. The family
 18 or individual support plan and IEP shall be implemented to
 19 maximize the attainment of educational and habilitation goals.

20 (a) If the IEP for a student enrolled in a public
 21 school program indicates placement in a public or private
 22 residential program is necessary to provide special education
 23 and related services to a client, the local education agency
 24 shall provide for the costs of that service in accordance with
 25 the requirements of the Individuals with Disabilities
 26 Education Act, I.D.E.A., as amended. This shall not preclude
 27 local education agencies and the agency from sharing the
 28 residential service costs of students who are clients and
 29 require residential placement. ~~Under no circumstances shall~~
 30 ~~clients entitled to a public education or their parents be~~
 31 ~~assessed a fee by the agency under s. 402.33 for placement in~~

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1 ~~a residential program.~~

2 (b) For clients who are entering or exiting the school
3 system, an interdepartmental staffing team composed of
4 representatives of the agency and the local school system
5 shall develop a written transitional living and training plan
6 with the participation of the client or with the parent or
7 guardian of the client, or the client advocate, as
8 appropriate.

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

12 (4) In the development of the family or individual
13 support plan, a client advocate may be appointed by the
14 support planning team for a client who is a minor or for a
15 client who is not capable of express and informed consent
16 when:

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

18 (b) The whereabouts of the parent or guardian cannot
19 be discovered; or

20 (c) The state is the only legal representative of the
21 client.

22
23 Such appointment shall not be construed to extend the powers
24 of the client advocate to include any of those powers
25 delegated by law to a legal guardian.

26 (5) The agency shall place a client in the most
27 appropriate and least restrictive, and cost-beneficial,
28 residential facility according to his or her individual
29 support habilitation plan. ~~The parent or guardian of The~~
30 ~~client or,~~ if competent, the client's parent or guardian
31 ~~client,~~ or, when appropriate, the client advocate, and the

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1 administrator of the ~~residential~~ facility to which placement
2 is proposed shall be consulted in determining the appropriate
3 placement for the client. Considerations for placement shall
4 be made in the following order:

5 (a) Client's own home or the home of a family member
6 or direct service provider.

7 (b) Foster care facility.

8 (c) Group home facility.

9 (d) Intermediate care facility for the developmentally
10 disabled.

11 (e) Other facilities licensed by the agency which
12 offer special programs for people with developmental
13 disabilities.

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

15 (6) In developing a client's annual family or
16 individual support plan, the individual or family with the
17 assistance of the support planning team shall identify
18 measurable objectives for client progress and shall specify a
19 time period expected for achievement of each objective.

20 (7) The individual, family, and support coordinator
21 shall review progress in achieving the objectives specified in
22 each client's family or individual support plan, and shall
23 revise the plan annually, following consultation with the
24 client, if competent, or with the parent or guardian of the
25 client, or, when appropriate, the client advocate. The agency
26 or designated contractor shall annually report in writing to
27 the client, if competent, or to the parent or guardian of the
28 client, or to the client advocate, when appropriate, with
29 respect to the client's habilitative and medical progress.

30 (8) Any client, or any parent of a minor client, or
31 guardian, authorized guardian advocate, or client advocate for

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1 a client, who is substantially affected by the client's
 2 initial family or individual support plan, or the annual
 3 review thereof, shall have the right to file a notice to
 4 challenge the decision pursuant to ss. 120.569 and 120.57.
 5 Notice of such right to appeal shall be included in all
 6 support plans provided by the agency.

7 Section 14. Section 393.0654, Florida Statutes, is
 8 created to read.

9 393.0654 Direct service providers; private sector
 10 services.--It is not a violation of s. 112.313(7) for a direct
 11 service provider who is employed by the agency to own,
 12 operate, or work in a private facility that is a service
 13 provider under contract with the agency if:

14 (1) The employee does not have any role in the
 15 agency's placement recommendations or the client's
 16 decisionmaking process regarding placement;

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

20 (3) The employee's employment outside the agency does
 21 not create a conflict with the employee's public duties and
 22 does not impede the full and faithful discharge of the
 23 employee's duties as assigned by the agency; and

24 (4) The service provider discloses the dual employment
 25 or ownership status to the agency and all clients within the
 26 provider's care. The disclosure must be given to the agency,
 27 the client, and the client's guardian or guardian advocate, if
 28 appropriate.

29 Section 15. Section 393.0655, Florida Statutes, is
 30 amended to read:

31 393.0655 Screening of direct service providers.--

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1 (1) MINIMUM STANDARDS.--The agency shall require level
2 2 employment screening pursuant to chapter 435 for direct
3 service providers who are unrelated to their clients,
4 including support coordinators, and managers and supervisors
5 of residential facilities or comprehensive transitional
6 education programs licensed under this chapter ~~s. 393.067~~ and
7 any other person, including volunteers, who provide care or
8 services, who have access to a client's living areas, or who
9 have access to a client's funds or personal property.
10 Background screening shall include employment history checks
11 as provided in s. 435.03(1) and local criminal records checks
12 through local law enforcement agencies.

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

18 (b) Licensed physicians, nurses, or other
19 professionals licensed and regulated by the Department of
20 Health are not subject to background screening pursuant to
21 this section if they are providing a service that is within
22 their scope of licensed practice.

23 (c) A person selected by the family or the individual
24 with developmental disabilities and paid by the family or the
25 individual to provide supports or services is not required to
26 have a background screening under this section.

27 (d) Persons 12 years of age or older, including family
28 members, residing with a ~~the~~ direct services provider who
29 provides services to clients in his or her own place of
30 residence, including family members, are subject to background
31 screening; however, such persons who are 12 to 18 years of age

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1 shall be screened for delinquency records only.

2 (e) A direct service provider who is awaiting the
3 completion of background screening is temporarily exempt from
4 the screening requirements under this section if the provider
5 is under the direct and constant visual supervision of persons
6 who meet the screening requirements of this section. Such
7 exemption expires 90 days after the direct service provider
8 first provides care or services to clients, has access to a
9 client's living areas, or has access to a client's funds or
10 personal property.

11 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may
12 grant exemptions from disqualification from working with
13 children or adults with developmental disabilities only as
14 provided in s. 435.07.

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

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

23 (a) The agency shall deny, suspend, terminate, or
24 revoke a license, certification, rate agreement, purchase
25 order, or contract, or pursue other remedies provided in s.
26 393.0673, s. 393.0675, or s. 393.0678 in addition to or in
27 lieu of denial, suspension, termination, or revocation for
28 failure to comply with this section.

29 (b) When the agency has reasonable cause to believe
30 that grounds for denial or termination of employment exist, it
31 shall notify, in writing, the employer and the person direct

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1 ~~service provider~~ affected, stating the specific record that
2 ~~which~~ indicates noncompliance with the standards in this
3 section.

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

9 (d) Refusal on the part of an employer to dismiss a
10 manager, supervisor, or direct service provider who has been
11 found to be in noncompliance with standards of this section
12 shall result in automatic denial, termination, or revocation
13 of the license or certification, rate agreement, purchase
14 order, or contract, in addition to any other remedies pursued
15 by the agency.

16 Section 16. Section 393.0657, Florida Statutes, is
17 amended to read:

18 393.0657 Persons not required to be refingerprinted or
19 rescreened.--Persons who have undergone any portion of the
20 background screening required under s. 393.0655 within the
21 last 12 months are ~~Any provision of law to the contrary~~
22 ~~notwithstanding, human resource personnel who have been~~
23 ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~
24 ~~402, and 409, and teachers who have been fingerprinted~~
25 ~~pursuant to chapter 1012, who have not been unemployed for~~
26 ~~more than 90 days thereafter, and who under the penalty of~~
27 ~~perjury attest to the completion of such fingerprinting or~~
28 ~~screening and to compliance with the provisions of this~~
29 ~~section and the standards for good moral character as~~
30 ~~contained in such provisions as ss. 110.1127(3), 393.0655(1),~~
31 ~~394.457(6), 397.451, 402.305(2), and 409.175(6), shall not be~~

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1 required to repeat such screening ~~be refingerprinted or~~
2 ~~rescreened~~ in order to comply with the ~~any direct service~~
3 ~~provider screening or fingerprinting~~ requirements. Such
4 persons are responsible for providing documentation of the
5 screening and shall undergo screening for any remaining
6 background screening requirements that have never been
7 conducted or have not been completed within the last 12
8 months.

9 Section 17. Section 393.066, Florida Statutes, is
10 amended to read:

11 393.066 Community services and treatment ~~for persons~~
12 ~~who are developmentally disabled.--~~

13 (1) The agency shall plan, develop, organize, and
14 implement its programs of services and treatment for persons
15 with developmental disabilities ~~who are developmentally~~
16 ~~disabled~~ to allow clients to live as independently as possible
17 in their own homes or communities and to achieve productive
18 lives as close to normal as possible. All elements of
19 community-based services shall be made available, and
20 eligibility for these services shall be consistent across the
21 state. ~~In addition, all purchased services shall be approved~~
22 ~~by the agency.~~

23 (2) All services needed shall be purchased instead of
24 provided directly by the agency, when such arrangement is more
25 cost-efficient than having those services provided directly.
26 All purchased services must be approved by the agency.

27 (3) Community-based services that are medically
28 necessary to prevent institutionalization shall, to the extent
29 of available resources, include:

30 (a) Day habilitation services, including developmental
31 training services.

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1 (b) Family care services.

2 (c) Guardian advocate referral services.

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

6 (e) Parent training.

7 (f) Recreation.

8 (g) Residential facility services.

9 (h) Respite services.

10 (i) Social services.

11 (j) Specialized therapies.

12 (k) Supported employment, ~~including enclave, job~~
13 ~~coach, mobile work crew, and follow-along services.~~

14 (l) Supported living.

15 (m) Training, including behavioral-analysis services
16 ~~behavioral programming.~~

17 (n) Transportation.

18 (o) Other habilitative and rehabilitative services as
19 needed.

20 (4) The agency shall utilize the services of private
21 businesses, not-for-profit organizations, and units of local
22 government whenever such services are more cost-efficient than
23 such services provided directly by the department, including
24 arrangements for provision of residential facilities.

25 (5) In order to improve the potential for utilization
26 of more cost-effective, community-based residential
27 facilities, the agency shall promote the statewide development
28 of day habilitation services for clients who live with a
29 direct service provider in a community-based residential
30 facility and who do not require 24-hour-a-day care in a
31 hospital or other health care institution, but who may, in the

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1 absence of day habilitation services, require admission to a
 2 developmental disabilities institution. Each day service
 3 facility shall provide a protective physical environment for
 4 clients, ensure that direct service providers meet minimum
 5 screening standards as required in s. 393.0655, make available
 6 to all day habilitation service participants at least one meal
 7 on each day of operation, provide facilities to enable
 8 participants to obtain needed rest while attending the
 9 program, as appropriate, and provide social and educational
 10 activities designed to stimulate interest and provide
 11 socialization skills.

12 (6) To promote independence and productivity, the
 13 agency shall provide supports and services, within available
 14 resources, to assist clients enrolled in Medicaid waivers who
 15 choose to pursue gainful employment.

16 (7) For the purpose of making needed community-based
 17 residential facilities available at the least possible cost to
 18 the state, the agency is authorized to lease privately owned
 19 residential facilities under long-term rental agreements, if
 20 such rental agreements are projected to be less costly to the
 21 state over the useful life of the facility than state purchase
 22 or state construction of such a facility.

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

27 Section 18. Section 393.067, Florida Statutes, is
 28 amended to read:

29 393.067 Facility licensure ~~of residential facilities~~
 30 ~~and comprehensive transitional education programs.--~~

31 (1) The agency shall provide through its licensing

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1 authority and by rule license-application procedures, a system
 2 of provider qualifications, facility and client-care
 3 standards, requirements for client records, requirements for
 4 staff qualifications and training criteria for meeting
 5 standards, and requirements for monitoring foster care for
 6 residential facilities, group home facilities, residential
 7 habilitation centers, and comprehensive transitional education
 8 programs that serve agency clients. Receipt of a license under
 9 this section does not create a property right in the
 10 recipient. A license issued under this chapter is a public
 11 trust and a privilege, and is not an entitlement. This
 12 privilege must guide the finder of fact or trier of law at any
 13 administrative proceeding or court action initiated by the
 14 agency.

15 (2) The agency shall conduct annual inspections and
 16 reviews of ~~residential~~ facilities and ~~comprehensive~~
 17 ~~transitional education~~ programs licensed under this section
 18 annually.

19 (3) An application for a license under this section
 20 must ~~for a residential facility or a comprehensive~~
 21 ~~transitional education program~~ shall be made to the agency on
 22 a form furnished by it and shall be accompanied by the
 23 appropriate license fee.

24 (4) The application shall be under oath and shall
 25 contain the following:

26 (a) The name and address of the applicant, if an
 27 applicant is an individual; if the applicant is a firm,
 28 partnership, or association, the name and address of each
 29 member thereof; if the applicant is a corporation, its name
 30 and address and the name and address of each director and each
 31 officer thereof; and the name by which the facility or program

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1 is to be known.

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

4 (c) The name of the person or persons under whose
5 management or supervision the facility or program will be
6 conducted.

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

10 (e) The number and location of the component centers
11 or units which will compose the comprehensive transitional
12 education program.

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

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

17 (h) Certification that the staff of the facility or
18 program will receive training to detect and prevent sexual
19 abuse of residents and clients.

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

22 ~~(5) The applicant shall submit evidence which~~
23 ~~establishes the good moral character of the manager or~~
24 ~~supervisor of the facility or program and the direct service~~
25 ~~providers in the facility or program and its component centers~~
26 ~~or units. A license may be issued if all the screening~~
27 ~~materials have been timely submitted; however, a license may~~
28 ~~not be issued or renewed if any of the direct service~~
29 ~~providers have failed the screening required by s. 393.0655.~~

30 ~~(a)1. A licensed residential facility or comprehensive~~
31 ~~transitional education program which applies for renewal of~~

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1 ~~its license shall submit to the agency a list of direct~~
2 ~~service providers who have worked on a continuous basis at the~~
3 ~~applicant facility or program since submitting fingerprints to~~
4 ~~the agency or the Department of Children and Family Services,~~
5 ~~identifying those direct service providers for whom a written~~
6 ~~assurance of compliance was provided by the agency or~~
7 ~~department and identifying those direct service providers who~~
8 ~~have recently begun working at the facility or program and are~~
9 ~~awaiting the results of the required fingerprint check along~~
10 ~~with the date of the submission of those fingerprints for~~
11 ~~processing. The agency shall by rule determine the frequency~~
12 ~~of requests to the Department of Law Enforcement to run state~~
13 ~~criminal records checks for such direct service providers~~
14 ~~except for those direct service providers awaiting the results~~
15 ~~of initial fingerprint checks for employment at the applicant~~
16 ~~facility or program. The agency shall review the records of~~
17 ~~the direct service providers at the applicant facility or~~
18 ~~program with respect to the crimes specified in s. 393.0655~~
19 ~~and shall notify the facility or program of its findings. When~~
20 ~~disposition information is missing on a criminal record, it is~~
21 ~~the responsibility of the person being screened, upon request~~
22 ~~of the agency, to obtain and supply within 30 days the missing~~
23 ~~disposition information to the agency. Failure to supply the~~
24 ~~missing information within 30 days or to show reasonable~~
25 ~~efforts to obtain such information shall result in automatic~~
26 ~~disqualification.~~

27 ~~2. The applicant shall sign an affidavit under penalty~~
28 ~~of perjury stating that all new direct service providers have~~
29 ~~been fingerprinted and that the facility's or program's~~
30 ~~remaining direct service providers have worked at the~~
31 ~~applicant facility or program on a continuous basis since~~

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1 ~~being initially screened at that facility or program or have a~~
 2 ~~written assurance of compliance from the agency or department.~~

3 ~~(5)(b)~~ As a prerequisite for issuance of an the
 4 initial or renewal license, the applicant, manager,
 5 supervisor, and all staff members of the direct service
 6 provider of a facility or program licensed under this section
 7 must submit to background screening as required under s.
 8 393.0655. A license may not be issued or renewed if the
 9 applicant and any of the managers, supervisors, or direct
 10 service providers have failed background screenings as
 11 required under s. 393.0655. The agency shall determine by rule
 12 the frequency of background screening. The applicant shall
 13 submit with each initial or renewal application a signed
 14 affidavit under penalty of perjury stating that the applicant
 15 is in compliance with all requirements for background
 16 screening. ~~to a residential facility or comprehensive~~
 17 ~~transitional education program;~~

18 1. ~~The applicant shall submit to the agency a complete~~
 19 ~~set of fingerprints, taken by an authorized law enforcement~~
 20 ~~agency or an employee of the agency who is trained to take~~
 21 ~~fingerprints, for the manager, supervisor, or direct service~~
 22 ~~providers of the facility or program;~~

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

26 3. ~~The agency shall review the record of the manager~~
 27 ~~or supervisor with respect to the crimes specified in s.~~
 28 ~~393.0655(1) and shall notify the applicant of its findings.~~
 29 ~~When disposition information is missing on a criminal record,~~
 30 ~~it is the responsibility of the manager or supervisor, upon~~
 31 ~~request of the agency, to obtain and supply within 30 days the~~

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1 ~~missing disposition information to the agency. Failure to~~
 2 ~~supply the missing information within 30 days or to show~~
 3 ~~reasonable efforts to obtain such information shall result in~~
 4 ~~automatic disqualification.~~

5 ~~(c) The agency or a residential facility or~~
 6 ~~comprehensive transitional education program may not use the~~
 7 ~~criminal records or juvenile records of a person obtained~~
 8 ~~under this subsection for any purpose other than determining~~
 9 ~~if that person meets the minimum standards for good moral~~
 10 ~~character for a manager or supervisor of, or direct service~~
 11 ~~provider in, such a facility or program. The criminal records~~
 12 ~~or juvenile records obtained by the agency or a residential~~
 13 ~~facility or comprehensive transitional education program for~~
 14 ~~determining the moral character of a manager, supervisor, or~~
 15 ~~direct service provider are exempt from s. 119.07(1).~~

16 ~~(6) Each applicant for licensure as an intermediate~~
 17 ~~care facility for the developmentally disabled must comply~~
 18 ~~with the following requirements:~~

19 ~~(a) Upon receipt of a completed, signed, and dated~~
 20 ~~application, the agency shall require background screening, in~~
 21 ~~accordance with the level 2 standards for screening set forth~~
 22 ~~in chapter 435, of the managing employee, or other similarly~~
 23 ~~titled individual who is responsible for the daily operation~~
 24 ~~of the facility, and of the financial officer, or other~~
 25 ~~similarly titled individual who is responsible for the~~
 26 ~~financial operation of the center, including billings for~~
 27 ~~resident care and services. The applicant must comply with~~
 28 ~~the procedures for level 2 background screening as set forth~~
 29 ~~in chapter 435, as well as the requirements of s. 435.03(3).~~

30 ~~(b) The agency may require background screening of any~~
 31 ~~other individual who is an applicant if the agency has~~

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1 ~~probable cause to believe that he or she has been convicted of~~
2 ~~a crime or has committed any other offense prohibited under~~
3 ~~the level 2 standards for screening set forth in chapter 435.~~

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

9 ~~(d) A provisional license may be granted to an~~
10 ~~applicant when each individual required by this section to~~
11 ~~undergo background screening has met the standards for the~~
12 ~~Department of Law Enforcement background check, but the agency~~
13 ~~has not yet received background screening results from the~~
14 ~~Federal Bureau of Investigation, or a request for a~~
15 ~~disqualification exemption has been submitted to the agency as~~
16 ~~set forth in chapter 435, but a response has not yet been~~
17 ~~issued. A standard license may be granted to the applicant~~
18 ~~upon the agency's receipt of a report of the results of the~~
19 ~~Federal Bureau of Investigation background screening for each~~
20 ~~individual required by this section to undergo background~~
21 ~~screening which confirms that all standards have been met, or~~
22 ~~upon the granting of a disqualification exemption by the~~
23 ~~agency as set forth in chapter 435. Any other person who is~~
24 ~~required to undergo level 2 background screening may serve in~~
25 ~~his or her capacity pending the agency's receipt of the report~~
26 ~~from the Federal Bureau of Investigation. However, the person~~
27 ~~may not continue to serve if the report indicates any~~
28 ~~violation of background screening standards and a~~
29 ~~disqualification exemption has not been requested of and~~
30 ~~granted by the agency as set forth in chapter 435.~~

31 ~~(e) Each applicant must submit to the agency, with its~~

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1 ~~application, a description and explanation of any exclusions,~~
 2 ~~permanent suspensions, or terminations of the applicant from~~
 3 ~~the Medicare or Medicaid programs. Proof of compliance with~~
 4 ~~the requirements for disclosure of ownership and control~~
 5 ~~interests under the Medicaid or Medicare programs shall be~~
 6 ~~accepted in lieu of this submission.~~

7 ~~(f) Each applicant must submit to the agency a~~
 8 ~~description and explanation of any conviction of an offense~~
 9 ~~prohibited under the level 2 standards of chapter 435 by a~~
 10 ~~member of the board of directors of the applicant, its~~
 11 ~~officers, or any individual owning 5 percent or more of the~~
 12 ~~applicant. This requirement does not apply to a director of a~~
 13 ~~not-for-profit corporation or organization if the director~~
 14 ~~serves solely in a voluntary capacity for the corporation or~~
 15 ~~organization, does not regularly take part in the day-to-day~~
 16 ~~operational decisions of the corporation or organization,~~
 17 ~~receives no remuneration for his or her services on the~~
 18 ~~corporation or organization's board of directors, and has no~~
 19 ~~financial interest and has no family members with a financial~~
 20 ~~interest in the corporation or organization, provided that the~~
 21 ~~director and the not-for-profit corporation or organization~~
 22 ~~include in the application a statement affirming that the~~
 23 ~~director's relationship to the corporation satisfies the~~
 24 ~~requirements of this paragraph.~~

25 ~~(g) A license may not be granted to an applicant if~~
 26 ~~the applicant or managing employee has been found guilty of,~~
 27 ~~regardless of adjudication, or has entered a plea of nolo~~
 28 ~~contendere or guilty to, any offense prohibited under the~~
 29 ~~level 2 standards for screening set forth in chapter 435,~~
 30 ~~unless an exemption from disqualification has been granted by~~
 31 ~~the agency as set forth in chapter 435.~~

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1 ~~(h) The agency may deny or revoke licensure if the~~
2 ~~applicant:~~

3 1. ~~Has falsely represented a material fact in the~~
4 ~~application required by paragraph (e) or paragraph (f), or has~~
5 ~~omitted any material fact from the application required by~~
6 ~~paragraph (e) or paragraph (f); or~~

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

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

12 ~~(6)(7)~~ The applicant shall furnish satisfactory proof
13 of financial ability to operate and conduct the facility or
14 program in accordance with the requirements of this chapter
15 and adopted all rules ~~promulgated hereunder.~~

16 ~~(7)(8)~~ The agency shall adopt rules establishing
17 minimum standards for ~~licensure of residential~~ facilities and
18 ~~comprehensive transitional education programs licensed under~~
19 this section, including rules requiring facilities and
20 programs to train staff to detect and prevent sexual abuse of
21 residents and clients, minimum standards of quality and
22 adequacy of client care, incident-reporting requirements, and
23 uniform firesafety standards established by the State Fire
24 Marshal which are appropriate to the size of the facility or
25 of the component centers or units of the program.

26 ~~(8)(9)~~ The agency ~~and the Agency for Health Care~~
27 ~~Administration~~, after consultation with the Department of
28 Community Affairs, shall adopt rules for foster care
29 ~~residential~~ facilities, group home facilities, and residential
30 habilitation centers which establish ~~under the respective~~
31 ~~regulatory jurisdiction of each establishing~~ minimum standards

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1 for the preparation and annual update of a comprehensive
 2 emergency management plan. At a minimum, the rules must
 3 provide for plan components that address emergency evacuation
 4 transportation; adequate sheltering arrangements; postdisaster
 5 activities, including emergency power, food, and water;
 6 postdisaster transportation; supplies; staffing; emergency
 7 equipment; individual identification of residents and transfer
 8 of records; and responding to family inquiries. The
 9 comprehensive emergency management plan for all comprehensive
 10 transitional education programs and for homes serving
 11 individuals who have complex medical conditions is subject to
 12 review and approval by the local emergency management agency.
 13 During its review, the local emergency management agency shall
 14 ensure that the agency and the Department of Community Affairs
 15 ~~following agencies~~, at a minimum, are given the opportunity to
 16 review the plan: ~~the Agency for Health Care Administration,~~
 17 ~~the Agency for Persons with Disabilities, and the Department~~
 18 ~~of Community Affairs~~. Also, appropriate volunteer
 19 organizations must be given the opportunity to review the
 20 plan. The local emergency management agency shall complete its
 21 review within 60 days and either approve the plan or advise
 22 the facility of necessary revisions.

23 (9)(10) The agency may conduct unannounced inspections
 24 to determine compliance by foster care ~~residential~~ facilities,
 25 group home facilities, residential habilitation centers, and
 26 comprehensive transitional education programs with the
 27 applicable provisions of this chapter and the rules adopted
 28 pursuant hereto, including the rules adopted for training
 29 staff of a facility or a program to detect and prevent sexual
 30 abuse of residents and clients. The facility or program shall
 31 make copies of inspection reports available to the public upon

1 request.

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

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

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

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

17 ~~(11)(13) The agency may audit the records of any~~
18 ~~residential facility or comprehensive transitional education~~
19 ~~program that it has reason to believe may not be in full~~
20 ~~compliance with the provisions of this section; provided that,~~
21 ~~any financial audit of such facility or program shall be~~
22 ~~limited to the records of clients funded by the agency.~~

23 ~~(12)(14) The agency shall establish, for the purpose~~
24 ~~of control of licensure costs, a uniform management~~
25 ~~information system and a uniform reporting system with uniform~~
26 ~~definitions and reporting categories.~~

27 ~~(13)(15) Facilities and programs licensed pursuant to~~
28 ~~this section shall adhere to all rights specified in s.~~
29 ~~393.13, including those enumerated in s. 393.13(4).~~

30 ~~(14)(16) An No unlicensed residential facility or~~
31 ~~comprehensive transitional education program may not shall~~

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

5 ~~(15)(17)~~ The agency is ~~shall~~ not ~~be~~ required to
6 contract with new facilities licensed after October 1, 1989,
7 pursuant to this chapter. Pursuant to chapter 287, the agency
8 shall continue to contract within available resources for
9 residential services with facilities licensed prior to October
10 1, 1989, if such facilities comply with the provisions of this
11 chapter and all other applicable laws and regulations.

12 Section 19. Subsections (1) and (2) of section
13 393.0673, Florida Statutes, are amended, and subsection (5) is
14 added to that section, to read:

15 393.0673 Denial, suspension, revocation of license;
16 moratorium on admissions; administrative fines; procedures.--

17 (1) The agency may deny, revoke, or suspend a license
18 or impose an administrative fine, not to exceed \$1,000 per
19 violation per day, for a violation of any provision of s.
20 393.0655 or s. 393.067 or adopted rules ~~adopted pursuant~~
21 ~~thereto~~. All hearings shall be held within the county in which
22 the licensee or applicant operates or applies for a license to
23 operate a facility as defined herein.

24 (2) The agency, as a part of any final order issued by
25 it pursuant to ~~under~~ the provisions of this chapter, may
26 impose such fine as it deems proper, except that such fine may
27 not exceed \$1,000 for each violation. Each day a violation of
28 this chapter occurs constitutes a separate violation and is
29 subject to a separate fine, but in no event may the aggregate
30 amount of any fine exceed \$10,000. Fines paid by any facility
31 licensee under the provisions of this subsection shall be

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1 deposited in the Resident Protection Trust Fund and expended
2 as provided in s. 400.063.

3 (5) The agency shall establish by rule criteria for
4 evaluating the severity of violations and for determining the
5 amount of fines imposed.

6 Section 20. Subsection (1) of section 393.0674,
7 Florida Statutes, is amended to read:

8 393.0674 Penalties.--

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

12 (a) Fail, by false statement, misrepresentation,
13 impersonation, or other fraudulent means, to disclose in any
14 application for voluntary or paid employment a material fact
15 used in making a determination as to such person's
16 qualifications to be a direct service provider;

17 (b) Provide or attempt to provide supports or services
18 with direct service providers who are not in compliance
19 ~~noncompliance~~ with the background-screening requirements
20 ~~minimum standards for good moral character as contained in~~
21 this chapter; or

22 (c) Use information from the criminal records or
23 central abuse hotline obtained under s. 393.0655, s. 393.066,
24 or s. 393.067 for any purpose other than screening that person
25 for employment as specified in those sections or release such
26 information to any other person for any purpose other than
27 screening for employment as specified in those sections.

28 Section 21. Subsection (3) of section 393.0675,
29 Florida Statutes, is amended to read:

30 393.0675 Injunctive proceedings authorized.--

31 (3) The agency may institute proceedings for an

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1 injunction in a court of competent jurisdiction to terminate
 2 the operation of a provider of supports or services if such
 3 provider has willfully and knowingly refused to comply with
 4 the screening requirement for direct service providers or has
 5 refused to terminate direct service providers found not to be
 6 in compliance with such ~~the~~ requirements ~~for good moral~~
 7 ~~character.~~

8 Section 22. Subsection (1) of section 393.0678,
 9 Florida Statutes, is amended to read:

10 393.0678 Receivership proceedings.--

11 (1) The agency may petition a court of competent
 12 jurisdiction for the appointment of a receiver for ~~an~~
 13 ~~intermediate care facility for the developmentally disabled,~~ a
 14 residential habilitation center, or a group home facility
 15 owned and operated by a corporation or partnership when any of
 16 the following conditions exist:

17 (a) Any person is operating a facility without a
 18 license and refuses to make application for a license as
 19 required by s. 393.067 ~~or, in the case of an intermediate care~~
 20 ~~facility for the developmentally disabled, as required by ss.~~
 21 ~~393.067 and 400.062.~~

22 (b) The licensee is closing the facility or has
 23 informed the department that it intends to close the facility;
 24 and adequate arrangements have not been made for relocation of
 25 the residents within 7 days, exclusive of weekends and
 26 holidays, of the closing of the facility.

27 (c) The agency determines that conditions exist in the
 28 facility which present an imminent danger to the health,
 29 safety, or welfare of the residents of the facility or which
 30 present a substantial probability that death or serious
 31 physical harm would result therefrom. Whenever possible, the

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1 agency shall facilitate the continued operation of the
2 program.

3 (d) The licensee cannot meet its financial obligations
4 to provide food, shelter, care, and utilities. Evidence such
5 as the issuance of bad checks or the accumulation of
6 delinquent bills for such items as personnel salaries, food,
7 drugs, or utilities constitutes prima facie evidence that the
8 ownership of the facility lacks the financial ability to
9 operate the home in accordance with the requirements of this
10 chapter and all rules promulgated thereunder.

11 Section 23. Subsections (1), (2), (3), and (5) of
12 section 393.068, Florida Statutes, are amended to read:

13 393.068 Family care program.--

14 (1) The family care program is established for the
15 purpose of providing services and support to families and
16 individuals with developmental disabilities in order to
17 maintain the individual in the home environment and avoid
18 costly out-of-home residential placement. Services and support
19 available to families and individuals with developmental
20 disabilities shall emphasize community living and
21 self-determination and enable individuals with developmental
22 disabilities to enjoy typical lifestyles. One way to
23 accomplish this is to recognize that families are the greatest
24 resource available to individuals who have developmental
25 disabilities and must be supported in their role as primary
26 care givers.

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

31 (a) Attendant care.

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- 1 (b) Barrier-free modifications to the home.
- 2 (c) Home visitation by agency workers.
- 3 (d) In-home subsidies.
- 4 (e) Low-interest loans.
- 5 (f) Modifications for vehicles used to transport the
- 6 individual with a developmental disability.
- 7 (g) Facilitated communication.
- 8 (h) Family counseling.
- 9 (i) Equipment and supplies.
- 10 (j) Self-advocacy training.
- 11 (k) Roommate services.
- 12 (l) Integrated community activities.
- 13 (m) Emergency services.
- 14 (n) Support coordination.

15 ~~(o) Supported employment.~~

16 ~~(o)(p)~~ Other support services as identified by the

17 family or individual.

18 (3) When it is determined by the agency to be more

19 cost-effective and in the best interest of the client to

20 maintain such client in the home of a direct service provider,

21 the parent or guardian of the client or, if competent, the

22 client may enroll the client in the family care program. The

23 direct service provider of a client enrolled in the family

24 care program shall be reimbursed according to a rate schedule

25 set by the agency, except that: in-home subsidies ~~cited in~~

26 ~~paragraph (2)(d)~~ shall be provided in accordance with

27 ~~according to s. 393.0695 and are not subject to any other~~

28 ~~payment method or rate schedule provided for in this section.~~

29 (5) The agency may contract for the provision of any

30 portion of the services required by the program, except for

31 in-home subsidies ~~cited in paragraph (2)(d)~~, which shall be

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

5 Section 24. Subsection (3) of section 393.0695,
 6 Florida Statutes, is amended, and subsection (5) is added to
 7 that section, to read:

8 393.0695 Provision of in-home subsidies.--

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

12 (5) The agency shall adopt rules to administer this
 13 section, including standards and procedures governing
 14 eligibility for services, selection of housing, selection of
 15 providers, and planning for services, and requirements for
 16 ongoing monitoring.

17 Section 25. Subsection (2) of section 393.075, Florida
 18 Statutes, is amended to read:

19 393.075 General liability coverage.--

20 (2) The Division of Risk Management of the Department
 21 of Financial Services shall provide coverage through the
 22 agency to any person who owns or operates a foster care
 23 facility or group home facility solely for the agency, who
 24 cares for children placed by ~~developmental services staff of~~
 25 the agency, and who is licensed pursuant to s. 393.067 to
 26 provide such supervision and care in his or her place of
 27 residence. The coverage shall be provided from the general
 28 liability account of the State Risk Management Trust Fund. The
 29 coverage is limited to general liability claims arising from
 30 the provision of supervision and care of children in a foster
 31 care facility or group home facility pursuant to an agreement

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1 with the agency and pursuant to guidelines established through
 2 policy, rule, or statute. Coverage shall be subject to the
 3 limits provided in ss. 284.38 and 284.385, and the exclusions
 4 set forth therein, together with other exclusions as may be
 5 set forth in the certificate of coverage issued by the trust
 6 fund. A person covered under the general liability account
 7 pursuant to this subsection shall immediately notify the
 8 Division of Risk Management of the Department of Financial
 9 Services of any potential or actual claim.

10 Section 26. Section 393.11, Florida Statutes, is
 11 amended to read:

12 393.11 Involuntary admission to residential
 13 services.--

14 (1) JURISDICTION.--When a person who has been
 15 determined eligible for services for mental retardation under
 16 this chapter ~~is mentally retarded~~ and requires involuntary
 17 admission to residential services provided by the agency, the
 18 circuit court of the county in which the person resides shall
 19 have jurisdiction to conduct a hearing and enter an order
 20 involuntarily admitting the person in order that the person
 21 may receive the care, treatment, habilitation, and
 22 rehabilitation which the person needs. For the purpose of
 23 identifying mental retardation, diagnostic capability shall be
 24 established by the agency. The involuntary commitment of a
 25 person with mental retardation or autism who is charged with a
 26 felony offense shall be determined in accordance with s.
 27 916.302. ~~Except as otherwise specified, the proceedings under~~
 28 ~~this section shall be governed by the Florida Rules of Civil~~
 29 ~~Procedure.~~

30 (2) PETITION.--

31 (a) A petition for involuntary admission to

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1 residential services may be executed by a petitioning
 2 commission. ~~For proposed involuntary admission to residential~~
 3 ~~services arising out of chapter 916, the petition may be filed~~
 4 ~~by a petitioning commission, the agency, the state attorney of~~
 5 ~~the circuit from which the defendant was committed, or the~~
 6 ~~defendant's attorney.~~

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

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

11 1. State the name, age, and present address of the
 12 commissioners and their relationship to the person with mental
 13 retardation or autism;

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

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

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

25 5. State which residential setting is the least
 26 restrictive and most appropriate alternative and specify the
 27 factual information on which the ~~such~~ belief is based.

28 (d) The petition shall be filed in the circuit court
 29 of the county in which the person with mental retardation or
 30 autism resides.

31 (3) NOTICE.--

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1 (a) Notice of the filing of the petition shall be
 2 given to the individual and his or her legal guardian. The
 3 notice shall be given both verbally and in writing in the
 4 language of the client, or in other modes of communication of
 5 the client, and in English. Notice shall also be given to such
 6 other persons as the court may direct. The petition for
 7 involuntary admission to residential services shall be served
 8 with the notice.

9 (b) Whenever a motion or petition has been filed
 10 pursuant to s. 916.303 to dismiss criminal charges against a
 11 defendant with retardation or autism, and a petition is filed
 12 to involuntarily admit the defendant to residential services
 13 under this section, the notice of the filing of the petition
 14 shall also be given to the defendant's attorney, ~~and~~ to the
 15 state attorney of the circuit from which the defendant was
 16 committed, and the agency.

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

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

25 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

26 (a) Upon receiving the petition, the court shall
 27 immediately order the developmental services program of the
 28 agency to examine the person being considered for involuntary
 29 admission to residential services.

30 (b) Following examination, the agency shall file ~~After~~
 31 ~~the developmental services program examines the person, a~~

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1 written report ~~shall be filed~~ with the court not less than 10
 2 working days before the date of the hearing. The report must
 3 ~~shall~~ be served on the petitioner, the person with mental
 4 retardation, and the person's attorney at the time the report
 5 is filed with the court.

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

11 (5) EXAMINING COMMITTEE.--

12 (a) Upon receiving the petition, the court shall
 13 immediately appoint an examining committee to examine the
 14 person being considered for involuntary admission to
 15 residential services provided by ~~of the developmental services~~
 16 ~~program~~ of the agency.

17 (b) The court shall appoint no fewer than three
 18 disinterested experts who have demonstrated to the court an
 19 expertise in the diagnosis, evaluation, and treatment of
 20 persons with mental retardation. The committee must ~~shall~~
 21 include at least one licensed and qualified physician, one
 22 licensed and qualified psychologist, and one qualified
 23 professional with a minimum of a masters degree in social
 24 work, special education, or vocational rehabilitation
 25 counseling, to examine the person and to testify at the
 26 hearing on the involuntary admission to residential services.

27 (c) Counsel for the person who is being considered for
 28 involuntary admission to residential services and counsel for
 29 the petition commission has ~~shall have~~ the right to challenge
 30 the qualifications of those appointed to the examining
 31 committee.

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1 (d) Members of the committee may ~~shall~~ not be
2 employees of the agency or be associated with each other in
3 practice or in employer-employee relationships. Members of
4 the committee may ~~shall~~ not have served as members of the
5 petitioning commission. Members of the committee may ~~shall~~
6 not be employees of the members of the petitioning commission
7 or be associated in practice with members of the commission.

8 (e) The committee shall prepare a written report for
9 the court. The report must ~~shall~~ explicitly document the
10 extent that the person meets the criteria for involuntary
11 admission. The report, and expert testimony, must ~~shall~~
12 include, but not be limited to:

13 1. The degree of the person's mental retardation and
14 whether, using diagnostic capabilities established by the
15 agency, the person is eligible for agency services;

16 2. Whether, because of the person's degree of mental
17 retardation, the person:

18 a. Lacks sufficient capacity to give express and
19 informed consent to a voluntary application for services
20 pursuant to s. 393.065;

21 b. Lacks basic survival and self-care skills to such a
22 degree that close supervision and habilitation in a
23 residential setting is necessary and if not provided would
24 result in a real and present threat of substantial harm to the
25 person's well-being; or

26 c. Is likely to physically injure others if allowed to
27 remain at liberty.

28 3. The purpose to be served by residential care;

29 4. A recommendation on the type of residential
30 placement which would be the most appropriate and least
31 restrictive for the person; and

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1 5. The appropriate care, habilitation, and treatment.

2 (f) The committee shall file the report with the court
3 not less than 10 working days before the date of the hearing.
4 The report shall be served on the petitioner, the person with
5 mental retardation, ~~and~~ the person's attorney at the time the
6 report is filed with the court, and the agency.

7 (g) Members of the examining committee shall receive a
8 reasonable fee to be determined by the court. The fees are to
9 be paid from the general revenue fund of the county in which
10 the person with mental retardation resided when the petition
11 was filed.

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

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

16 (a) The person with mental retardation shall be
17 represented by counsel at all stages of the judicial
18 proceeding. In the event the person is indigent and cannot
19 afford counsel, the court shall appoint a public defender not
20 less than 20 working days before the scheduled hearing. The
21 person's counsel shall have full access to the records of the
22 service provider and the agency. In all cases, the attorney
23 shall represent the rights and legal interests of the person
24 with mental retardation, regardless of who may initiate the
25 proceedings or pay the attorney's fee.

26 (b) If the attorney, during the course of his or her
27 representation, reasonably believes that the person with
28 mental retardation cannot adequately act in his or her own
29 interest, the attorney may seek the appointment of a guardian
30 ad litem. A prior finding of incompetency is not required
31 before a guardian ad litem is appointed pursuant to this

1 section.

2 (7) HEARING.--

3 (a) The hearing for involuntary admission shall be
4 conducted, and the order shall be entered, in the county in
5 which the petition is filed ~~person is residing or be as~~
6 ~~convenient to the person as may be consistent with orderly~~
7 ~~procedure~~. The hearing shall be conducted in a physical
8 setting not likely to be injurious to the person's condition.

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

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

17 (d) The person with mental retardation shall be
18 physically present throughout the entire proceeding. If the
19 person's attorney believes that the person's presence at the
20 hearing is not in the person's best interest, the person's
21 presence may be waived once the court has seen the person and
22 the hearing has commenced.

23 (e) The person has ~~shall have~~ the right to present
24 evidence and to cross-examine all witnesses and other evidence
25 alleging the appropriateness of the person's admission to
26 residential care. Other relevant and material evidence
27 regarding the appropriateness of the person's admission to
28 residential services; the most appropriate, least restrictive
29 residential placement; and the appropriate care, treatment,
30 and habilitation of the person, including written or oral
31 reports, may be introduced at the hearing by any interested

1 person.

2 (f) The petitioning commission may be represented by
3 counsel at the hearing. The petitioning commission shall have
4 the right to call witnesses, present evidence, cross-examine
5 witnesses, and present argument on behalf of the petitioning
6 commission.

7 (g) All evidence shall be presented according to
8 chapter 90. The burden of proof shall be on the party
9 alleging the appropriateness of the person's admission to
10 residential services. The burden of proof shall be by clear
11 and convincing evidence.

12 (h) All stages of each proceeding shall be
13 stenographically reported.

14 (8) ORDER.--

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

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

21 1. The person is mentally retarded or autistic;

22 2. Placement in a residential setting is the least
23 restrictive and most appropriate alternative to meet the
24 person's needs; and

25 3. Because of the person's degree of mental
26 retardation or autism, the person:

27 a. Lacks sufficient capacity to give express and
28 informed consent to a voluntary application for services
29 pursuant to s. 393.065 and lacks basic survival and self-care
30 skills to such a degree that close supervision and
31 habilitation in a residential setting is necessary and, if not

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1 provided, would result in a real and present threat of
2 substantial harm to the person's well-being; or

3 b. Is likely to physically injure others if allowed to
4 remain at liberty.

5 (c) If the evidence presented to the court is not
6 sufficient to warrant involuntary admission to residential
7 services, but the court feels that residential services would
8 be beneficial, the court may recommend that the person seek
9 voluntary admission.

10 (d) If an order of involuntary admission to
11 residential services provided by the ~~developmental services~~
12 ~~program of the~~ agency is entered by the court, a copy of the
13 written order shall be served upon the person, the person's
14 counsel, the agency, and the state attorney and the person's
15 defense counsel, if applicable. The order of involuntary
16 admission sent to the agency shall also be accompanied by a
17 copy of the examining committee's report and other reports
18 contained in the court file.

19 (e) Upon receiving the order, the agency shall, within
20 45 days, provide the court with a copy of the person's family
21 or individual support plan and copies of all examinations and
22 evaluations, outlining the treatment and rehabilitative
23 programs. The agency shall document that the person has been
24 placed in the most appropriate, least restrictive and
25 cost-beneficial residential setting ~~facility~~. A copy of the
26 family or individual support plan and other examinations and
27 evaluations shall be served upon the person and the person's
28 counsel at the same time the documents are filed with the
29 court.

30 (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO
31 RESIDENTIAL SERVICES.--

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1 (a) ~~In no case shall~~ An order authorizing an admission
 2 to residential care may not be considered an adjudication of
 3 mental incompetency. A No person is not ~~shall be~~ presumed
 4 incompetent solely by reason of the person's involuntary
 5 admission to residential services. A No person may not ~~shall~~
 6 be denied the full exercise of all legal rights guaranteed to
 7 citizens of this state and of the United States.

8 (b) Any minor involuntarily admitted to residential
 9 services shall, upon reaching majority, be given a hearing to
 10 determine the continued appropriateness of his or her
 11 involuntary admission.

12 (10) COMPETENCY.--

13 (a) The issue of competency shall be separate and
 14 distinct from a determination of the appropriateness of
 15 involuntary admission to residential services for a condition
 16 of mental retardation.

17 (b) The issue of the competency of a person with
 18 mental retardation for purposes of assigning guardianship
 19 shall be determined in a separate proceeding according to the
 20 procedures and requirements of chapter 744 ~~and the Florida~~
 21 ~~Probate Rules.~~ The issue of the competency of a person with
 22 mental retardation or autism for purposes of determining
 23 whether the person is competent to proceed in a criminal trial
 24 shall be determined in accordance with chapter 916.

25 (11) CONTINUING JURISDICTION.--The court which issues
 26 the initial order for involuntary admission to residential
 27 services under this section has ~~shall have~~ continuing
 28 jurisdiction to enter further orders to ensure that the person
 29 is receiving adequate care, treatment, habilitation, and
 30 rehabilitation, including psychotropic medication and
 31 behavioral programming. Upon request, the court may transfer

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1 the continuing jurisdiction to the court where a client
2 resides if it is different from where the original involuntary
3 admission order was issued. A ~~No~~ person may not be released
4 from an order for involuntary admission to residential
5 services except by the order of the court.

6 (12) APPEAL.--

7 (a) Any party to the proceeding who is affected by an
8 order of the court may appeal to the appropriate district
9 court of appeal within the time and in the manner prescribed
10 by the Florida Rules of Appellate Procedure.

11 (b) The filing of an appeal by the person with mental
12 retardation shall stay admission of the person into
13 residential care. The stay shall remain in effect during the
14 pendency of all review proceedings in Florida courts until a
15 mandate issues.

16 (13) HABEAS CORPUS.--At any time and without notice,
17 any person involuntarily admitted into residential care ~~to the~~
18 ~~developmental services program of the agency,~~ or the person's
19 parent or legal guardian in his or her behalf, is entitled to
20 file a petition for a writ of habeas corpus to question the
21 cause, legality, and appropriateness of the person's
22 involuntary admission. Each person, or the person's parent or
23 legal guardian, shall receive specific written notice of the
24 right to petition for a writ of habeas corpus at the time of
25 his or her involuntary placement.

26 Section 27. Section 393.122, Florida Statutes, is
27 amended to read:

28 393.122 Applications for continued residential
29 services.--

30 (1) If a client is discharged from residential
31 services under the provisions of s. 393.115 ~~this section,~~

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1 application for needed services shall be encouraged.

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

6 Section 28. Section 393.13, Florida Statutes, is
7 amended to read:

8 393.13 ~~Personal~~ Treatment of persons with
9 developmental disabilities ~~who are developmentally disabled.--~~

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

13 (2) LEGISLATIVE INTENT.--

14 (a) The Legislature finds and declares that the system
15 of care provided to individuals who are developmentally
16 disabled must be designed to meet the needs of the clients as
17 well as protect the integrity of their legal and human rights.

18 (b) The Legislature further finds and declares that
19 the design and delivery of treatment and services to persons
20 with developmental disabilities ~~who are developmentally~~
21 ~~disabled~~ should be directed by the principles of
22 self-determination ~~normalization~~ and therefore should:

23 1. Abate the use of large institutions.

24 2. Continue the development of community-based
25 services that ~~which~~ provide reasonable alternatives to
26 institutionalization in settings that are least restrictive to
27 the client and that provide opportunities for inclusion in the
28 community.

29 3. Provide training and education that ~~to individuals~~
30 ~~who are developmentally disabled~~ which will maximize their
31 potential to lead independent and productive lives and that

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1 ~~which~~ will afford opportunities for outward mobility from
2 institutions.

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

7 (c) It is the intent of the Legislature that
8 duplicative and unnecessary administrative procedures and
9 practices shall be eliminated, and areas of responsibility
10 shall be clearly defined and consolidated in order to
11 economically utilize present resources. Furthermore,
12 personnel providing services should be sufficiently qualified
13 and experienced to meet the needs of the clients, and they
14 must be sufficient in number to provide treatment in a manner
15 which is beneficial to the clients.

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

17 1. To articulate the existing legal and human rights
18 of persons with developmental disabilities ~~who are~~
19 ~~developmentally disabled~~ so that they may be exercised and
20 protected. Persons with developmental disabilities shall have
21 all the rights enjoyed by citizens of the state and the United
22 States.

23 2. To provide a mechanism for the identification,
24 evaluation, and treatment of persons with developmental
25 disabilities.

26 3. To divert those individuals from institutional
27 commitment who, by virtue of comprehensive assessment, can be
28 placed in less costly, more effective community environments
29 and programs.

30 4. To fund improvements in the program in accordance
31 with the availability of state resources and yearly priorities

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1 determined by the Legislature.

2 5. To ensure that persons with developmental
3 disabilities receive treatment and habilitation which fosters
4 the developmental potential of the individual.

5 6. To provide programs for the proper habilitation and
6 treatment of persons with developmental disabilities which
7 shall include, but not be limited to, comprehensive
8 medical/dental care, education, recreation, specialized
9 therapies, training, social services, transportation,
10 guardianship, family care programs, day habilitation services,
11 and habilitative and rehabilitative services suited to the
12 needs of the individual regardless of age, degree of
13 disability, or handicapping condition. It is the intent of the
14 Legislature that no person with developmental disabilities
15 shall be deprived of these enumerated services by reason of
16 inability to pay.

17 7. To fully effectuate the principles of
18 self-determination ~~normalization principle~~ through the
19 establishment of community services for persons with
20 developmental disabilities as a viable and practical
21 alternative to institutional care at each stage of individual
22 life development and to promote opportunities for community
23 inclusion. If care in a residential facility becomes
24 necessary, it shall be in the least restrictive setting.

25 8. To achieve an ongoing reduction in the use of
26 restraint and seclusion in facilities and programs serving
27 persons with developmental disabilities.

28 (e) It is the clear, unequivocal intent of this act to
29 guarantee individual dignity, liberty, pursuit of happiness,
30 and protection of the civil and legal rights of persons with
31 developmental disabilities.

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

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

8 (b) Persons with developmental disabilities shall have
 9 the right to religious freedom and practice. Nothing shall
 10 restrict or infringe on a person's right to religious
 11 preference and practice.

12 (c) Persons with developmental disabilities shall
 13 receive services, within available sources, which protect the
 14 personal liberty of the individual and which are provided in
 15 the least restrictive conditions necessary to achieve the
 16 purpose of treatment.

17 (d) Persons who are developmentally disabled shall
 18 have a right to participate in an appropriate program of
 19 quality education and training services, within available
 20 resources, regardless of chronological age or degree of
 21 disability. Such persons may be provided with instruction in
 22 sex education, marriage, and family planning.

23 (e) Persons who are developmentally disabled shall
 24 have a right to social interaction and to participate in
 25 community activities.

26 (f) Persons who are developmentally disabled shall
 27 have a right to physical exercise and recreational
 28 opportunities.

29 (g) Persons who are developmentally disabled shall
 30 have a right to be free from harm, including unnecessary
 31 physical, chemical, or mechanical restraint, isolation,

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1 excessive medication, abuse, or neglect.

2 (h) Persons who are developmentally disabled shall
3 have a right to consent to or refuse treatment, subject to the
4 provisions of s. 393.12(2)(a) or chapter 744.

5 (i) No otherwise qualified person shall, by reason of
6 having a developmental disability, be excluded from
7 participation in, or be denied the benefits of, or be subject
8 to discrimination under, any program or activity which
9 receives public funds, and all prohibitions set forth under
10 any other statute shall be actionable under this statute.

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

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

18 (a) Clients shall have an unrestricted right to
19 communication:

20 1. Each client is ~~shall be~~ allowed to receive, send,
21 and mail sealed, unopened correspondence. A ~~No~~ client's
22 incoming or outgoing correspondence may not ~~shall~~ be opened,
23 delayed, held, or censored by the facility unless there is
24 reason to believe that it contains items or substances which
25 may be harmful to the client or others, in which case the
26 chief administrator of the facility may direct reasonable
27 examination of such mail and regulate the disposition of such
28 items or substances.

29 2. Clients in residential facilities shall be afforded
30 reasonable opportunities for telephone communication, to make
31 and receive confidential calls, unless there is reason to

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1 believe that the content of the telephone communication may be
2 harmful to the client or others, in which case the chief
3 administrator of the facility may direct reasonable
4 observation and monitoring to the telephone communication.

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

9 (b) Each client has the right to the possession and
10 use of his or her own clothing and personal effects, except in
11 those specific instances where the use of some of these items
12 as reinforcers is essential for training the client as part of
13 an appropriately approved behavioral program. The chief
14 administrator of the facility may take temporary custody of
15 such effects when it is essential to do so for medical or
16 safety reasons. Custody of such personal effects shall be
17 promptly recorded in the client's record, and a receipt for
18 such effects shall be immediately given to the client, if
19 competent, or the client's parent or legal guardian.

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

22 2. All interest on money received and held for the
23 personal use and benefit of a client shall be the property of
24 that client and may ~~shall~~ not accrue to the general welfare of
25 all clients or be used to defray the cost of residential care.
26 Interest so accrued shall be used or conserved for the
27 personal use or benefit of the individual client as provided
28 in s. 402.17(2).

29 3. Upon the discharge or death of a client, a final
30 accounting shall be made of all personal effects and money
31 belonging to the client held by the agency. All ~~such~~ personal

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1 effects and money, including interest, shall be promptly
2 turned over to the client or his or her heirs.

3 (c) Each client shall receive prompt and appropriate
4 medical treatment and care for physical and mental ailments
5 and for the prevention of any illness or disability. Medical
6 treatment shall be consistent with the accepted standards of
7 medical practice in the community.

8 1. Medication shall be administered only at the
9 written order of a physician. Medication shall not be used as
10 punishment, for the convenience of staff, as a substitute for
11 implementation of an individual or family support plan or
12 behavior-analysis services ~~behavior modification programming~~,
13 or in unnecessary or excessive quantities.

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

17 3. Periodically, but no less frequently than every 6
18 months, the drug regimen of each client in a residential
19 facility shall be reviewed by the attending physician or other
20 appropriate monitoring body, consistent with appropriate
21 standards of medical practice. All prescriptions shall have a
22 termination date.

23 4. When pharmacy services are provided at any
24 residential facility, such services shall be directed or
25 supervised by a professionally competent pharmacist licensed
26 according to the provisions of chapter 465.

27 5. Pharmacy services shall be delivered in accordance
28 with the provisions of chapter 465.

29 6. Prior to instituting a plan of experimental medical
30 treatment or carrying out any necessary surgical procedure,
31 express and informed consent shall be obtained from the

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1 client, if competent, or the client's parent or legal
2 guardian. Information upon which the client shall make
3 necessary treatment and surgery decisions shall include, but
4 not be limited to:

5 a. The nature and consequences of such procedures.

6 b. The risks, benefits, and purposes of such
7 procedures.

8 c. Alternate procedures available.

9 7. When the parent or legal guardian of the client is
10 unknown or unlocatable and the physician is unwilling to
11 perform surgery based solely on the client's consent, a court
12 of competent jurisdiction shall hold a hearing to determine
13 the appropriateness of the surgical procedure. The client
14 shall be physically present, unless the client's medical
15 condition precludes such presence, represented by counsel, and
16 provided the right and opportunity to be confronted with, and
17 to cross-examine, all witnesses alleging the appropriateness
18 of such procedure. In such proceedings, the burden of proof by
19 clear and convincing evidence shall be on the party alleging
20 the appropriateness of such procedures. The express and
21 informed consent of a person described in subparagraph 6. may
22 be withdrawn at any time, with or without cause, prior to
23 treatment or surgery.

24 8. The absence of express and informed consent
25 notwithstanding, a licensed and qualified physician may render
26 emergency medical care or treatment to any client who has been
27 injured or who is suffering from an acute illness, disease, or
28 condition if, within a reasonable degree of medical certainty,
29 delay in initiation of emergency medical care or treatment
30 would endanger the health of the client.

31 (d) Each client shall have access to individual

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1 storage space for his or her private use.

2 (e) Each client shall be provided with appropriate
3 physical exercise as prescribed in the client's individual or
4 family support plan. Indoor and outdoor facilities and
5 equipment for such physical exercise shall be provided.

6 (f) Each client shall receive humane discipline.

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

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

14 2. All alleged violations of this paragraph shall be
15 reported immediately to the chief administrator ~~administrative~~
16 ~~officer~~ of the facility and ~~or the district administrator,~~ the
17 agency ~~head, and the Florida local advocacy council.~~ A
18 thorough investigation of each incident shall be conducted and
19 a written report of the finding and results of the ~~such~~
20 investigation shall be submitted to the chief administrator
21 ~~administrative officer~~ of the facility ~~or the district~~
22 ~~administrator~~ and ~~to~~ the agency ~~head~~ within 24 hours after ~~of~~
23 the occurrence or discovery of the incident.

24 3. The agency shall adopt by rule a system for the
25 oversight of behavioral programs. The ~~Such~~ system shall
26 establish guidelines and procedures governing the design,
27 approval, implementation, and monitoring of all behavioral
28 programs involving clients. The system shall ensure statewide
29 and local review by committees of professionals certified as
30 behavior analysts pursuant to s. 393.17. No behavioral program
31 shall be implemented unless reviewed according to the rules

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1 established by the agency under this section. ~~Nothing stated~~
2 ~~in this section shall prohibit the review of programs by the~~
3 ~~Florida statewide or local advocacy councils.~~

4 ~~(h) Each client engaged in work programs which require~~
5 ~~compliance with federal wage and hour laws shall be provided~~
6 ~~with minimum wage protection and fair compensation for labor~~
7 ~~in accordance with the federal wage-per-hour regulations.~~

8 ~~(h)(i) Clients shall have the right to be free from~~
9 ~~unnecessary use of physical, chemical, or mechanical restraint~~
10 ~~or seclusion. Restraints and seclusion should only be used in~~
11 ~~situations in which the client or others are at risk of~~
12 ~~injury. Restraints shall be employed only in emergencies or to~~
13 ~~protect the client from imminent injury to himself or herself~~
14 ~~or others. Restraints may shall not be employed as~~
15 ~~punishment, for the convenience of staff, or as a substitute~~
16 ~~for a support ~~habilitative~~ plan. Restraints shall impose the~~
17 ~~least possible restrictions consistent with their purpose and~~
18 ~~shall be removed when the emergency ends. Restraints may~~
19 ~~shall not cause physical injury to the client and must shall~~
20 ~~be designed to allow the greatest possible comfort. Any~~
21 ~~instance of the use of restraint or seclusion must be~~
22 ~~documented in the facility or program record of the client.~~

23 ~~1. Mechanical supports used in normative situations to~~
24 ~~achieve proper body position and balance shall not be~~
25 ~~considered restraints, but shall be prescriptively designed~~
26 ~~and applied under the supervision of a qualified professional~~
27 ~~with concern for principles of good body alignment,~~
28 ~~circulation, and allowance for change of position.~~

29 ~~2. Totally enclosed cribs and barred enclosures shall~~
30 ~~be considered restraints.~~

31 ~~1.3. Daily reports on the employment of restraint or~~

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1 seclusion ~~physical, chemical, or mechanical restraints~~ by
2 ~~those~~ specialists authorized in the use of restraint and
3 seclusion ~~such restraints~~ shall be made to the ~~appropriate~~
4 ~~chief~~ administrator of the facility or program, and a monthly
5 compilation ~~summary~~ of the ~~such~~ reports shall be relayed to
6 the agency's local area office ~~district administrator and the~~
7 ~~Florida local advocacy council~~. The reports shall summarize
8 all such cases of restraints, the type used, the duration of
9 usage, and the reasons therefor. The area office ~~Districts~~
10 shall submit the ~~districtwide quarterly reports of these~~
11 summaries to the agency's headquarters ~~state Developmental~~
12 ~~Disabilities Program Office~~.

13 2.4. The agency shall adopt by rule standards and
14 procedures governing the use of restraint and seclusion ~~post a~~
15 ~~copy of the rules adopted under this section in each living~~
16 ~~unit of residential facilities~~. A copy of the rules adopted
17 under this subparagraph ~~section~~ shall be given to the client,
18 parent, guardian or guardian advocate, and all staff members
19 of ~~licensed~~ facilities and programs licensed under this
20 chapter and shall be made a part of all staff preservice and
21 inservice training programs.

22 (i)(j)1. Each client shall have a central record. The
23 central record shall be established by the agency at the time
24 that an individual is determined eligible for services, shall
25 be maintained by the client's support coordinator, and must
26 contain information ~~include data~~ pertaining to admission,
27 diagnosis and treatment history, present condition, and such
28 other information as may be required ~~under rules of the~~
29 agency. The central record is the property of the agency.

30 1.2. Unless waived by the client, if competent, or the
31 client's parent or legal guardian if the client is

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1 incompetent, the client's central record shall be confidential
2 and exempt from the provisions of s. 119.07(1), and no part of
3 it shall be released except:

4 a. The record may be released to physicians,
5 attorneys, and government agencies having need of the record
6 to aid the client, as designated by the client, if competent,
7 or the client's parent or legal guardian, if the client is
8 incompetent.

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

12 c. The record or any part thereof may be disclosed to
13 a qualified researcher, a staff member of the facility where
14 the client resides, or an employee of the agency when the
15 administrator of the facility or the director of the agency
16 deems it necessary for the treatment of the client,
17 maintenance of adequate records, compilation of treatment
18 data, or evaluation of programs.

19 d. Information from the records may be used for
20 statistical and research purposes if the information is
21 abstracted in such a way to protect the identity of
22 individuals.

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

27 ~~2.4.~~ The client, if competent, or the client's parent
28 or legal guardian if the client is incompetent, shall be
29 supplied with a copy of the client's central record upon
30 request.

31 ~~(j)(k)~~ Each client residing in a residential facility

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1 | who is eligible to vote in public elections according to the
 2 | laws of the state has ~~shall have~~ the right to vote.
 3 | Facilities operators shall arrange the means to exercise the
 4 | client's right to vote.

5 | (5) LIABILITY FOR VIOLATIONS.--Any person who violates
 6 | or abuses any rights or privileges of persons who are
 7 | developmentally disabled provided by this chapter is ~~act shall~~
 8 | ~~be~~ liable for damages as determined by law. Any person who
 9 | acts in good faith compliance with the provisions of this
 10 | chapter is ~~act shall be~~ immune from civil or criminal
 11 | liability for actions in connection with evaluation,
 12 | admission, habilitative programming, education, treatment, or
 13 | discharge of a client. However, this section does ~~shall~~ not
 14 | relieve any person from liability if the ~~such~~ person is guilty
 15 | of negligence, misfeasance, nonfeasance, or malfeasance.

16 | (6) NOTICE OF RIGHTS.--Each person with developmental
 17 | disabilities, if competent, or parent or legal guardian of
 18 | such person if the person is incompetent, shall promptly
 19 | receive from the agency or the Department of Education a
 20 | written copy of this act. Each person with developmental
 21 | disabilities able to comprehend shall be promptly informed, in
 22 | the language or other mode of communication which such person
 23 | understands, of the above legal rights of persons with
 24 | developmental disabilities.

25 | (7) RESIDENT GOVERNMENT.--Each residential facility
 26 | providing services to clients who are desirous and capable of
 27 | participating shall initiate and develop a program of resident
 28 | government to hear the views and represent the interests of
 29 | all clients served by the facility. The resident government
 30 | shall be composed of residents elected by other residents,
 31 | staff advisers skilled in the administration of community

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1 organizations, and, at the option of the residential
 2 government, representatives of advocacy groups for persons
 3 with developmental disabilities from the community ~~a~~
 4 ~~representative of the Florida local advocacy council. The~~
 5 ~~resident government shall work closely with the Florida local~~
 6 ~~advocacy council and the district administrator to promote the~~
 7 ~~interests and welfare of all residents in the facility.~~

8 Section 29. Subsections (1), (2), (3), (4), and (5) of
 9 section 393.135, Florida Statutes, are amended to read:

10 393.135 Sexual misconduct prohibited; reporting
 11 required; penalties.--

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

13 (a) "Covered person" ~~"Employee"~~ includes any employee,
 14 paid staff member, volunteer, or intern of the agency ~~or the~~
 15 ~~department~~; any person under contract with the agency ~~or the~~
 16 ~~department~~; and any person providing care or support to a
 17 client on behalf of the agency ~~department~~ or its providers.

18 (b) "Sexual activity" means:

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

21 2. The oral, anal, or vaginal penetration by or union
 22 with the sexual organ of another or the anal or vaginal
 23 penetration of another by any other object.

24 3. Intentionally touching in a lewd or lascivious
 25 manner the breasts, genitals, the genital area, or buttocks,
 26 or the clothing covering them, of a person, or forcing or
 27 enticing a person to touch the perpetrator.

28 4. Intentionally masturbating in the presence of
 29 another person.

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

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1 6. Intentionally committing any other sexual act that
 2 does not involve actual physical or sexual contact with the
 3 victim, including, but not limited to, sadomasochistic abuse,
 4 sexual bestiality, or the simulation of any act involving
 5 sexual activity in the presence of a victim.

6 (c) "Sexual misconduct" means any sexual activity
 7 between a covered person ~~an employee~~ and a client to whom a
 8 covered person renders services, care, or support on behalf of
 9 the agency or its providers, or between a covered person and
 10 another client who lives in the same home as the client to
 11 whom a covered person is rendering the services, care, or
 12 support, regardless of the consent of the client. The term
 13 does not include an act done for a bona fide medical purpose
 14 or an internal search conducted in the lawful performance of
 15 duty by a covered person ~~an employee~~.

16 (2) A covered person ~~An employee~~ who engages in sexual
 17 misconduct with an individual with a developmental disability
 18 who:

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

20 (a)(b) Resides in a residential facility, including
 21 any comprehensive transitional education program,
 22 developmental disabilities ~~services~~ institution, foster care
 23 facility, group home facility, intermediate care facility for
 24 the developmentally disabled, or residential habilitation
 25 center; or

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

28
 29 commits a felony of the second degree, punishable as provided
 30 in s. 775.082, s. 775.083, or s. 775.084. A covered person ~~An~~
 31 ~~employee~~ may be found guilty of violating this subsection

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1 without having committed the crime of sexual battery.

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

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

6 (a) is legally married to the client; ~~or~~

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

10 (5) A covered person ~~An employee~~ who witnesses sexual
11 misconduct, or who otherwise knows or has reasonable cause to
12 suspect that a person has engaged in sexual misconduct, shall
13 immediately report the incident to the ~~department's~~ central
14 abuse hotline of the Department of Children and Family
15 Services and to the appropriate local law enforcement agency.
16 The covered person ~~Such employee~~ shall also prepare, date, and
17 sign an independent report that specifically describes the
18 nature of the sexual misconduct, the location and time of the
19 incident, and the persons involved. The covered person
20 ~~employee~~ shall deliver the report to the supervisor or program
21 director, who is responsible for providing copies to the
22 agency's local office and the agency's ~~department's~~ inspector
23 general. ~~The inspector general shall immediately conduct an~~
24 ~~appropriate administrative investigation, and, if there is~~
25 ~~probable cause to believe that sexual misconduct has occurred,~~
26 ~~the inspector general shall notify the state attorney in the~~
27 ~~circuit in which the incident occurred.~~

28 Section 30. Section 393.15, Florida Statutes, is
29 amended to read:

30 393.15 Legislative intent; Community Resources
31 Development Loan Program ~~Trust Fund~~.--

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1 (1) The Legislature finds and declares that the
2 development of community-based treatment facilities for
3 persons with developmental disabilities ~~who are~~
4 ~~developmentally disabled~~ is desirable and recommended and
5 should be encouraged and fostered by the state. The
6 Legislature further recognizes that the development of such
7 facilities is financially difficult for private individuals,
8 due to initial expenditures required to adapt existing
9 structures to the special needs of such persons ~~who are~~
10 ~~developmentally disabled~~ who may be served in community-based
11 foster care, group home, ~~developmental training~~, and supported
12 employment programs. Therefore, ~~it is the intent of the~~
13 Legislature intends that the agency ~~by this act to~~ develop and
14 administer a loan program ~~trust fund~~ to provide support and
15 encouragement in the establishment of community-based foster
16 care, group home, ~~developmental training~~, and supported
17 employment programs for persons with developmental
18 disabilities ~~who are developmentally disabled~~.

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

23 ~~(2)(3)~~ There is created a Community Resources
24 Development Loan Program in ~~Trust Fund in the State Treasury~~
25 ~~to be used by~~ the agency for the purpose of granting loans to
26 eligible programs for the initial costs of development of the
27 programs. In order to be eligible for the program, a foster
28 home, group home, or supported employment program must:

29 (a) Serve persons with developmental disabilities;

30 (b) Be a nonprofit corporation, partnership, or sole
31 proprietorship; and

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

4 (3) Loans may be made to pay for the costs of
5 development and ~~may include~~ structural modification, the
6 purchase of equipment and fire and safety devices,
7 preoperational staff training, and the purchase of insurance.
8 Such costs may ~~shall~~ not include the actual construction of a
9 facility and may not be in lieu of payment for maintenance,
10 client services, or care provided.

11 (4) The agency may grant to an eligible program a
12 lump-sum loan in one payment not to exceed the cost ~~to the~~
13 ~~program~~ of providing 2 months' services, care, or maintenance
14 to each person who is developmentally disabled to be placed in
15 the program by the agency, or the actual cost of firesafety
16 renovations to a facility required by the state, whichever is
17 greater. ~~Loans granted to programs shall not be in lieu of~~
18 ~~payment for maintenance, services, or care provided, but shall~~
19 ~~stand separate and distinct.~~

20 (5) The agency shall adopt rules, ~~as provided in~~
21 ~~chapter 120,~~ to determine the criteria ~~standards~~ under which a
22 program shall be eligible to receive a loan ~~as provided in~~
23 ~~this section~~ and the methodology ~~criteria~~ for the equitable
24 allocation of loan ~~trust~~ funds when eligible applications
25 exceed the funds available.

26 ~~(6)(5)~~ Any loan granted by the agency under this
27 section shall be repaid by the program within 5 years and the
28 amount paid shall be deposited into the agency's
29 Administrative Trust Fund. Moneys repaid shall be used to fund
30 new loans. A program that operates as a nonprofit corporation
31 meeting the requirements of s. 501(c)(3) of the Internal

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1 Revenue Code, and that seeks forgiveness of its loan shall
 2 submit to the agency an annual a statement setting forth the
 3 service it has provided during the year together with such
 4 other information as the agency by rule shall require, and,
 5 upon approval of each such annual statement, the agency may
 6 ~~shall~~ forgive up to 20 percent of the principal of any such
 7 loan granted ~~after June 30, 1975.~~

8 (7)(6) If any program that has received a loan under
 9 this section ceases to accept, or provide care, services, or
 10 maintenance to persons placed in the program by the
 11 department, or if such program files papers of bankruptcy, at
 12 that point in time the loan shall become an interest-bearing
 13 loan at the rate of 5 percent per annum on the entire amount
 14 of the initial loan which shall be repaid within a 1-year
 15 period from the date on which the program ceases to provide
 16 care, services, or maintenance, or files papers in bankruptcy,
 17 and the amount of the loan due plus interest shall constitute
 18 a lien in favor of the state against all real and personal
 19 property of the program. The lien shall be perfected by the
 20 appropriate officer of the agency by executing and
 21 acknowledging a statement of the name of the program and the
 22 amount due on the loan and a copy of the promissory note,
 23 which shall be recorded by the agency with the clerk of the
 24 circuit court in the county wherein the program is located. If
 25 the program has filed a petition for bankruptcy, the agency
 26 shall file and enforce the lien in the bankruptcy proceedings.
 27 Otherwise, the lien shall be enforced in the manner provided
 28 in s. 85.011. All funds received by the agency from the
 29 enforcement of the lien shall be deposited in the agency's
 30 Administrative ~~Community Resources Development~~ Trust Fund and
 31 used to fund new loans.

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1 Section 31. Section 393.17, Florida Statutes, is
2 amended to read:

3 393.17 Behavioral programs; certification of behavior
4 analysts.--

5 (1) The agency may establish a certification process
6 for behavioral analysts in order to ensure that only qualified
7 employees and service providers provide behavioral analysis
8 services to clients. The procedures must be established by
9 rule and must include criteria for scope of practice,
10 qualifications for certification, including training and
11 testing requirements, continuing education requirements for
12 ongoing certification, and standards of performance. The
13 procedures must also include decertification procedures that
14 may be used to determine whether an individual continues to
15 meet the qualifications for certification or the professional
16 performance standards and, if not, the procedures necessary to
17 decertify an employee or service provider.

18 (2) The agency may recognize the certification of
19 behavior analysts awarded by a nonprofit corporation that
20 adheres to the natural standards for professional
21 credentialing boards and whose mission is to meet professional
22 credentialing needs identified by behavior analysts, state
23 governments, and consumers of behavior analysis services and
24 whose work has the support of the Association for Behavior
25 Analysis International. The certification procedure recognized
26 by the agency must undergo regular psychometric review and
27 validation, pursuant to a job analysis survey of the
28 profession and standards established by content experts in the
29 field.

30 Section 32. Section 393.18, Florida Statutes, is
31 created to read:

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1 393.18 Comprehensive transitional education
2 program.--A comprehensive transition education program is a
3 group of jointly operating centers or units, the collective
4 purpose of which is to provide a sequential series of
5 educational care, training, treatment, habilitation, and
6 rehabilitation services to persons who have developmental
7 disabilities and who have severe or moderate maladaptive
8 behaviors. However, this section does not require such
9 programs to provide services only to persons with
10 developmental disabilities. All such services shall be
11 temporary in nature and delivered in a structured residential
12 setting, having the primary goal of incorporating the
13 principle of self-determination in establishing permanent
14 residence for persons with maladaptive behaviors in facilities
15 that are not associated with the comprehensive transitional
16 education program. The staff shall include psychologists and
17 teachers who shall be available to provide services in each
18 component center or unit of the program. The psychologists
19 shall be individuals who are licensed in this state and
20 certified as behavior analysts in this state or individuals
21 who are certified as behavior analysts pursuant to s. 393.17.

22 (1) Comprehensive transitional education programs
23 shall include a minimum of two component centers or units, one
24 of which shall be an intensive treatment and educational
25 center or a transitional training and educational center,
26 which provides services to persons with maladaptive behaviors
27 in the following sequential order:

28 (a) Intensive treatment and educational center.--This
29 component is a self-contained residential unit providing
30 intensive psychological and educational programming for
31 persons with severe maladaptive behaviors, whose behaviors

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1 preclude placement in a less-restrictive environment due to
2 the threat of danger or injury to themselves or others.

3 (b) Transitional training and educational
4 center.--This component is a residential unit for persons with
5 moderate maladaptive behaviors, providing concentrated
6 psychological and educational programming that emphasizes a
7 transition toward a less-restrictive environment.

8 (c) Community transition residence.--This component is
9 a residential center providing educational programs and any
10 support services, training, and care that are needed to assist
11 persons with maladaptive behaviors to avoid regression to more
12 restrictive environments, while preparing them for more
13 independent living. Continuous-shift staff shall be required
14 for this component.

15 (d) Alternative living center.--This component is a
16 residential unit providing an educational and family living
17 environment for persons with maladaptive behaviors in a
18 moderately unrestricted setting. Residential staff shall be
19 required for this component.

20 (e) Independent living education center.--This
21 component is a facility providing a family living environment
22 for persons with maladaptive behaviors in a largely
23 unrestricted setting and includes education and monitoring
24 that is appropriate to support the development of independent
25 living skills.

26 (2) Components of a comprehensive transitional
27 education program are subject to the license issued under s.
28 393.067 to a comprehensive transitional education program and
29 may be located on a single site or multiple sites.

30 (3) Comprehensive transitional education programs
31 shall develop individual education plans for each person with

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1 maladaptive behaviors who receives services from the program.
 2 Each individual education plan shall be developed in
 3 accordance with the criteria specified in 20 U.S.C. ss. 401 et
 4 seq., and 34 C.F.R. part 300.

5 (4) The total number of persons with maladaptive
 6 behaviors being provided services in a comprehensive
 7 transitional education program may not in any instance exceed
 8 120 residents.

9 Section 33. Section 393.23, Florida Statutes, is
 10 created to read:

11 393.23 Developmental disabilities institutions; trust
 12 accounts.--All receipts from the operation of canteens,
 13 vending machines, hobby shops, sheltered workshops, activity
 14 centers, farming projects, and other like activities operated
 15 in a developmental disabilities institution, and moneys
 16 donated to the institution, must be deposited in a trust
 17 account in any bank, credit union, or savings and loan
 18 association authorized by the State Treasury as a qualified
 19 depositor to do business in this state, if the moneys are
 20 available on demand.

21 (1) Moneys in the trust account must be expended for
 22 the benefit, education, and welfare of clients. However, if
 23 specified, moneys that are donated to the institution must be
 24 expended in accordance with the intentions of the donor. Trust
 25 account money may not be used for the benefit of employees of
 26 the agency, or to pay the wages of such employees. The welfare
 27 of the clients includes the expenditure of funds for the
 28 purchase of items for resale at canteens or vending machines,
 29 and for the establishment of, maintenance of, and operation of
 30 canteens, hobby shops, recreational or entertainment
 31 facilities, sheltered workshops, activity centers, farming

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1 projects, or other like facilities or programs established at
2 the institutions for the benefit of clients.

3 (2) The institution may invest, in the manner
4 authorized by law for fiduciaries, any money in a trust
5 account which is not necessary for immediate use. The interest
6 earned and other increments derived from the investments of
7 the money must be deposited into the trust account for the
8 benefit of clients.

9 (3) The accounting system of an institution must
10 account separately for revenues and expenses for each
11 activity. The institution shall reconcile the trust account to
12 the institution's accounting system and check registers and to
13 the accounting system of the Chief Financial Officer.

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

17 (5) Funds shall be expended in accordance with
18 requirements and guidelines established by the Chief Financial
19 Officer.

20 Section 34. Section 393.501, Florida Statutes, is
21 amended to read:

22 393.501 Rulemaking.--

23 (1) The agency ~~may~~ shall adopt rules pursuant to s.
24 120.54 to carry out its statutory duties ~~the provisions of~~
25 ~~this chapter.~~

26 (2) Such rules shall address the number of facilities
27 on a single ~~lot~~ parcel or on adjacent lots ~~parcels of land,~~
28 ~~and in addition, for ICF/MR, the rate and location of facility~~
29 ~~development and level of care. In adopting rules, an~~
30 alternative living center and an independent living education
31 center, as described in s. 393.18, shall be subject to the

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1 provisions of s. 419.001, except that such centers shall be
 2 exempt from the 1,000-foot-radius requirement of s. 419.001(2)
 3 if:
 4 (a) The centers are located on a site zoned in a
 5 manner that permits all the components of a comprehensive
 6 transition education center to be located on the site; or
 7 (b) There are no more than three such centers within a
 8 radius of 1,000 feet.

9 Section 35. Subsection (9) of section 397.405, Florida
10 Statutes, is amended to read:

11 397.405 Exemptions from licensure.--The following are
12 exempt from the licensing provisions of this chapter:

13 (9) Facilities licensed under chapter 393 which s-
 14 ~~393.063 that~~, in addition to providing services to persons
 15 with developmental disabilities ~~who are developmentally~~
 16 ~~disabled as defined therein~~, also provide services to persons
 17 developmentally at risk as a consequence of exposure to
 18 alcohol or other legal or illegal drugs while in utero.

19
 20 The exemptions from licensure in this section do not apply to
 21 any service provider that receives an appropriation, grant, or
 22 contract from the state to operate as a service provider as
 23 defined in this chapter or to any substance abuse program
 24 regulated pursuant to s. 397.406. Furthermore, this chapter
 25 may not be construed to limit the practice of a physician
 26 licensed under chapter 458 or chapter 459, a psychologist
 27 licensed under chapter 490, or a psychotherapist licensed
 28 under chapter 491 who provides substance abuse treatment, so
 29 long as the physician, psychologist, or psychotherapist does
 30 not represent to the public that he or she is a licensed
 31 service provider and does not provide services to clients

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1 pursuant to part V of this chapter. Failure to comply with any
2 requirement necessary to maintain an exempt status under this
3 section is a misdemeanor of the first degree, punishable as
4 provided in s. 775.082 or s. 775.083.

5 Section 36. Subsection (13) of section 400.419,
6 Florida Statutes, is amended to read:

7 400.419 Violations; imposition of administrative
8 fines; grounds.--

9 (13) The agency shall develop and disseminate an
10 annual list of all facilities sanctioned or fined \$5,000 or
11 more for violations of state standards, the number and class
12 of violations involved, the penalties imposed, and the current
13 status of cases. The list shall be disseminated, at no charge,
14 to the Department of Elderly Affairs, the Department of
15 Health, the Department of Children and Family Services, the
16 Agency for Persons with Disabilities, the area agencies on
17 aging, the Florida Statewide Advocacy Council, and the state
18 and local ombudsman councils. The Department of Children and
19 Family Services shall disseminate the list to service
20 providers under contract to the department who are responsible
21 for referring persons to a facility for residency. The agency
22 may charge a fee commensurate with the cost of printing and
23 postage to other interested parties requesting a copy of this
24 list.

25 Section 37. Section 400.960, Florida Statutes, is
26 amended to read:

27 400.960 Definitions.--As used in this part, the term:

28 ~~(1) "Active treatment" means the provision of services~~
29 ~~by an interdisciplinary team which are necessary to maximize a~~
30 ~~client's individual independence or prevent regression or loss~~
31 ~~of functional status.~~

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1 ~~(1)(2)~~ "Agency" means the Agency for Health Care
2 Administration.

3 ~~(2)(3)~~ "Autism" or "autistic disorder" has the same
4 meaning as in s. 393.063. ~~means a pervasive, neurologically~~
5 ~~based developmental disability of extended duration which~~
6 ~~causes severe learning, communication, and behavior disorders~~
7 ~~with age of onset during infancy or childhood. Individuals~~
8 ~~with autism exhibit impairment in reciprocal social~~
9 ~~interaction, impairment in verbal and nonverbal communication~~
10 ~~and imaginative ability, and a markedly restricted repertoire~~
11 ~~of activities and interests.~~

12 ~~(3)(4)~~ "Cerebral palsy" has the same meaning as in s.
13 393.063. ~~means a group of disabling symptoms of extended~~
14 ~~duration which results from damage to the developing brain~~
15 ~~occurring before, during, or after birth and resulting in the~~
16 ~~loss or impairment of control over voluntary muscles. The term~~
17 ~~does not include those symptoms or impairments resulting~~
18 ~~solely from a stroke.~~

19 ~~(4)(5)~~ "Client" means any person determined by the
20 Agency for Persons with Disabilities ~~department~~ to be eligible
21 for developmental services.

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

27 ~~(7)~~ "Department" ~~means the Department of Children and~~
28 ~~Family Services.~~

29 ~~(5)(8)~~ "Developmental disability" has the same meaning
30 as in s. 393.063 ~~means a disorder or syndrome that is~~
31 ~~attributable to retardation, cerebral palsy, autism, spina~~

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1 ~~bifida, or Prader-Willi syndrome and that constitutes a~~
2 ~~substantial handicap that can reasonably be expected to~~
3 ~~continue indefinitely.~~

4 ~~(6)(9)~~ "Direct service provider" means a person 18
5 years of age or older who has direct contact with individuals
6 with developmental disabilities and who is unrelated to the
7 individuals with developmental disabilities.

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

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

20 ~~(7)(12)~~ "Intermediate care facility for the
21 developmentally disabled" means a residential facility
22 licensed and certified in accordance with state law, and
23 certified by the Federal Government, pursuant to the Social
24 Security Act, as a provider of Medicaid services to persons
25 with developmental disabilities ~~who are developmentally~~
26 ~~disabled.~~

27 ~~(8)(13)~~ "Prader-Willi syndrome" has the same meaning
28 as in s. 393.063. ~~means an inherited condition typified by~~
29 ~~neonatal hypotonia with failure to thrive, hyperphagia, or an~~
30 ~~excessive drive to eat which leads to obesity, usually at 18~~
31 ~~to 36 months of age, mild to moderate retardation,~~

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1 ~~hypogonadism, short stature, mild facial dysmorphism, and a~~
2 ~~characteristic neurobehavior.~~

3 ~~(9)(14)~~ "Retardation" has the same meaning as in s.
4 393.063. ~~means significantly subaverage general intellectual~~
5 ~~functioning existing concurrently with deficits in adaptive~~
6 ~~behavior and manifested during the period from conception to~~
7 ~~age 18. "Significantly subaverage general intellectual~~
8 ~~functioning," for the purpose of this definition, means~~
9 ~~performance that is two or more standard deviations from the~~
10 ~~mean score on a standardized intelligence test specified in~~
11 ~~rules of the department. "Deficits in adaptive behavior," for~~
12 ~~the purpose of this definition, means deficits in the~~
13 ~~effectiveness or degree with which an individual meets the~~
14 ~~standards of personal independence and social responsibility~~
15 ~~expected of his or her age, cultural group, and community.~~

16 ~~(10)(15)~~ "Spina bifida" has the same meaning as in s.
17 393.063 ~~means a medical diagnosis of spina bifida cystica or~~
18 ~~myelomeningocele.~~

19 Section 38. Subsection (2) of section 400.967, Florida
20 Statutes, is amended to read:

21 400.967 Rules and classification of deficiencies.--

22 (2) Pursuant to the intention of the Legislature, the
23 agency, in consultation with the Agency for Persons with
24 Disabilities ~~Department of Children and Family Services~~ and
25 the Department of Elderly Affairs, shall adopt and enforce
26 rules to administer this part, which shall include reasonable
27 and fair criteria governing:

28 (a) The location and construction of the facility;
29 including fire and life safety, plumbing, heating, cooling,
30 lighting, ventilation, and other housing conditions that will
31 ensure the health, safety, and comfort of residents. The

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1 agency shall establish standards for facilities and equipment
2 to increase the extent to which new facilities and a new wing
3 or floor added to an existing facility after July 1, 2000, are
4 structurally capable of serving as shelters only for
5 residents, staff, and families of residents and staff, and
6 equipped to be self-supporting during and immediately
7 following disasters. ~~The Agency for Health Care Administration~~
8 ~~shall work with facilities licensed under this part and report~~
9 ~~to the Governor and the Legislature by April 1, 2000, its~~
10 ~~recommendations for cost effective renovation standards to be~~
11 ~~applied to existing facilities. In making such rules, the~~
12 ~~agency shall be guided by criteria recommended by nationally~~
13 ~~recognized, reputable professional groups and associations~~
14 ~~having knowledge concerning such subject matters.~~ The agency
15 shall update or revise such criteria as the need arises. All
16 facilities must comply with those lifesafety code requirements
17 and building code standards applicable at the time of approval
18 of their construction plans. The agency may require
19 alterations to a building if it determines that an existing
20 condition constitutes a distinct hazard to life, health, or
21 safety. The agency shall adopt fair and reasonable rules
22 setting forth conditions under which existing facilities
23 undergoing additions, alterations, conversions, renovations,
24 or repairs are required to comply with the most recent updated
25 or revised standards.

26 (b) The number and qualifications of all personnel,
27 including management, ~~medical~~ nursing, and other personnel,
28 having responsibility for any part of the care given to
29 residents.

30 (c) All sanitary conditions within the facility and
31 its surroundings, including water supply, sewage disposal,

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1 food handling, and general hygiene, which will ensure the
2 health and comfort of residents.

3 (d) The equipment essential to the health and welfare
4 of the residents.

5 (e) A uniform accounting system.

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

8 (g) The preparation and annual update of a
9 comprehensive emergency management plan. The agency shall
10 adopt rules establishing minimum criteria for the plan after
11 consultation with the Department of Community Affairs. At a
12 minimum, the rules must provide for plan components that
13 address emergency evacuation transportation; adequate
14 sheltering arrangements; postdisaster activities, including
15 emergency power, food, and water; postdisaster transportation;
16 supplies; staffing; emergency equipment; individual
17 identification of residents and transfer of records; and
18 responding to family inquiries. The comprehensive emergency
19 management plan is subject to review and approval by the local
20 emergency management agency. During its review, the local
21 emergency management agency shall ensure that the following
22 agencies, at a minimum, are given the opportunity to review
23 the plan: the Department of Elderly Affairs, the Agency for
24 Persons with Disabilities ~~Department of Children and Family~~
25 ~~Services~~, the Agency for Health Care Administration, and the
26 Department of Community Affairs. Also, appropriate volunteer
27 organizations must be given the opportunity to review the
28 plan. The local emergency management agency shall complete its
29 review within 60 days and either approve the plan or advise
30 the facility of necessary revisions.

31 (h) Each licensee shall post its license in a

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1 prominent place that is in clear and unobstructed public view
2 at or near the place where residents are being admitted to the
3 facility.

4 Section 39. Section 402.115, Florida Statutes, is
5 amended to read:

6 402.115 Sharing confidential or exempt
7 information.--Notwithstanding any other provision of law to
8 the contrary, the Department of Health, ~~and~~ the Department of
9 Children and Family Services, and the Agency for Persons with
10 Disabilities may share confidential information or information
11 exempt from disclosure under chapter 119 on any individual who
12 is or has been the subject of a program within the
13 jurisdiction of each agency. Information so exchanged remains
14 confidential or exempt as provided by law.

15 Section 40. Section 402.17, Florida Statutes, is
16 amended to read:

17 402.17 Claims for care and maintenance; trust
18 property.--The Department of Children and Family Services and
19 the Agency for Persons with Disabilities shall protect the
20 financial interest of the state with respect to claims that
21 ~~which~~ the state may have for the care and maintenance of
22 clients of the department or agency. The department or agency
23 shall, as trustee, hold in trust and administer money ~~of~~
24 ~~clients~~ and property designated for the personal benefit of
25 clients. The department or agency shall act as trustee of
26 clients' money and property entrusted to it in accordance with
27 the usual fiduciary standards applicable generally to
28 trustees, and shall act to protect both the short-term and
29 long-term interests of the clients for whose benefit it is
30 holding such money and property.

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

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1 (a) The department or agency shall perform the
2 following acts:

3 1. Receive and supervise the collection of sums due
4 the state.

5 2. Bring any court action necessary to collect any
6 claim the state may have against any client, former client,
7 guardian of any client or former client, executor or
8 administrator of the client's estate, or any person against
9 whom any client or former client may have a claim.

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

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

17 5. Petition the court for appointment of a guardian or
18 administrator for an otherwise unrepresented client or former
19 client should the financial status report or other information
20 indicate the need for such action. The cost of any such action
21 shall be charged against the assets or estate of the client.

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

24 7. File claims with any person, firm, or corporation
25 or with any federal, state, county, district, or municipal
26 agency on behalf of an unrepresented client.

27 8. Represent the state in the settlement of the
28 estates of deceased clients or in the settlement of estates in
29 which a client or a former client against whom the state may
30 have a claim has a financial interest.

31 9. Establish procedures by rule for the use of amounts

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1 held in trust for the client to pay for the cost of care and
2 maintenance, if such amounts would otherwise cause the client
3 to become ineligible for services which are in the client's
4 best interests.

5 (b) The department or agency ~~of Children and Family~~
6 ~~Services~~ may charge off accounts if it certifies that the
7 accounts are uncollectible after diligent efforts have been
8 made to collect them. If the department certifies an account
9 to the Department of Financial Services, setting forth the
10 circumstances upon which it predicates the uncollectibility,
11 and if, pursuant to s. 17.04, the Department of Financial
12 Services concurs, the account shall be charged off.

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

16 (a) Accept and administer in trust, as a trustee
17 having a fiduciary responsibility to a client ~~of the~~
18 ~~department~~, any money or other property received for personal
19 use or benefit of that client. In the case of children in the
20 legal custody of the department, following the termination of
21 the parental rights ~~as to that client~~, until the child ~~such~~
22 ~~client~~ leaves the legal custody of the department due to ~~the~~
23 ~~client's~~ adoption or attaining ~~because the client attains~~ the
24 age of 18 or, in the case of children who are otherwise in the
25 custody of the department, the court having jurisdiction over
26 such child ~~client~~ shall have jurisdiction, upon application of
27 the department or other interested party, to review or approve
28 any extraordinary action of the department acting as trustee
29 as to the child's ~~client's~~ money or other property. When
30 directed by a court of competent jurisdiction, the department
31 may further hold money or property of a child ~~person under the~~

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1 ~~age of 18~~ who has been in the care, custody, or control of the
2 department and who is the subject of a court proceeding during
3 the pendency of that proceeding.

4 (b) Deposit the money in banks qualified as state
5 depositories, or in any bank, credit union, or savings and
6 loan association authorized to do business in this state,
7 provided moneys so deposited or held by such institutions are
8 fully insured by a federal depository or share insurance
9 program, or an approved state depository or share insurance
10 program, and are available on demand.

11 (c) Withdraw the money and use it to meet current
12 needs of clients. For purposes of this paragraph, "current
13 needs" includes payment of fees assessed under s. 402.33. The
14 amount of money withdrawn ~~by the department to meet current~~
15 ~~needs of a client~~ shall take into account the need of the
16 department or agency, as the trustee of a client's money and
17 property, to provide for the long-term needs of a client,
18 including, but not limited to, ensuring that ~~to provide for~~
19 ~~the need of~~ a client under the age of 18 will ~~to~~ have
20 sufficient financial resources available to be able to
21 function as an adult upon reaching the age of 18, meeting ~~or~~
22 ~~to meet~~ the special needs of a client who has a disability and
23 whose special needs cannot otherwise be met by any form of
24 public assistance or family resources, or maintaining ~~to~~
25 ~~maintain~~ the client's eligibility for public assistance,
26 including medical assistance, under state or federal law.

27 (d) As trustee, invest in the manner authorized by law
28 for fiduciaries money not used for current needs of clients.
29 Such investments may include, but shall not be limited to,
30 investments in savings share accounts of any credit union
31 chartered under the laws of the United States and doing

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1 business in this state, and savings share accounts of any
 2 credit union chartered under the laws of this state, provided
 3 the credit union is insured under the federal share insurance
 4 program or an approved state share insurance program.

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

9 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the
 10 death of any client affected by the provisions of this
 11 section, any unclaimed money held in trust by the department,
 12 the agency, or by the Chief Financial Officer for the child
 13 ~~him or her~~ shall be applied first to the payment of any unpaid
 14 claim of the state against the client, and any balance
 15 remaining unclaimed for a period of 1 year shall escheat to
 16 the state as unclaimed funds held by fiduciaries.

17 (5) LEGAL REPRESENTATION.--To the extent that the
 18 budget will permit, the Department of Legal Affairs shall
 19 furnish the legal services to carry out the provisions of this
 20 section. Upon the request of the department or agency ~~of~~
 21 ~~Children and Family Services~~, the various state and county
 22 attorneys shall assist in litigation within their
 23 jurisdiction. The ~~Such~~ department or agency may retain legal
 24 counsel for necessary legal services which cannot be furnished
 25 by the Department of Legal Affairs and the various state and
 26 county attorneys.

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

28 (a) The department or agency ~~of Children and Family~~
 29 ~~Services~~ may deposit any funds of clients in its possession in
 30 any bank in the state or may invest or reinvest such funds in
 31 bonds or obligations of the United States for the payment of

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1 | which the full faith and credit of the United States is
2 | pledged. For purposes of deposit only, the funds of any client
3 | may be mingled with the funds of any other clients.

4 | (b) The interest or increment accruing on such funds
5 | shall be the property of the clients and shall be used or
6 | conserved for the personal use or benefit of the ~~individual~~
7 | client, in accordance with the department's or agency's
8 | fiduciary responsibility as a trustee for the money and
9 | property of the client ~~held by the department~~. Such interest
10 | shall not accrue to the general welfare of all clients.
11 | Whenever any proposed action of the department or agency,
12 | acting in its own interest, may conflict with the department's
13 | or agency's ~~obligation as a trustee with a~~ fiduciary
14 | responsibility to the client, the department or agency shall
15 | promptly present the matter to a court of competent
16 | jurisdiction for the court's determination as to what action
17 | the department or agency may take. The department or agency
18 | shall establish ~~rules governing~~ reasonable fees by rule for
19 | the cost of administering such accounts and for establishing
20 | the minimum balance eligible to earn interest.

21 | (7) DISPOSITION OF MONEY AND PROPERTY OF CLIENTS UPON
22 | ATTAINING AGE 18 OR DISCHARGE FROM CARE, CUSTODY, CONTROL, OR
23 | SERVICES OF THE DEPARTMENT.--

24 | (a) Whenever a client of the department for whom the
25 | department is holding money or property as a trustee attains
26 | the age of 18, and thereby will no longer be in the legal
27 | custody of the department, the department shall promptly
28 | disburse such money and property ~~of the client the department~~
29 | ~~has held as a trustee~~ to that client, or as that client
30 | directs, as soon as practicable ~~once the client attains the~~
31 | ~~age of 18~~.

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1 (b) Whenever a client of the department over the age
 2 of 18 for whom the department is holding money or property as
 3 a trustee no longer requires the care, custody, control, or
 4 services of the department, the department shall promptly
 5 disburse such money and property ~~of the client the department~~
 6 ~~has held as a trustee~~ to that client, or as that client or a
 7 court directs, as soon as practicable.

8 (c) When a client under the age of 18 who has been in
 9 the legal custody, care, or control of the department and for
 10 whom the department is holding money or property as a trustee
 11 attains the age of 18 and has a physical or mental disability,
 12 or is otherwise incapacitated or incompetent to handle that
 13 client's own financial affairs, the department shall apply for
 14 a court order from a court of competent jurisdiction to
 15 establish a trust on behalf of that client. Where there is no
 16 willing relative of the client acceptable to the court
 17 available to serve as trustee of such proposed trust, the
 18 court may enter an order authorizing the department to serve
 19 as trustee of a separate trust under such terms and conditions
 20 as the court determines appropriate to the circumstances.

21 (d) When a client under the age of 18 who has been in
 22 the legal custody, care, or control of the department and for
 23 whom the department is holding money or property as a trustee
 24 leaves the care, custody, and control of the department due to
 25 adoption or placement of the client with a relative, or as
 26 otherwise directed by a court of competent jurisdiction, the
 27 department shall notify that court of the existence of the
 28 money and property ~~in the possession of the department~~ either
 29 prior to, or promptly after, receiving knowledge of the change
 30 of custody, care, or control. The department shall apply for
 31 an order from the court exercising jurisdiction over the

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1 client to direct the disposition of the money and property
 2 belonging to that client. The court order may establish a
 3 trust in which the money and property of the client will be
 4 deposited, appoint a guardian of a property as to the money or
 5 property of the client, or direct the creation of a Uniform
 6 Transfers ~~Gifts~~ to Minors Act account on behalf of that
 7 client, ~~as the court finds appropriate and~~ under the terms and
 8 conditions the court determines appropriate to the
 9 circumstances.

10 Section 41. Section 402.181, Florida Statutes, is
 11 amended to read:

12 402.181 State Institutions Claims Program.--

13 (1) There is created a State Institutions Claims
 14 Program, for the purpose of making restitution for property
 15 damages and direct medical expenses for injuries caused by
 16 shelter children or foster children, or escapees, inmates, or
 17 patients of state institutions under the Department of
 18 Children and Family Services, the Department of Health, the
 19 Department of Juvenile Justice, ~~or~~ the Department of
 20 Corrections, or the Agency for Persons with Disabilities.

21 (2) Claims for restitution may be filed with the
 22 Department of Legal Affairs at its office in accordance with
 23 regulations prescribed by the Department of Legal Affairs. The
 24 Department of Legal Affairs shall have full power and
 25 authority to hear, investigate, and determine all questions in
 26 respect to such claims and is authorized, within the limits of
 27 current appropriations, to pay individual claims up to \$1,000
 28 or, with respect to children in foster care and their
 29 families, individual claims up to \$1,500. Claims in excess of
 30 these amounts shall continue to require legislative approval.

31 (3)(a) The Department of Legal Affairs shall make or

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1 cause to be made such investigations as it considers necessary
2 in respect to such claims. Hearings shall be held in
3 accordance with chapter 120.

4 (b) The Department of Legal Affairs shall work with
5 the Department of Children and Family Services, the Department
6 of Health, the Department of Juvenile Justice, ~~and~~ the
7 Department of Corrections, and the Agency for Persons with
8 Disabilities to streamline the process of investigations,
9 hearings, and determinations with respect to claims under this
10 section, to ensure that eligible claimants receive restitution
11 within a reasonable time.

12 Section 42. Section 402.20, Florida Statutes, is
13 amended to read:

14 402.20 County contracts authorized for services and
15 facilities for in mental health and developmental disabilities
16 ~~retardation areas~~.--The boards of county commissioners are
17 authorized to provide monetary grants and facilities, and to
18 enter into renewable contracts, for services and facilities,
19 for a period not to exceed 2 years, with public and private
20 hospitals, clinics, and laboratories; other state agencies,
21 departments, or divisions; the state colleges and
22 universities; the community colleges; private colleges and
23 universities; counties; municipalities; towns; townships; and
24 any other governmental unit or nonprofit organization which
25 provides needed facilities for persons with mental illness or
26 developmental disabilities ~~the mentally ill or retarded~~.

27 These services are hereby declared to be for a public and
28 county purpose. The county commissioners may make periodic
29 inspections to assure that the services or facilities provided
30 under this chapter meet the standards of the Department of
31 Children and Family Services and the Agency for Persons with

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1 Disabilities.

2 Section 43. Section 402.22, Florida Statutes, is
3 amended to read:

4 402.22 Education program for students who reside in
5 residential care facilities operated by the Department of
6 Children and Family Services or the Agency for Persons with
7 Disabilities.--

8 (1)(a) The Legislature recognizes that the Department
9 of Children and Family Services and the Agency for Persons
10 with Disabilities have under their ~~has under its~~ residential
11 care students with critical problems of physical impairment,
12 emotional disturbance, mental impairment, and learning
13 impairment.

14 (b) The Legislature recognizes the vital role of
15 education in the rehabilitation of such students. It is the
16 intent of the Legislature that all such students benefit from
17 educational services and receive such services.

18 (c) It is the intent of the Legislature that
19 educational services be coordinated with appropriate and
20 existing diagnostic and evaluative, social, followup, and
21 other therapeutic services of the department and agency of
22 ~~Children and Family Services~~ so that the effect of the total
23 rehabilitation process is maximized.

24 (d) It is the intent of the Legislature that, as
25 educational programs for students in residential care
26 facilities are implemented by the district school board,
27 educational personnel in the ~~Department of Children and Family~~
28 ~~Services~~ residential care facilities who meet the
29 qualifications for employees of the district school board be
30 employed by the district school board.

31 (2) District school boards shall establish educational

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1 | programs for all students ages 5 through 18 under the
 2 | residential care of the Department of Children and Family
 3 | Services and the Agency for Persons with Disabilities, and may
 4 | provide for students below age 3 as provided for in s.
 5 | 1003.21(1)(e). Funding of such programs shall be pursuant to
 6 | s. 1011.62.

7 | (3) Notwithstanding any provisions of chapters 39,
 8 | 393, 394, and 397 to the contrary, the services of the
 9 | Department of Children and Family Services and the Agency for
 10 | Persons with Disabilities and those of the Department of
 11 | Education and district school boards shall be mutually
 12 | supportive and complementary of each other. The education
 13 | programs provided by the district school board shall meet the
 14 | standards prescribed by the State Board of Education and the
 15 | district school board. Decisions regarding the design and
 16 | delivery of department or agency ~~of Children and Family~~
 17 | ~~Services~~ treatment or habilitative services shall be made by
 18 | interdisciplinary teams of professional and paraprofessional
 19 | staff of which appropriate district school system
 20 | administrative and instructional personnel shall be invited to
 21 | be participating members. The requirements for maintenance of
 22 | confidentiality as prescribed in chapters 39, 393, 394, and
 23 | 397 shall be applied to information used by such
 24 | interdisciplinary teams, and such information shall be exempt
 25 | from the provisions of ss. 119.07(1) and 286.011.

26 | (4) Students age 18 and under who are under the
 27 | residential care of the Department of Children and Family
 28 | Services or the Agency for Persons with Disabilities and who
 29 | receive an education program shall be calculated as full-time
 30 | equivalent student membership in the appropriate cost factor
 31 | as provided for in s. 1011.62(1)(c). Residential care

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1 ~~facilities of the Department of Children and Family Services~~
 2 shall include, but not be limited to, developmental
 3 disabilities ~~services~~ institutions and state mental health
 4 facilities. All students shall receive their education
 5 program from the district school system, and funding shall be
 6 allocated through the Florida Education Finance Program for
 7 the district school system.

8 (5) Instructional and special educational services
 9 that which are provided to ~~mental health and retardation~~
 10 clients with mental illness or developmental disabilities of
 11 the department's or agency's ~~in the Department of Children and~~
 12 ~~Family Services~~ residential care facilities by local school
 13 districts shall not be less than 180 days or 900 hours;
 14 however, the 900 hours may be distributed over a 12-month
 15 period, unless otherwise stated in rules developed by the
 16 State Board of Education, with the concurrence of the
 17 department or agency and adopted ~~of Children and Family~~
 18 ~~Services promulgated~~ pursuant to subsection (6).

19 (6) The State Board of Education, and the Department
 20 of Children and Family Services, and the Agency for Persons
 21 with Disabilities may adopt ~~shall have the authority to~~
 22 ~~promulgate~~ rules to which shall assist in the orderly transfer
 23 of the instruction of students from department or agency
 24 ~~Department of Children and Family Services~~ residential care
 25 facilities to the district school system or to the public
 26 education agency and which shall assist in implementing the
 27 specific intent as stated in this act.

28 (7) Notwithstanding the provisions of s.
 29 1001.42(4)(n), the educational program at the Marianna Sunland
 30 Center in Jackson County shall be operated by the Department
 31 of Education, either directly or through grants or contractual

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1 | agreements with other public educational agencies. The annual
 2 | state allocation to any such agency shall be computed pursuant
 3 | to s. 1011.62(1), (2), and (5) and allocated in the amount
 4 | that would have been provided the local school district in
 5 | which the residential facility is located.

6 | Section 44. Paragraph (c) of subsection (1) and
 7 | subsection (2) of section 402.33, Florida Statutes, are
 8 | amended to read:

9 | 402.33 Department authority to charge fees for
 10 | services provided.--

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

12 | (c) "Department" means the Department of Children and
 13 | Family Services, ~~and~~ the Department of Health, and the Agency
 14 | for Persons with Disabilities.

15 | (2) The department, in accordance with rules
 16 | established by it, shall either charge, assess, or collect, or
 17 | cause to be charged, assessed, or collected, fees for any
 18 | service it provides to its clients either directly or through
 19 | its agencies or contractors, except for:

20 | (a) Diagnosis and evaluation procedures necessary to
 21 | determine the client's eligibility and need for services
 22 | provided by the department;

23 | (b) Customary and routine information and referral
 24 | services;

25 | (c) Educational services provided in lieu of public
 26 | education;

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

29 | (e) Emergency shelter or emergency detention care and
 30 | custody prior to a detention hearing under chapter 39;

31 | (f) Specific classes or types of services provided in

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1 | programs funded by grants, donations, or contracts that
2 | prohibit charging fees;

3 | (g) Developmental disability services provided under
4 | chapter 393 to any person who is determined to be eligible for
5 | such services ~~by the department~~ and whose earned income falls
6 | below the federal Health and Human Services Poverty
7 | Guidelines, unless such fees are collected from third-party
8 | benefits and benefit payments; or

9 | (h) Any type of service for which the department
10 | determines that the net estimated revenue from such fees after
11 | deducting any loss of funds from federal grants occasioned by
12 | such fees will be less than the estimated cost to charge and
13 | collect such fees.

14 |
15 | Fees, other than third-party benefits and benefit payments,
16 | may not be charged for services provided to indigents whose
17 | only sources of income are from state and federal aid. In
18 | addition, fees may not be charged parents of a minor client
19 | for services requested by the minor without parental consent
20 | or for services provided a minor client who has been
21 | permanently committed to the care and custody of the
22 | department with parental rights permanently severed. However,
23 | lack of parental consent does not preclude the charging of
24 | fees established under chapter 39. ~~The department may not~~
25 | ~~require~~ A client who is receiving wages that ~~which~~ are below
26 | the minimum wage under the federal Fair Labor Standards Act
27 | may not be required to pay fees from such wages. Voluntary
28 | payments for services must be encouraged.

29 | Section 45. Paragraph (s) of subsection (3) of section
30 | 408.036, Florida Statutes, is amended to read:

31 | 408.036 Projects subject to review; exemptions.--

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

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

6 Section 46. Paragraphs (a), (j), and (k) of subsection
7 (4) of section 409.221, Florida Statutes, are amended to read:

8 409.221 Consumer-directed care program.--

9 (4) CONSUMER-DIRECTED CARE.--

10 (a) Program established.--The Agency for Health Care
11 Administration shall establish the consumer-directed care
12 program which shall be based on the principles of consumer
13 choice and control. The agency shall implement the program
14 upon federal approval. The agency shall establish interagency
15 cooperative agreements with and shall work with the
16 Departments of Elderly Affairs, Health, and Children and
17 Family Services and the Agency for Persons with Disabilities
18 to implement and administer the program. The program shall
19 allow enrolled persons to choose the providers of services and
20 to direct the delivery of services, to best meet their
21 long-term care needs. The program must operate within the
22 funds appropriated by the Legislature.

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

25 1. The agency and the Departments of Elderly Affairs,
26 Health, and Children and Family Services and the Agency for
27 Persons with Disabilities are authorized to adopt and enforce
28 rules.

29 2. The agency shall take all necessary action to
30 ensure state compliance with federal regulations. The agency
31 shall apply for any necessary federal waivers or waiver

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1 amendments needed to implement the program.

2 (k) Reviews and reports.--The agency and the
 3 Departments of Elderly Affairs, Health, and Children and
 4 Family Services and the Agency for Persons with Disabilities
 5 shall each, on an ongoing basis, review and assess the
 6 implementation of the consumer-directed care program. By
 7 January 15 of each year, the agency shall submit a written
 8 report to the Legislature that includes each department's
 9 review of the program and contains recommendations for
 10 improvements to the program.

11 Section 47. Paragraph (a) of subsection (2) and
 12 subsection (8) of section 409.908, Florida Statutes, are
 13 amended to read:

14 409.908 Reimbursement of Medicaid providers.--Subject
 15 to specific appropriations, the agency shall reimburse
 16 Medicaid providers, in accordance with state and federal law,
 17 according to methodologies set forth in the rules of the
 18 agency and in policy manuals and handbooks incorporated by
 19 reference therein. These methodologies may include fee
 20 schedules, reimbursement methods based on cost reporting,
 21 negotiated fees, competitive bidding pursuant to s. 287.057,
 22 and other mechanisms the agency considers efficient and
 23 effective for purchasing services or goods on behalf of
 24 recipients. If a provider is reimbursed based on cost
 25 reporting and submits a cost report late and that cost report
 26 would have been used to set a lower reimbursement rate for a
 27 rate semester, then the provider's rate for that semester
 28 shall be retroactively calculated using the new cost report,
 29 and full payment at the recalculated rate shall be effected
 30 retroactively. Medicare-granted extensions for filing cost
 31 reports, if applicable, shall also apply to Medicaid cost

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1 reports. Payment for Medicaid compensable services made on
 2 behalf of Medicaid eligible persons is subject to the
 3 availability of moneys and any limitations or directions
 4 provided for in the General Appropriations Act or chapter 216.
 5 Further, nothing in this section shall be construed to prevent
 6 or limit the agency from adjusting fees, reimbursement rates,
 7 lengths of stay, number of visits, or number of services, or
 8 making any other adjustments necessary to comply with the
 9 availability of moneys and any limitations or directions
 10 provided for in the General Appropriations Act, provided the
 11 adjustment is consistent with legislative intent.

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

17 2. Unless otherwise limited or directed in the General
 18 Appropriations Act, reimbursement to hospitals licensed under
 19 part I of chapter 395 for the provision of swing-bed nursing
 20 home services must be made on the basis of the average
 21 statewide nursing home payment, and reimbursement to a
 22 hospital licensed under part I of chapter 395 for the
 23 provision of skilled nursing services must be made on the
 24 basis of the average nursing home payment for those services
 25 in the county in which the hospital is located. When a
 26 hospital is located in a county that does not have any
 27 community nursing homes, reimbursement shall ~~must~~ be
 28 determined by averaging the nursing home payments⁷ in counties
 29 that surround the county in which the hospital is located.
 30 Reimbursement to hospitals, including Medicaid payment of
 31 Medicare copayments, for skilled nursing services shall be

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1 limited to 30 days, unless a prior authorization has been
 2 obtained from the agency. Medicaid reimbursement may be
 3 extended by the agency beyond 30 days, and approval must be
 4 based upon verification by the patient's physician that the
 5 patient requires short-term rehabilitative and recuperative
 6 services only, in which case an extension of no more than 15
 7 days may be approved. Reimbursement to a hospital licensed
 8 under part I of chapter 395 for the temporary provision of
 9 skilled nursing services to nursing home residents who have
 10 been displaced as the result of a natural disaster or other
 11 emergency may not exceed the average county nursing home
 12 payment for those services in the county in which the hospital
 13 is located and is limited to the period of time which the
 14 agency considers necessary for continued placement of the
 15 nursing home residents in the hospital.

16 (8) A provider of home-based or community-based
 17 services rendered pursuant to a federally approved waiver
 18 shall be reimbursed based on an established or negotiated rate
 19 for each service. These rates shall be established according
 20 to an analysis of the expenditure history and prospective
 21 budget developed by each contract provider participating in
 22 the waiver program, or under any other methodology adopted by
 23 the agency and approved by the Federal Government in
 24 accordance with the waiver. ~~Effective July 1, 1996,~~ Privately
 25 owned and operated community-based residential facilities
 26 which meet agency requirements and which formerly received
 27 Medicaid reimbursement for the optional intermediate care
 28 facility for the mentally retarded service may participate in
 29 the developmental services waiver as part of a
 30 home-and-community-based continuum of care for Medicaid
 31 recipients who receive waiver services.

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1 Section 48. Subsection (3) of section 409.9127,
2 Florida Statutes, is amended to read:

3 409.9127 Preauthorization and concurrent utilization
4 review; conflict-of-interest standards.--

5 (3) The agency shall help the Agency for Persons with
6 Disabilities ~~Department of Children and Family Services~~ meet
7 the requirements of s. 393.065(4). Only admissions approved
8 pursuant to such assessments are eligible for reimbursement
9 under this chapter.

10 Section 49. Paragraph (c) of subsection (2) and
11 subsection (5) of section 411.224, Florida Statutes, are
12 amended to read:

13 411.224 Family support planning process.--The
14 Legislature establishes a family support planning process to
15 be used by the Department of Children and Family Services as
16 the service planning process for targeted individuals,
17 children, and families under its purview.

18 (2) To the extent possible within existing resources,
19 the following populations must be included in the family
20 support planning process:

21 (c) Children from age 3 ~~birth~~ through age 5 who are
22 served by the Agency for Persons with Disabilities
23 ~~Developmental Disabilities Program Office of the Department of~~
24 ~~Children and Family Services.~~

25 (5) There must be only a single-family support plan to
26 address the problems of the various family members unless the
27 family requests that an individual family support plan be
28 developed for different members of that family. The family
29 support plan must replace individual habilitation plans for
30 children from 3 ~~birth~~ through 5 years old who are served by
31 the Agency for Persons with Disabilities ~~Developmental~~

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1 ~~Disabilities Program Office of the Department of Children and~~
 2 ~~Family Services. To the extent possible, the family support~~
 3 ~~plan must replace other case planning forms used by the~~
 4 ~~Department of Children and Family Services.~~

5 Section 50. Subsection (4) of section 411.232, Florida
 6 Statutes, is amended to read:

7 411.232 Children's Early Investment Program.--

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

11 Section 51. Subsection (8) of section 415.102, Florida
 12 Statutes, is amended to read:

13 415.102 Definitions of terms used in ss.

14 415.101-415.113.--As used in ss. 415.101-415.113, the term:

15 (8) "Facility" means any location providing day or
 16 residential care or treatment for vulnerable adults. The term
 17 "facility" may include, but is not limited to, any hospital,
 18 state institution, nursing home, assisted living facility,
 19 adult family-care home, adult day care center, residential
 20 facility licensed under chapter 393 ~~group home~~, or mental
 21 health treatment center.

22 Section 52. Section 415.1035, Florida Statutes, is
 23 amended to read:

24 415.1035 Facility's duty to inform residents of their
 25 right to report abusive, neglectful, or exploitive
 26 practices.--The department shall work cooperatively with the
 27 Agency for Health Care Administration, the Agency for Persons
 28 with Disabilities, and the Department of Elderly Affairs to
 29 ensure that every facility that serves vulnerable adults
 30 informs residents of their right to report abusive,
 31 neglectful, or exploitive practices. Each facility must

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1 establish appropriate policies and procedures to facilitate
2 such reporting.

3 Section 53. Subsections (1) and (10) of section
4 415.1055, Florida Statutes, are amended to read:

5 415.1055 Notification to administrative entities.--

6 (1) Upon receipt of a report that alleges that an
7 employee or agent of the department, the Agency for Persons
8 with Disabilities, or the Department of Elderly Affairs,
9 acting in an official capacity, has committed an act of abuse,
10 neglect, or exploitation, the department shall notify the
11 state attorney in whose circuit the abuse, neglect, or
12 exploitation occurred. This notification may be oral or
13 written.

14 (10) When a report has been received and the
15 department has reason to believe that a vulnerable adult
16 resident of a facility licensed by the Agency for Health Care
17 Administration or the Agency for Persons with Disabilities has
18 been the victim of abuse, neglect, or exploitation, the
19 department shall provide a copy of its investigation to the
20 appropriate agency. If the investigation determines that a
21 health professional licensed or certified under the Department
22 of Health may have abused, neglected, or exploited a
23 vulnerable adult, the department shall also provide a copy to
24 the Department of Health.

25 Section 54. Paragraphs (a) and (h) of subsection (3)
26 of section 415.107, Florida Statutes, are amended to read:

27 415.107 Confidentiality of reports and records.--

28 (3) Access to all records, excluding the name of the
29 reporter which shall be released only as provided in
30 subsection (6), shall be granted only to the following
31 persons, officials, and agencies:

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1 (a) Employees or agents of the department, the Agency
 2 for Persons with Disabilities, ~~of~~ the Agency for Health Care
 3 Administration, or ~~of~~ the Department of Elderly Affairs who
 4 are responsible for carrying out protective investigations,
 5 ongoing protective services, or licensure or approval of
 6 nursing homes, assisted living facilities, adult day care
 7 centers, adult family-care homes, home care for the elderly,
 8 hospices, residential facilities licensed under chapter 393,
 9 or other facilities used for the placement of vulnerable
 10 adults.

11 (h) Any appropriate official of the department, the
 12 Agency for Persons with Disabilities, ~~of~~ the Agency for Health
 13 Care Administration, or ~~of~~ the Department of Elderly Affairs
 14 who is responsible for:

15 1. Administration or supervision of the programs for
 16 the prevention, investigation, or treatment of abuse, neglect,
 17 or exploitation of vulnerable adults when carrying out an
 18 official function; or

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

22 Section 55. Subsection (1) of section 419.001, Florida
 23 Statutes, is amended to read:

24 419.001 Site selection of community residential
 25 homes.--

26 (1) For the purposes of this section, the term
 27 ~~following definitions shall apply:~~

28 (a) "Community residential home" means a dwelling unit
 29 licensed to provide ~~serve clients of the Department of~~
 30 ~~Children and Family Services, which provides~~ a living
 31 environment for 7 to 14 unrelated residents who operate as the

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1 functional equivalent of a family, including such supervision
2 and care by supportive staff as may be necessary to meet the
3 physical, emotional, and social needs of the residents.

4 (b) "Department" means the Department of Children and
5 Family Services, the Agency for Health Care Administration, or
6 the Agency for Persons with Disabilities.

7 (c) "Local government" means a county as set forth in
8 chapter 7 or a municipality incorporated under the provisions
9 of chapter 165.

10 (d) "Resident" means any of the following: a frail
11 elder as defined in s. 400.618; a ~~physically disabled or~~
12 ~~handicapped~~ person with a physical or mental impairment as
13 described as defined in s. 760.22(7)(a); a ~~developmentally~~
14 ~~disabled~~ person with a developmental disability as defined in
15 s. 393.063; a nondangerous ~~mentally ill~~ person with a mental
16 illness as defined in s. 394.455(18); or a child as defined in
17 s. 39.01(14), s. 984.03(9) or (12), or s. 985.03(8).

18 (e) "Sponsoring agency" means an agency or unit of
19 government, a profit or nonprofit agency, or any other person
20 or organization which intends to establish or operate a
21 community residential home.

22 Section 56. Paragraph (a) of subsection (3) of section
23 435.03, Florida Statutes, is amended to read:

24 435.03 Level 1 screening standards.--

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

26 (a) For employees and employers licensed or registered
27 pursuant to chapter 400, and for employees and employers of
28 developmental disabilities ~~services~~ institutions as defined in
29 s. 393.063, intermediate care facilities for the
30 developmentally disabled as defined in s. 400.960 ~~s. 393.063~~,
31 and mental health treatment facilities as defined in s.

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1 394.455, meets the requirements of this chapter.

2 Section 57. Paragraph (a) of subsection (2) of section
3 490.014, Florida Statutes, is amended to read:

4 490.014 Exemptions.--

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

7 (a) Is a salaried employee of a government agency;
8 developmental disability facility or ~~services~~ program, mental
9 health, alcohol, or drug abuse facility operating under
10 ~~pursuant to~~ chapter 393, chapter 394, or chapter 397;
11 subsidized child care program, subsidized child care case
12 management program, or child care resource and referral
13 program operating pursuant to chapter 402; child-placing or
14 child-caring agency licensed pursuant to chapter 409; domestic
15 violence center certified pursuant to chapter 39; accredited
16 academic institution; or research institution, if such
17 employee is performing duties for which he or she was trained
18 and hired solely within the confines of such agency, facility,
19 or institution, so long as the employee is not held out to the
20 public as a psychologist pursuant to s. 490.012(1)(a).

21 Section 58. Paragraph (a) of subsection (4) of section
22 491.014, Florida Statutes, is amended to read:

23 491.014 Exemptions.--

24 (4) No person shall be required to be licensed,
25 provisionally licensed, registered, or certified under this
26 chapter who:

27 (a) Is a salaried employee of a government agency;
28 developmental disability facility or ~~services~~ program, mental
29 health, alcohol, or drug abuse facility operating under
30 ~~pursuant to~~ chapter 393, chapter 394, or chapter 397;
31 subsidized child care program, subsidized child care case

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1 management program, or child care resource and referral
 2 program operating pursuant to chapter 402; child-placing or
 3 child-caring agency licensed pursuant to chapter 409; domestic
 4 violence center certified pursuant to chapter 39; accredited
 5 academic institution; or research institution, if such
 6 employee is performing duties for which he or she was trained
 7 and hired solely within the confines of such agency, facility,
 8 or institution, so long as the employee is not held out to the
 9 public as a clinical social worker, mental health counselor,
 10 or marriage and family therapist.

11 Section 59. Section 944.602, Florida Statutes, is
 12 amended to read:

13 944.602 Agency notification ~~of Department of Children~~
 14 ~~and Family Services~~ before release of mentally retarded
 15 inmates.--Before the release by parole, release by reason of
 16 gain-time allowances provided for in s. 944.291, or expiration
 17 of sentence of any inmate who has been diagnosed as mentally
 18 retarded as defined in s. 393.063, the Department of
 19 Corrections shall notify the Agency for Persons with
 20 Disabilities ~~Department of Children and Family Services~~ in
 21 order that sufficient time be allowed to notify the inmate or
 22 the inmate's representative, in writing, at least 7 days prior
 23 to the inmate's release, of available community services.

24 Section 60. Subsections (2) and (3) of section
 25 945.025, Florida Statutes, are amended to read:

26 945.025 Jurisdiction of department.--

27 (2) In establishing, operating, and utilizing these
 28 facilities, the department shall attempt, whenever possible,
 29 to avoid the placement of nondangerous offenders who have
 30 potential for rehabilitation with repeat offenders or
 31 dangerous offenders. Medical, mental, and psychological

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1 | problems shall be diagnosed and treated whenever possible. The
 2 | Department of Children and Family Services and the Agency for
 3 | Persons with Disabilities shall cooperate to ensure the
 4 | delivery of services to persons under the custody or
 5 | supervision of the department. When it is the intent of the
 6 | department to transfer a mentally ill or retarded prisoner to
 7 | the Department of Children and Family Services or the Agency
 8 | for Persons with Disabilities, an involuntary commitment
 9 | hearing shall be held according to the provisions of chapter
 10 | 393 or chapter 394.

11 | (3) There shall be other correctional facilities,
 12 | including detention facilities of varying levels of security,
 13 | work-release facilities, and community correctional
 14 | facilities, halfway houses, and other approved community
 15 | residential and nonresidential facilities and programs;
 16 | however, no adult correctional facility may be established by
 17 | changing the use and purpose of any mental health facility or
 18 | mental health institution under the jurisdiction of any state
 19 | agency or department without authorization in the General
 20 | Appropriation Act or other approval by the Legislature. ~~Any~~
 21 | ~~facility the purpose and use of which was changed subsequent~~
 22 | ~~to January 1, 1975, shall be returned to its original use and~~
 23 | ~~purpose by July 1, 1977. However, the G. Pierce Wood Memorial~~
 24 | ~~Hospital located at Arcadia, DeSoto County, may not be~~
 25 | ~~converted into a correctional facility as long as such~~
 26 | ~~hospital is in use as a state mental health hospital. Any~~
 27 | community residential facility may be deemed a part of the
 28 | state correctional system for purposes of maintaining custody
 29 | of offenders, and for this purpose the department may contract
 30 | for and purchase the services of such facilities.

31 | Section 61. Section 947.185, Florida Statutes, is

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1 amended to read:

2 947.185 Application for mental retardation services as
3 condition of parole.--The Parole Commission may require as a
4 condition of parole that any inmate who has been diagnosed as
5 mentally retarded as defined in s. 393.063 shall, upon
6 release, apply for ~~retardation~~ services from the Agency for
7 Persons with Disabilities ~~Department of Children and Family~~
8 ~~Services~~.

9 Section 62. Subsection (3) of section 984.19, Florida
10 Statutes, is amended to read:

11 984.19 Medical screening and treatment of child;
12 examination of parent, guardian, or person requesting
13 custody.--

14 (3) A judge may order that a child alleged to be or
15 adjudicated a child in need of services be examined by a
16 licensed health care professional. The judge may also order
17 such child to be evaluated by a psychiatrist or a
18 psychologist, by a district school board educational needs
19 assessment team, or, if a developmental disability is
20 suspected or alleged, by a ~~the~~ developmental disability
21 diagnostic and evaluation team with ~~of~~ the Agency for Persons
22 with Disabilities ~~Department of Children and Family Services~~.

23 The judge may order a family assessment if that assessment was
24 not completed at an earlier time. If it is necessary to place
25 a child in a residential facility for such evaluation, then
26 the criteria and procedure established in s. 394.463(2) or
27 chapter 393 shall be used, whichever is applicable. The
28 educational needs assessment provided by the district school
29 board educational needs assessment team shall include, but not
30 be limited to, reports of intelligence and achievement tests,
31 screening for learning disabilities and other handicaps, and

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1 screening for the need for alternative education pursuant to
2 s. 1003.53.

3 Section 63. Subsection (8) of section 984.225, Florida
4 Statutes, is amended to read:

5 984.225 Powers of disposition; placement in a
6 staff-secure shelter.--

7 (8) If the child requires residential mental health
8 treatment or residential care for a developmental disability,
9 the court shall refer the child to the Department of Children
10 and Family Services or the Agency for Persons with
11 Disabilities, as appropriate, for the provision of necessary
12 services.

13 Section 64. Paragraph (e) of subsection (5) of section
14 984.226, Florida Statutes, is amended to read:

15 984.226 Physically secure setting.--

16 (5)

17 (e) If the child requires residential mental health
18 treatment or residential care for a developmental disability,
19 the court shall refer the child to the Department of Children
20 and Family Services or the Agency for Persons with
21 Disabilities, as appropriate, for the provision of necessary
22 services.

23 Section 65. Subsection (1) of section 985.224, Florida
24 Statutes, is amended to read:

25 985.224 Medical, psychiatric, psychological, substance
26 abuse, and educational examination and treatment.--

27 (1) After a detention petition or a petition for
28 delinquency has been filed, the court may order the child
29 named in the petition to be examined by a physician. The court
30 may also order the child to be evaluated by a psychiatrist or
31 a psychologist, by a district school board educational needs

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1 assessment team, or, if a developmental disability is
 2 suspected or alleged, by a ~~the~~ developmental disabilities
 3 diagnostic and evaluation team with ~~of~~ the Agency for Persons
 4 with Disabilities ~~Department of Children and Family Services.~~
 5 If it is necessary to place a child in a residential facility
 6 for such evaluation, the criteria and procedures established
 7 in chapter 393, chapter 394, or chapter 397, whichever is
 8 applicable, shall be used.

9 Section 66. Section 1003.58, Florida Statutes, is
 10 amended to read:

11 1003.58 Students in residential care facilities.--Each
 12 district school board shall provide educational programs
 13 according to rules of the State Board of Education to students
 14 who reside in residential care facilities operated by the
 15 Department of Children and Family Services or the Agency for
 16 Persons with Disabilities.

17 (1) The district school board shall not be charged any
 18 rent, maintenance, utilities, or overhead on such facilities.
 19 Maintenance, repairs, and remodeling of existing facilities
 20 shall be provided by the Department of Children and Family
 21 Services or the Agency for Persons with Disabilities, as
 22 appropriate.

23 (2) If additional facilities are required, the
 24 district school board and the Department of Children and
 25 Family Services or the Agency for Persons with Disabilities,
 26 as appropriate, shall agree on the appropriate site based on
 27 the instructional needs of the students. When the most
 28 appropriate site for instruction is on district school board
 29 property, a special capital outlay request shall be made by
 30 the commissioner in accordance with s. 1013.60. When the most
 31 appropriate site is on state property, state capital outlay

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1 funds shall be requested by the department or agency in
 2 accordance with chapter 216 of Children and Family Services as
 3 provided by s. 216.043 and shall be submitted as specified by
 4 s. 216.023. Any instructional facility to be built on state
 5 property shall have educational specifications jointly
 6 developed by the school district and the department or agency
 7 of Children and Family Services and approved by the Department
 8 of Education. The size of space and occupant design capacity
 9 criteria as provided by state board rules shall be used for
 10 remodeling or new construction whether facilities are provided
 11 on state property or district school board property. The
 12 planning of such additional facilities shall incorporate
 13 current state Department of Children and Family Services
 14 deinstitutionalization goals and plans.

15 (3) The district school board shall have full and
 16 complete authority in the matter of the assignment and
 17 placement of such students in educational programs. The parent
 18 of an exceptional student shall have the same due process
 19 rights as are provided under s. 1003.57(5).

20 (4) The district school board shall have a written
 21 agreement with the Department of Children and Family Services
 22 and the Agency for Persons with Disabilities outlining the
 23 respective duties and responsibilities of each party.

24
 25 Notwithstanding the provisions herein, the educational program
 26 at the Marianna Sunland Center in Jackson County shall be
 27 operated by the Department of Education, either directly or
 28 through grants or contractual agreements with other public or
 29 duly accredited educational agencies approved by the
 30 Department of Education.

31 Section 67. Paragraph (c) of subsection (3) of section

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1 17.61, Florida Statutes, is amended to read:

2 17.61 Chief Financial Officer; powers and duties in
3 the investment of certain funds.--

4 (3)

5 (c) Except as provided in this paragraph and except
6 for moneys described in paragraph (d), the following agencies
7 shall not invest trust fund moneys as provided in this
8 section, but shall retain such moneys in their respective
9 trust funds for investment, with interest appropriated to the
10 General Revenue Fund, pursuant to s. 17.57:

11 1. The Agency for Health Care Administration, except
12 for the Tobacco Settlement Trust Fund.

13 2. The Department of Children and Family Services,
14 except for:

15 a. The Alcohol, Drug Abuse, and Mental Health Trust
16 Fund.

17 b. The Community Resources Development Loan Trust Fund
18 in the the Agency for Disabilities Administrative Trust Fund.

19 c. The Refugee Assistance Trust Fund.

20 d. The Social Services Block Grant Trust Fund.

21 e. The Tobacco Settlement Trust Fund.

22 f. The Working Capital Trust Fund.

23 3. The Department of Community Affairs, only for the
24 Operating Trust Fund.

25 4. The Department of Corrections.

26 5. The Department of Elderly Affairs, except for:

27 a. The Federal Grants Trust Fund.

28 b. The Tobacco Settlement Trust Fund.

29 6. The Department of Health, except for:

30 a. The Federal Grants Trust Fund.

31 b. The Grants and Donations Trust Fund.

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1 c. The Maternal and Child Health Block Grant Trust
2 Fund.

3 d. The Tobacco Settlement Trust Fund.

4 7. The Department of Highway Safety and Motor
5 Vehicles, only for:

6 a. The DUI Programs Coordination Trust Fund.

7 b. The Security Deposits Trust Fund.

8 8. The Department of Juvenile Justice.

9 9. The Department of Law Enforcement.

10 10. The Department of Legal Affairs.

11 11. The Department of State, only for:

12 a. The Grants and Donations Trust Fund.

13 b. The Records Management Trust Fund.

14 12. The Executive Office of the Governor, only for:

15 a. The Economic Development Transportation Trust Fund.

16 b. The Economic Development Trust Fund.

17 13. The Florida Public Service Commission, only for
18 the Florida Public Service Regulatory Trust Fund.

19 14. The Justice Administrative Commission.

20 15. The state courts system.

21 Section 68. Paragraph (b) of subsection (5) of section
22 400.464, Florida Statutes, is amended to read:

23 400.464 Home health agencies to be licensed;
24 expiration of license; exemptions; unlawful acts; penalties.--

25 (5) The following are exempt from the licensure
26 requirements of this part:

27 (b) Home health services provided by a state agency,
28 either directly or through a contractor with:

29 1. The Department of Elderly Affairs.

30 2. The Department of Health, a community health
31 center, or a rural health network that furnishes home visits

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1 for the purpose of providing environmental assessments, case
2 management, health education, personal care services, family
3 planning, or followup treatment, or for the purpose of
4 monitoring and tracking disease.

5 3. Services provided to persons with ~~who have~~
6 developmental disabilities, as defined in s. 393.063.

7 4. Companion and sitter organizations that were
8 registered under s. 400.509(1) on January 1, 1999, and were
9 authorized to provide personal services ~~under s. 393.063(33)~~
10 under a developmental services provider certificate on January
11 1, 1999, may continue to provide such services to past,
12 present, and future clients of the organization who need such
13 services, notwithstanding the provisions of this act.

14 5. The Department of Children and Family Services.

15 Section 69. Subsection (4) of section 984.22, Florida
16 Statutes, is amended to read:

17 984.22 Powers of disposition.--

18 (4) All payments of fees made to the department under
19 ~~pursuant to~~ this chapter, or child support payments made to
20 the department pursuant to subsection (3), shall be deposited
21 in the General Revenue Fund. ~~In cases in which the child is~~
22 ~~placed in foster care with the Department of Children and~~
23 ~~Family Services, such child support payments shall be~~
24 ~~deposited in the Community Resources Development Trust Fund.~~

25 Section 70. This act shall take effect July 1, 2006.

26
27

28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause

31

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1 and insert:

2 A bill to be entitled

3 An act relating to the Agency for Persons with

4 Disabilities; amending s. 39.001, F.S.,

5 relating to the development of a comprehensive

6 state plan for children; conforming provisions

7 to the transfer of duties from the

8 Developmental Disabilities Program Office

9 within the Department of Children and Family

10 Services to the Agency for Persons with

11 Disabilities; amending s. 39.202, F.S.;

12 providing for certain employees, agents, and

13 contract providers of the agency to have access

14 to records concerning cases of child abuse or

15 neglect for specified purposes; amending s.

16 39.407, F.S.; deleting provisions authorizing

17 the treatment of a child under ch. 393, F.S.,

18 if the child is alleged to be dependent;

19 amending s. 287.155, F.S.; authorizing the

20 agency to purchase vehicles under certain

21 circumstances; amending ss. 381.0072 and

22 383.14, F.S., relating to food service licenses

23 and the Genetics and Newborn Screening Advisory

24 Council, respectively; conforming provisions to

25 the transfer of duties from the Developmental

26 Disabilities Program Office within the

27 Department of Children and Family Services to

28 the Agency for Persons with Disabilities;

29 repealing s. 393.061, F.S., relating to a short

30 title; amending s. 393.062, F.S.; revising

31 legislative findings and intent to conform to

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1 changes in terminology; amending s. 393.063,
2 F.S.; revising the definitions applicable to
3 ch. 393, F.S., relating to developmental
4 disabilities; amending s. 393.064, F.S.;
5 revising the duties of the Agency for Persons
6 with Disabilities with respect to prevention
7 services, evaluations and assessments,
8 intervention services, and support services;
9 amending s. 393.0641, F.S.; defining the term
10 "severe self-injurious behavior" for purposes
11 of a program of prevention and treatment for
12 individuals exhibiting such behavior; amending
13 s. 393.065, F.S., relating to application for
14 services and the determination of eligibility
15 for services; authorizing the agency to adopt
16 rules; amending s. 393.0651, F.S., relating to
17 support plans for families and individuals;
18 revising the age at which support plans are
19 developed for children; deleting a prohibition
20 against assessing certain fees; creating s.
21 393.0654, F.S.; specifying circumstances under
22 which an employee of the agency may own,
23 operate, or work in a private facility under
24 contract with the agency; amending s. 393.0655,
25 F.S.; revising the screening requirements for
26 direct service providers; providing a temporary
27 exemption from screening requirements for
28 certain providers; amending s. 393.0657, F.S.;
29 revising an exemption from certain requirements
30 for refingerprinting and rescreening; amending
31 s. 393.066, F.S.; revising certain requirements

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1 for the services provided by the agency;
2 requiring agency approval for purchased
3 services; revising the agency's rulemaking
4 authority; amending s. 393.067, F.S.; revising
5 requirements governing the agency's licensure
6 procedures; specifying that a license from the
7 agency is not a property right; revising the
8 requirements for background screening of
9 applicants for licensure and managers,
10 supervisors, and staff members of service
11 providers; requiring that the agency adopt
12 rules governing the reporting of incidents;
13 deleting certain responsibilities of the Agency
14 for Health Care Administration with respect to
15 the development and review of emergency
16 management plans; amending s. 393.0673, F.S.;
17 requiring that the Agency for Persons with
18 Disabilities adopt rules for evaluating
19 violations and determining the amount of fines;
20 amending s. 393.0674, F.S.; providing a penalty
21 for failure by a provider to comply with
22 background-screening requirements; amending s.
23 393.0675, F.S.; deleting certain obsolete
24 provisions requiring that a provider be of good
25 moral character; amending s. 393.0678, F.S.;
26 deleting provisions governing receivership
27 proceedings for an intermediate care facility
28 for the developmentally disabled; amending s.
29 393.068, F.S.; requiring that the family care
30 program emphasize self-determination; removing
31 supported employment from the list of services

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1 available under the family care program;
2 revising certain requirements for reimbursing a
3 family care program provider; amending s.
4 393.0695, F.S., relating to in-home subsidies;
5 requiring that the Agency for Persons with
6 Disabilities adopt rules for such subsidies;
7 amending s. 393.075, F.S., relating to
8 liability coverage for facilities licensed by
9 the agency; conforming terminology; amending s.
10 393.11, F.S.; revising provisions governing the
11 involuntary admission of a person to
12 residential services; clarifying provisions
13 governing involuntary commitment; requiring
14 that a person who is charged with a felony will
15 have his or her competency determined under ch.
16 916, F.S.; conforming terminology; amending s.
17 393.122, F.S.; clarifying requirements
18 governing applications for continued
19 residential services; amending s. 393.13, F.S.,
20 relating to the Bill of Rights of Persons Who
21 are Developmentally Disabled; deleting a
22 provision protecting minimum wage compensation
23 for certain programs; limiting the use of
24 restraint and seclusion; requiring the agency
25 to adopt rules governing the use of restraint
26 or seclusion; revising requirements for client
27 records; deleting certain requirements
28 governing local advocacy councils; allowing the
29 resident government to include disability
30 advocates from the community; amending s.
31 393.135, F.S.; redefining the terms "covered

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1 person" and "sexual misconduct"; clarifying
2 provisions making such misconduct a
3 second-degree felony; amending s. 393.15, F.S.;
4 establishing the Community Resources
5 Development Loan Program to provide loans to
6 foster homes, group homes, and supported
7 employment programs; providing legislative
8 intent; providing eligibility requirements;
9 providing authorized uses of loan funds;
10 requiring that the agency adopt rules governing
11 the loan program; providing requirements for
12 repaying loans; amending s. 393.17, F.S.;
13 authorizing the agency to establish
14 certification programs for persons providing
15 services to clients; requiring that the agency
16 establish a certification program for behavior
17 analysts; requiring that the program be
18 reviewed and validated; creating s. 393.18,
19 F.S.; providing for a comprehensive transition
20 education program for persons who have severe
21 or moderate maladaptive behaviors; specifying
22 the types of treatment and education centers
23 providing services under the program; providing
24 requirements for licensure; requiring
25 individual education plans for persons
26 receiving services; limiting the number of
27 persons who may receive services in such a
28 program; creating s. 393.23, F.S.; requiring
29 that receipts from operating canteens, vending
30 machines, and other like activities in a
31 developmental disabilities institution be

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1 deposited in a trust account in a bank, credit
2 union, or savings and loan association;
3 describing how the moneys earned may be
4 expended; allowing for the investment of the
5 funds; requiring that the accounting system at
6 the institution account for the revenues and
7 expenses of the activities; requiring that
8 sales tax moneys be remitted to the Department
9 of Revenue; amending s. 393.501, F.S.; revising
10 the agency's rulemaking authority; providing
11 requirements for rules governing alternative
12 living centers and independent living education
13 centers; amending s. 397.405, F.S.; clarifying
14 an exemption from licensure provided to certain
15 facilities licensed under ch. 393, F.S.;
16 amending s. 400.419, F.S.; requiring that a
17 list of facilities subject to sanctions or
18 fines be disseminated to the Agency for Persons
19 with Disabilities; amending s. 400.960, F.S.;
20 revising definitions for purposes of part XI of
21 ch. 400, F.S., relating to nursing homes and
22 related facilities; amending s. 400.967, F.S.,
23 relating to rules and classification
24 deficiencies; conforming provisions to the
25 transfer of duties from the Department of
26 Children and Family Services to the Agency for
27 Persons with Disabilities; amending ss.
28 402.115, 402.17, 402.181, 402.20, 402.22, and
29 402.33, F.S.; including the Agency for Persons
30 with Disabilities within provisions governing
31 the sharing of information, claims for the care

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1 and maintenance of facility residents, county
2 contracts for services for persons with
3 developmental disabilities, education programs
4 for students who reside in state facilities,
5 and fees for services; conforming provisions to
6 changes made by the act; amending s. 408.036,
7 F.S., relating to projects that are exempt from
8 obtaining a certificate of need; conforming
9 terminology; amending s. 409.221, F.S.,
10 relating to the consumer directed care program;
11 conforming provisions to changes made by the
12 act; amending ss. 409.908 and 409.9127, F.S.,
13 relating to the Medicaid program; conforming a
14 cross-reference; deleting obsolete provisions;
15 amending ss. 411.224 and 411.232, F.S.;
16 conforming provisions to the transfer of duties
17 from the Developmental Disabilities Program
18 Office within the Department of Children and
19 Family Services to the Agency for Persons with
20 Disabilities; amending ss. 415.102, 415.1035,
21 415.1055, and 415.107, F.S.; conforming
22 terminology; including the Agency for Persons
23 with Disabilities within provisions providing
24 requirements that a facility inform residents
25 of certain rights, notification requirements
26 for administrative entities, and requirements
27 for maintaining the confidentiality of reports
28 and records; amending s. 419.001, F.S.,
29 relating to site selection of community
30 residential homes; revising definitions;
31 amending s. 435.03, F.S., relating to screening

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1 standards; conforming terminology and a
2 cross-reference; amending ss. 490.014 and
3 491.014, F.S., relating to exemptions from
4 licensure for psychologists and certain
5 specified counselors, respectively; conforming
6 provisions to changes made by the act; amending
7 ss. 944.602, 945.025, 947.185, 984.19, 984.225,
8 984.226, and 985.224, F.S., relating to the
9 Department of Corrections, the Parole
10 Commission, children in need of services, and
11 petitions alleging delinquency; conforming
12 provisions to the transfer of duties from the
13 Developmental Disabilities Program Office
14 within the Department of Children and Family
15 Services to the Agency for Persons with
16 Disabilities; amending s. 1003.58, F.S.;
17 including facilities operated by the Agency for
18 Persons with Disabilities within provisions
19 governing the residential care of students;
20 amending ss. 17.61, and 400.464, F.S., relating
21 to the Community Resources Development Trust
22 Fund and home health services for persons with
23 disabilities, respectively; conforming
24 provisions to changes made by the act; amending
25 s. 984.22, F.S.; removing a provision that
26 specifies fines be deposited into the Community
27 Resources Development Trust Fund; providing an
28 effective date.

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