

By the Committee on Children and Families; and Senator Baker

586-1947-06

1                                   A bill to be entitled  
2           An act relating to persons with disabilities;  
3           amending s. 20.197, F.S.; requiring the  
4           director of the Agency for Persons with  
5           Disabilities to be subject to confirmation by  
6           the Senate; requiring the agency to create a  
7           Division of Budget and Planning and a Division  
8           of Operations; authorizing the director to  
9           recommend creating additional subdivisions of  
10          the agency in order to promote efficient and  
11          effective operation of the agency; amending s.  
12          39.001, F.S., relating to the development of a  
13          comprehensive state plan for children;  
14          conforming provisions to the transfer of duties  
15          from the Developmental Disabilities Program  
16          Office within the Department of Children and  
17          Family Services to the Agency for Persons with  
18          Disabilities; amending s. 39.202, F.S.;  
19          providing for certain employees, agents, and  
20          contract providers of the agency to have access  
21          to records concerning cases of child abuse or  
22          neglect for specified purposes; amending s.  
23          39.407, F.S.; deleting provisions authorizing  
24          the treatment of a child under ch. 393, F.S.,  
25          if the child is alleged to be dependent;  
26          amending s. 287.155, F.S.; authorizing the  
27          agency to purchase vehicles under certain  
28          circumstances; amending ss. 381.0072 and  
29          383.14, F.S., relating to food service licenses  
30          and the Genetics and Newborn Screening Advisory  
31          Council, respectively; conforming provisions to

1 the transfer of duties from the Developmental  
2 Disabilities Program Office within the  
3 Department of Children and Family Services to  
4 the Agency for Persons with Disabilities;  
5 repealing s. 393.061, F.S., relating to a short  
6 title; amending s. 393.062, F.S.; revising  
7 legislative findings and intent to conform to  
8 changes in terminology; amending s. 393.063,  
9 F.S.; revising the definitions applicable to  
10 ch. 393, F.S., relating to developmental  
11 disabilities; amending s. 393.064, F.S.;  
12 revising the duties of the Agency for Persons  
13 with Disabilities with respect to prevention  
14 services, evaluations and assessments,  
15 intervention services, and support services;  
16 amending s. 393.0641, F.S.; defining the term  
17 "severe self-injurious behavior" for purposes  
18 of a program of prevention and treatment for  
19 individuals exhibiting such behavior; amending  
20 s. 393.065, F.S., relating to application for  
21 services and the determination of eligibility  
22 for services; providing for children in the  
23 child welfare system to be placed at the top of  
24 the agency's wait list for waiver services;  
25 authorizing the agency to adopt rules; amending  
26 s. 393.0651, F.S., relating to support plans  
27 for families and individuals; revising the age  
28 at which support plans are developed for  
29 children; deleting a prohibition against  
30 assessing certain fees; creating s. 393.0654,  
31 F.S.; specifying circumstances under which an

1 employee of the agency may own, operate, or  
2 work in a private facility under contract with  
3 the agency; amending s. 393.0655, F.S.;  
4 revising the screening requirements for direct  
5 service providers; providing a temporary  
6 exemption from screening requirements for  
7 certain providers; amending s. 393.0657, F.S.;  
8 revising an exemption from certain requirements  
9 for refingerprinting and rescreening; amending  
10 s. 393.066, F.S.; revising certain requirements  
11 for the services provided by the agency;  
12 requiring agency approval for purchased  
13 services; revising the agency's rulemaking  
14 authority; amending s. 393.067, F.S.; revising  
15 requirements governing the agency's licensure  
16 procedures; specifying that a license from the  
17 agency is not a property right; revising the  
18 requirements for background screening of  
19 applicants for licensure and managers,  
20 supervisors, and staff members of service  
21 providers; requiring that the agency adopt  
22 rules governing the reporting of incidents;  
23 deleting certain responsibilities of the Agency  
24 for Health Care Administration with respect to  
25 the development and review of emergency  
26 management plans; amending s. 393.0673, F.S.;  
27 requiring that the Agency for Persons with  
28 Disabilities adopt rules for evaluating  
29 violations and determining the amount of fines;  
30 amending s. 393.0674, F.S.; providing a penalty  
31 for failure by a provider to comply with

1 background-screening requirements; amending s.  
2 393.0675, F.S.; deleting certain obsolete  
3 provisions requiring that a provider be of good  
4 moral character; amending s. 393.0678, F.S.;  
5 deleting provisions governing receivership  
6 proceedings for an intermediate care facility  
7 for the developmentally disabled; amending s.  
8 393.068, F.S.; requiring that the family care  
9 program emphasize self-determination; removing  
10 supported employment from the list of services  
11 available under the family care program;  
12 revising certain requirements for reimbursing a  
13 family care program provider; amending s.  
14 393.0695, F.S., relating to in-home subsidies;  
15 requiring that the Agency for Persons with  
16 Disabilities adopt rules for such subsidies;  
17 amending s. 393.075, F.S., relating to  
18 liability coverage for facilities licensed by  
19 the agency; conforming terminology; amending s.  
20 393.11, F.S.; revising provisions governing the  
21 involuntary admission of a person to  
22 residential services; clarifying provisions  
23 governing involuntary commitment; requiring  
24 that a person who is charged with a felony will  
25 have his or her competency determined under ch.  
26 916, F.S.; conforming terminology; amending s.  
27 393.122, F.S.; clarifying requirements  
28 governing applications for continued  
29 residential services; amending s. 393.13, F.S.,  
30 relating to the Bill of Rights of Persons Who  
31 are Developmentally Disabled; deleting a

1 provision protecting minimum wage compensation  
2 for certain programs; limiting the use of  
3 restraint and seclusion; requiring the agency  
4 to adopt rules governing the use of restraint  
5 or seclusion; revising requirements for client  
6 records; deleting certain requirements  
7 governing local advocacy councils; allowing the  
8 resident government to include disability  
9 advocates from the community; amending s.  
10 393.135, F.S.; redefining the terms "covered  
11 person" and "sexual misconduct"; clarifying  
12 provisions making such misconduct a  
13 second-degree felony; amending s. 393.15, F.S.;  
14 establishing the Community Resources  
15 Development Loan Program to provide loans to  
16 foster homes, group homes, and supported  
17 employment programs; providing legislative  
18 intent; providing eligibility requirements;  
19 providing authorized uses of loan funds;  
20 requiring that the agency adopt rules governing  
21 the loan program; providing requirements for  
22 repaying loans; amending s. 393.17, F.S.;  
23 authorizing the agency to establish  
24 certification programs for persons providing  
25 services to clients; requiring that the agency  
26 establish a certification program for behavior  
27 analysts; requiring that the program be  
28 reviewed and validated; creating s. 393.18,  
29 F.S.; providing for a comprehensive transition  
30 education program for persons who have severe  
31 or moderate maladaptive behaviors; specifying

1 the types of treatment and education centers  
2 providing services under the program; providing  
3 requirements for licensure; requiring  
4 individual education plans for persons  
5 receiving services; limiting the number of  
6 persons who may receive services in such a  
7 program; creating s. 393.23, F.S.; requiring  
8 that receipts from operating canteens, vending  
9 machines, and other like activities in a  
10 developmental disabilities institution be  
11 deposited in a trust account in a bank, credit  
12 union, or savings and loan association;  
13 describing how the moneys earned may be  
14 expended; allowing for the investment of the  
15 funds; requiring that the accounting system at  
16 the institution account for the revenues and  
17 expenses of the activities; requiring that  
18 sales tax moneys be remitted to the Department  
19 of Revenue; amending s. 393.501, F.S.; revising  
20 the agency's rulemaking authority; providing  
21 requirements for rules governing alternative  
22 living centers and independent living education  
23 centers; amending s. 394.453, F.S.; declaring  
24 that the policy of the state is to achieve an  
25 ongoing reduction of the use of restraint and  
26 seclusion on persons with mental illness who  
27 are served by programs and facilities operated,  
28 licensed, or monitored by the agency; amending  
29 s. 394.455, F.S.; defining the terms  
30 "restraint" and "seclusion" for purposes of the  
31 Baker Act; amending s. 394.457, F.S.; requiring

1 the Department of Children and Family Services  
2 to adopt rules for the use of restraint and  
3 seclusion for cases handled under the Baker  
4 Act; amending s. 394.879, F.S.; requiring that  
5 rules be adopted for the use of restraint and  
6 seclusion; amending s. 397.405, F.S.;  
7 clarifying an exemption from licensure provided  
8 to certain facilities licensed under ch. 393,  
9 F.S.; amending s. 400.419, F.S.; requiring that  
10 a list of facilities subject to sanctions or  
11 fines be disseminated to the Agency for Persons  
12 with Disabilities; amending s. 400.960, F.S.;  
13 revising definitions for purposes of part XI of  
14 ch. 400, F.S., relating to nursing homes and  
15 related facilities; amending s. 400.967, F.S.,  
16 relating to rules and classification  
17 deficiencies; conforming provisions to the  
18 transfer of duties from the Department of  
19 Children and Family Services to the Agency for  
20 Persons with Disabilities; requiring that rules  
21 be adopted for the use of restraint and  
22 seclusion; amending ss. 402.115, 402.17,  
23 402.181, 402.20, 402.22, and 402.33, F.S.;  
24 including the Agency for Persons with  
25 Disabilities within provisions governing the  
26 sharing of information, claims for the care and  
27 maintenance of facility residents, county  
28 contracts for services for persons with  
29 developmental disabilities, education programs  
30 for students who reside in state facilities,  
31 and fees for services; conforming provisions to

1 changes made by the act; amending s. 408.036,  
2 F.S., relating to projects that are exempt from  
3 obtaining a certificate of need; conforming  
4 terminology; amending s. 409.221, F.S.,  
5 relating to the consumer directed care program;  
6 conforming provisions to changes made by the  
7 act; amending ss. 409.908 and 409.9127, F.S.,  
8 relating to the Medicaid program; conforming a  
9 cross-reference; deleting obsolete provisions;  
10 amending ss. 411.224 and 411.232, F.S.;  
11 conforming provisions to the transfer of duties  
12 from the Developmental Disabilities Program  
13 Office within the Department of Children and  
14 Family Services to the Agency for Persons with  
15 Disabilities; amending ss. 415.102, 415.1035,  
16 415.1055, and 415.107, F.S.; conforming  
17 terminology; including the Agency for Persons  
18 with Disabilities within provisions providing  
19 requirements that a facility inform residents  
20 of certain rights, notification requirements  
21 for administrative entities, and requirements  
22 for maintaining the confidentiality of reports  
23 and records; amending s. 419.001, F.S.,  
24 relating to site selection of community  
25 residential homes; revising definitions;  
26 amending s. 435.03, F.S., relating to screening  
27 standards; conforming terminology and a  
28 cross-reference; amending ss. 490.014 and  
29 491.014, F.S., relating to exemptions from  
30 licensure for psychologists and certain  
31 specified counselors, respectively; conforming



1 provisions to changes made by the act; amending  
2 ss. 944.602, 945.025, 947.185, 984.19, 984.225,  
3 984.226, and 985.224, F.S., relating to the  
4 Department of Corrections, the Parole  
5 Commission, children in need of services, and  
6 petitions alleging delinquency; conforming  
7 provisions 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. 1003.58, F.S.;  
12 including facilities operated by the Agency for  
13 Persons with Disabilities within provisions  
14 governing the residential care of students;  
15 amending ss. 17.61, and 400.464, F.S., relating  
16 to the Community Resources Development Trust  
17 Fund and home health services for persons with  
18 disabilities, respectively; conforming  
19 provisions to changes made by the act; amending  
20 s. 984.22, F.S.; removing a provision that  
21 specifies fines be deposited into the Community  
22 Resources Development Trust Fund; providing an  
23 effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 20.197, Florida Statutes, is  
28 amended to read:

29 20.197 Agency for Persons with Disabilities.--There is  
30 created the Agency for Persons with Disabilities, housed  
31 within the Department of Children and Family Services for

1 administrative purposes only. The agency shall be a separate  
2 budget entity not subject to control, supervision, or  
3 direction by the Department of Children and Family Services in  
4 any manner, including, but not limited to, personnel,  
5 purchasing, transactions involving real or personal property,  
6 and budgetary matters.

7 (1) The director of the agency shall be the agency  
8 head for all purposes and shall be appointed by the Governor,  
9 subject to confirmation by the Senate, and shall serve at the  
10 pleasure of the Governor. The director shall administer the  
11 affairs of the agency and establish administrative units as  
12 needed and may, within available resources, employ assistants,  
13 professional staff, and other employees as necessary to  
14 discharge the powers and duties of the agency.

15 (2) The agency shall include a Division of Budget and  
16 Planning and a Division of Operations. In addition, and in  
17 accordance with s. 20.04, the director of the agency may  
18 recommend establishing additional divisions, bureaus,  
19 sections, and subsections of the agency in order to promote  
20 efficient and effective operation of the agency.

21 (3)(2) The agency ~~is shall be~~ responsible for  
22 ~~providing the provision of~~ all services provided to persons  
23 with developmental disabilities under ~~pursuant to~~ chapter 393,  
24 including the operation of all state institutional programs  
25 and the programmatic management of Medicaid waivers  
26 established to provide services to persons with developmental  
27 disabilities.

28 (4)(3) The agency shall engage in such other  
29 administrative activities as are deemed necessary to  
30 effectively and efficiently address the needs of the agency's  
31 clients.

1           ~~(5)~~(4) The agency shall enter into an interagency  
2 agreement that delineates the responsibilities of the Agency  
3 for Health Care Administration for the following:

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

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

9           (c) The implementation of utilization management  
10 measures, including the prior authorization of services plans  
11 and the streamlining and consolidation of waivers services, to  
12 ensure the cost-effective provision of needed Medicaid  
13 services and to maximize the number of persons with access to  
14 such services.

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

19           Section 2. Paragraph (b) of subsection (7) of section  
20 39.001, Florida Statutes, is amended to read:

21           39.001 Purposes and intent; personnel standards and  
22 screening.--

23           (7) PLAN FOR COMPREHENSIVE APPROACH.--

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

26           1. The department shall establish an interprogram task  
27 force comprised of the Program Director for Family Safety, or  
28 a designee, a representative from the Child Care Services  
29 Program Office, a representative from the Family Safety  
30 Program Office, a representative from the Mental Health  
31 Program Office, a representative from the Substance Abuse

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

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

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

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

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

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

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

7 f. Working with the specified state agency in  
8 fulfilling the requirements of subparagraphs 2., 3., 4., and  
9 5.

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

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

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

1 | plan for accomplishing this end shall be included in the state  
2 | plan.

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

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

1 | have subdistricts, the district administrator shall ensure  
2 | that both urban and rural areas are represented on the task  
3 | force. The task force shall develop a written statement  
4 | clearly identifying its operating procedures, purpose, overall  
5 | responsibilities, and method of meeting responsibilities. The  
6 | district plan of action to be prepared by the task force shall  
7 | include, but shall not be limited to:

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

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

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

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

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

1 f. A description of barriers to the accomplishment of  
2 a comprehensive approach to the prevention of child abuse,  
3 abandonment, and neglect.

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

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

9 39.202 Confidentiality of reports and records in cases  
10 of child abuse or neglect.--

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

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

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



1  
2 Also, employees or agents of the Department of Juvenile  
3 Justice responsible for the provision of services to children,  
4 pursuant to chapters 984 and 985.

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

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

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

16 3. Employing and continuing employment of personnel of  
17 the department or the agency.

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

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

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

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

1 ~~393~~ shall be used, ~~whichever is applicable~~. A child may be  
2 provided ~~developmental disabilities or~~ mental health services  
3 in emergency situations, pursuant to the procedures and  
4 criteria contained in s. 394.463(1) ~~or chapter 393, whichever~~  
5 ~~is applicable~~.

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

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

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

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

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

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

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

15           (3) LICENSES REQUIRED.--

16           (a) Licenses; annual renewals.--Each food service  
17 establishment regulated under this section shall obtain a  
18 license from the department annually. Food service  
19 establishment licenses shall expire annually and are shall not  
20 ~~be~~ transferable from one place or individual to another.  
21 However, those facilities licensed by the department's Office  
22 of Licensure and Certification, the Child Care Services  
23 Program Office, or the Agency for Persons with Developmental  
24 Disabilities Program Office are exempt from this subsection.  
25 It shall be a misdemeanor of the second degree, punishable as  
26 provided in s. 381.0061, s. 775.082, or s. 775.083, for such  
27 an establishment to operate without this license. The  
28 department may refuse a license, or a renewal thereof, to any  
29 establishment that is not constructed or maintained in  
30 accordance with law and with the rules of the department.  
31 Annual application for renewal is shall not ~~be~~ required.

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

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

6           (5) ADVISORY COUNCIL.--There is established a Genetics  
7 and Newborn Screening Advisory Council made up of 15 members  
8 appointed by the Secretary of Health. The council shall be  
9 composed of two consumer members, three practicing  
10 pediatricians, at least one of whom must be a pediatric  
11 hematologist, one representative from each of the four medical  
12 schools in the state, the Secretary of Health or his or her  
13 designee, one representative from the Department of Health  
14 representing Children's Medical Services, one representative  
15 from the Florida Hospital Association, one individual with  
16 experience in newborn screening programs, one individual  
17 representing audiologists, and one representative from the  
18 Agency for Persons with Disabilities ~~Developmental~~  
19 ~~Disabilities Program Office of the Department of Children and~~  
20 ~~Family Services~~. All appointments shall be for a term of 4  
21 years. The chairperson of the council shall be elected from  
22 the membership of the council and shall serve for a period of  
23 2 years. The council shall meet at least semiannually or upon  
24 the call of the chairperson. The council may establish ad hoc  
25 or temporary technical advisory groups to assist the council  
26 with specific topics which come before the council. Council  
27 members shall serve without pay. Pursuant to the provisions of  
28 s. 112.061, the council members are entitled to be reimbursed  
29 for per diem and travel expenses. It is the purpose of the  
30 council to advise the department about:  
31

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

3 (b) Procedures for collection and transmission of  
4 specimens and recording of results.

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

9 Section 8. Section 393.061, Florida Statutes, is  
10 repealed.

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

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

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

1 that all caretakers unrelated to individuals with  
2 developmental disabilities receiving care shall be of good  
3 moral character.

4 Section 10. Section 393.063, Florida Statutes, is  
5 amended to read:

6 393.063 Definitions.--For the purposes of this  
7 chapter, the term:

8 (1) "Agency" means the Agency for Persons with  
9 Disabilities.

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

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

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

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

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

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

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

29           ~~1. Intensive treatment and educational center. This~~  
30 ~~component is a self contained residential unit providing~~  
31 ~~intensive psychological and educational programming for~~



1 ~~persons with severe maladaptive behaviors, whose behaviors~~  
2 ~~preclude placement in a less restrictive environment due to~~  
3 ~~the threat of danger or injury to themselves or others.~~

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

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

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

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

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

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

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

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

8 ~~(e) This subsection shall authorize licensure for~~  
9 ~~comprehensive transitional education programs which by July 1,~~  
10 ~~1989:~~

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

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

25 ~~(8) "Day habilitation facility" means any~~  
26 ~~nonresidential facility which provides day habilitation~~  
27 ~~services.~~

28 ~~(9) "Day habilitation service" means assistance with~~  
29 ~~the acquisition, retention, or improvement in self help,~~  
30 ~~socialization, and adaptive skills which takes place in a~~  
31 ~~nonresidential setting, separate from the home or facility in~~

1 ~~which the individual resides. Day habilitation services shall~~  
2 ~~focus on enabling the individual to attain or maintain his or~~  
3 ~~her maximum functional level and shall be coordinated with any~~  
4 ~~physical, occupational, or speech therapies listed in the plan~~  
5 ~~of care.~~

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

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

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

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

1           ~~(14) "Enclave" means a work station in public or~~  
2 ~~private business or industry where a small group of persons~~  
3 ~~with developmental disabilities is employed and receives~~  
4 ~~training and support services or follow along services among~~  
5 ~~nonhandicapped workers.~~

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

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

19           ~~(13)(17)~~ "Family care program" means the program  
20 established in s. 393.068.

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

28           ~~(14)(19)~~ "Foster care facility" means a residential  
29 facility licensed under this chapter which provides a family  
30 living environment including supervision and care necessary to  
31 meet the physical, emotional, and social needs of its

1 residents. The capacity of such a facility ~~may shall~~ not be  
2 more than three residents.

3 ~~(15)(20)~~ "Group home facility" means a residential  
4 facility licensed under this chapter which provides a family  
5 living environment including supervision and care necessary to  
6 meet the physical, emotional, and social needs of its  
7 residents. The capacity of such a facility shall be at least 4  
8 but not more than 15 residents. ~~For the purposes of this~~  
9 ~~chapter, group home facilities shall not be considered~~  
10 ~~commercial enterprises.~~

11 ~~(16)(21)~~ "Guardian advocate" means a person appointed  
12 by a written order of the court to represent a person with  
13 developmental disabilities under s. 393.12.

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

21 ~~(18)(23)~~ "High-risk child" means, for the purposes of  
22 this chapter, a child from 3 ~~birth~~ to 5 years of age with one  
23 or more of the following characteristics:

24 (a) A developmental delay in cognition, language, or  
25 physical development.

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

29 (c) A child with a parent or guardian with  
30 developmental disabilities who requires assistance in meeting  
31 the child's developmental needs.

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

3 ~~(19)(24)~~ "Intermediate care facility for the  
4 developmentally disabled" or "ICF/DD" means a residential  
5 facility licensed and certified pursuant to part XI of chapter  
6 400.

7 ~~(25)~~ "Job coach" means a person who provides  
8 employment related training at a worksite to individuals with  
9 developmental disabilities.

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

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

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

28 ~~(29)~~ "Personal services" include, but are not limited  
29 to, such services as: individual assistance with or  
30 supervision of essential activities of daily living for  
31 self care, including ambulation, bathing, dressing, eating,

1 ~~grooming, and toileting, and other similar services that the~~  
2 ~~agency may define by rule. "Personal services" shall not be~~  
3 ~~construed to mean the provision of medical, nursing, dental,~~  
4 ~~or mental health services by the staff of a facility, except~~  
5 ~~as provided in this chapter. In addition, an emergency~~  
6 ~~response device installed in the apartment or living area of a~~  
7 ~~resident shall not be classified as a personal service.~~

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

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

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

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

25       ~~(24)(34)~~ "Residential facility" means a facility  
26 providing room and board and personal care for persons with  
27 developmental disabilities.

28       ~~(25)(35)~~ "Residential habilitation" means supervision  
29 and training ~~assistance provided~~ with the acquisition,  
30 retention, or improvement in skills related to activities of  
31 daily living, such as personal hygiene skills ~~grooming and~~

1 ~~cleanliness, homemaking skills bedmaking and household chores,~~  
2 ~~eating and the preparation of food, and th social and~~  
3 ~~adaptive skills necessary to enable the individual to reside~~  
4 ~~in the community a noninstitutional setting.~~

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

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

18 ~~(28)~~ "Restraint" means a physical device, method, or  
19 drug used to control dangerous behavior.

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

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

31



1        (c) Restraint does not include physical devices, such  
2 as orthopedically prescribed appliances, surgical dressings  
3 and bandages, supportive body bands, or other physical holding  
4 when necessary for routine physical examinations and tests;  
5 for purposes of orthopedic, surgical, or other similar medical  
6 treatment; when used to provide support for the achievement of  
7 functional body position or proper balance; or when used to  
8 protect a person from falling out of bed.

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

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

29        (31) "Self-determination" means an individual's  
30 freedom to exercise the same rights as all other citizens,  
31 authority to exercise control over funds needed for one's own

1 support, including prioritizing these funds when necessary,  
2 responsibility for the wise use of public funds, and self  
3 advocacy to speak and advocate for oneself in order to gain  
4 independence and ensure that individuals with a developmental  
5 disability are treated equally.

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

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

19 ~~(33)(41)~~ "Spina bifida" means, for purposes of this  
20 chapter, a person with a medical diagnosis of spina bifida  
21 cystica or myelomeningocele.

22 ~~(34)(42)~~ "Support coordinator" means a person who is  
23 designated by the agency to assist individuals and families in  
24 identifying their capacities, needs, and resources, as well as  
25 finding and gaining access to necessary supports and services;  
26 coordinating the delivery of supports and services; advocating  
27 on behalf of the individual and family; maintaining relevant  
28 records; and monitoring and evaluating the delivery of  
29 supports and services to determine the extent to which they  
30 meet the needs and expectations identified by the individual,  
31

1 family, and others who participated in the development of the  
2 support plan.

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

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

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

19 ~~(37)(46)~~ "Training" means a planned approach to  
20 assisting a client to attain or maintain his or her maximum  
21 potential and includes services ranging from sensory  
22 stimulation to instruction in skills for independent living  
23 and employment.

24 ~~(38)(47)~~ "Treatment" means the prevention,  
25 amelioration, or cure of a client's physical and mental  
26 disabilities or illnesses.

27 Section 11. Subsections (1), (2), and (4) of section  
28 393.064, Florida Statutes, are amended to read:

29 393.064 Prevention.--

30 (1) The agency shall give priority to the development,  
31 planning, and implementation of programs which have the

1 potential to prevent, correct, cure, or reduce the severity of  
2 developmental disabilities. The agency shall direct an  
3 interagency and interprogram effort for the continued  
4 development of a prevention plan and program. The agency shall  
5 identify, through demonstration projects, through program  
6 evaluation, and through monitoring of programs and projects  
7 conducted outside of the agency, any medical, social,  
8 economic, or educational methods, techniques, or procedures  
9 that have the potential to effectively ameliorate, correct, or  
10 cure developmental disabilities. The agency program shall  
11 determine the costs and benefits that would be associated with  
12 such prevention efforts and shall implement, or recommend the  
13 implementation of, those methods, techniques, or procedures  
14 which are found likely to be cost-beneficial.

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

29 (a) Individual evaluations or assessments necessary to  
30 diagnose a developmental disability or high-risk condition and  
31

1 to determine appropriate, individual family and support  
2 services.

3       **(b)(a)** Early intervention services, including  
4 developmental training and specialized therapies. ~~Early~~  
5 ~~intervention services, which are the responsibility of the~~  
6 ~~Division of Children's Medical Services Prevention and~~  
7 ~~Intervention for children ages birth to 3 years who are~~  
8 ~~eligible for services under this chapter or under part II of~~  
9 ~~the Individuals with Disabilities Education Act, shall not be~~  
10 ~~provided through the developmental services program unless~~  
11 ~~funding is specifically appropriated to the developmental~~  
12 ~~services program for this purpose.~~

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

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

25           (a) Research into the etiology of developmental  
26 disabilities.

27           (b) Ensuring that new knowledge is rapidly  
28 disseminated throughout ~~the developmental services program of~~  
29 the agency.

30           (c) Diagnosis of unusual conditions and syndromes  
31 associated with developmental disabilities in clients

1 identified throughout ~~the~~ developmental disabilities services  
2 programs.

3 (d) Evaluation of families of clients with  
4 developmental disabilities of genetic origin in order to  
5 provide them with genetic counseling aimed at preventing the  
6 recurrence of the disorder in other family members.

7 (e) Ensuring that health professionals in the  
8 developmental disabilities services institution at Gainesville  
9 have access to information systems that will allow them to  
10 remain updated on newer knowledge and maintain their  
11 postgraduate education standards.

12 (f) Enhancing staff training for professionals  
13 throughout the agency in the areas of genetics and  
14 developmental disabilities.

15 Section 12. Section 393.0641, Florida Statutes, is  
16 amended to read:

17 393.0641 Program for the prevention and treatment of  
18 severe self-injurious behavior.--

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

22 As used in this section, the term "severe self-injurious  
23 behavior" means any chronic behavior that results in injury to  
24 the person's own body, including, but not limited to,  
25 self-hitting, head banging, self-biting, scratching, and the  
26 ingestion of harmful or potentially harmful nutritive or  
27 nonnutritive substances.

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

29 (a) Serve as a resource center for information,  
30 training, and program development.

31

1 (b) Research the diagnosis and treatment of severe  
2 self-injurious behavior, and related disorders, and develop  
3 methods of prevention and treatment of self-injurious  
4 behavior.

5 (c) Identify individuals in critical need.

6 (d) Develop treatment programs which are meaningful to  
7 individuals with developmental disabilities, in critical need,  
8 while safeguarding and respecting the legal and human rights  
9 of the individuals.

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

12 (f) Collect data on the type, severity, incidence, and  
13 demographics of individuals with severe self-injurious  
14 behavior, and disseminate the data.

15 ~~(3)(2)~~ The ~~This~~ program shall adhere to the provisions  
16 of s. 393.13.

17 ~~(4)(3)~~ The agency may contract for the provision of  
18 any portion or all of the services required by the program.

19 ~~(5)(4)~~ The agency may ~~has the authority to~~ license  
20 this program and ~~shall~~ adopt rules to administer ~~implement~~ the  
21 program.

22 Section 13. Subsections (1) and (4) of section  
23 393.065, Florida Statutes, are amended, and subsections (5)  
24 and (6) are added to that section, to read:

25 393.065 Application and eligibility determination.--

26 (1) Application for services shall be made in writing  
27 to the agency, in the service area ~~district~~ in which the  
28 applicant resides. The agency ~~Employees of the agency's~~  
29 ~~developmental services program~~ shall review each applicant for  
30 eligibility within 45 days after the date the application is  
31 signed for children under 6 years of age and within 60 days

1 after the date the application is signed for all other  
2 applicants. When necessary to definitively identify individual  
3 conditions or needs, the agency shall provide a comprehensive  
4 assessment. Only applicants ~~individuals~~ whose domicile is in  
5 Florida are eligible for services. Information accumulated by  
6 other agencies, including professional reports and collateral  
7 data, shall be considered in this process when available.

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

19 (5) With the exception of clients deemed to be in  
20 crisis whom the agency shall serve as described in rule, the  
21 agency shall place at the top of its wait list for waiver  
22 services those children on the wait list who are from the  
23 child welfare system with an open case in the Department of  
24 Children and Family Services' statewide automated child  
25 welfare information system.

26 (6) The agency may adopt rules specifying application  
27 procedures and eligibility criteria as needed to administer  
28 this section.

29 Section 14. Section 393.0651, Florida Statutes, is  
30 amended to read:  
31



1           393.0651 Family or individual support plan.--The  
2 agency shall provide directly or contract for the development  
3 of a an appropriate family support plan for children ages 3  
4 ~~birth~~ to 18 years of age and an individual support plan for  
5 each client. ~~The parent or guardian of~~ The client ~~or~~, if  
6 competent, the client's parent or guardian ~~client~~, or, when  
7 appropriate, the client advocate, shall be consulted in the  
8 development of the plan and shall receive a copy of the plan.  
9 Each plan must ~~shall~~ include the most appropriate, least  
10 restrictive, and most cost-beneficial environment for  
11 accomplishment of the objectives for client progress and a  
12 specification of all services authorized. The plan must ~~shall~~  
13 include provisions for the most appropriate level of care for  
14 the client. Within the specification of needs and services for  
15 each client, when residential care is necessary, the agency  
16 shall move toward placement of clients in residential  
17 facilities based within the client's community. The ultimate  
18 goal of each plan, whenever possible, shall be to enable the  
19 client to live a dignified life in the least restrictive  
20 setting, be that in the home or in the community. For children  
21 under 6 years of age, the family support plan shall be  
22 developed within the 45-day application period as specified in  
23 s. 393.065(1); for all applicants 6 years of age or older, the  
24 family or individual support plan shall be developed within  
25 the 60-day period as specified in that subsection.

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

28           (2)~~(a)~~ The family or individual support plan shall be  
29 integrated with the individual education plan (IEP) for all  
30 clients who are public school students entitled to a free  
31 appropriate public education under the Individuals with

1 Disabilities Education Act, I.D.E.A., as amended. The family  
2 or individual support plan and IEP shall be implemented to  
3 maximize the attainment of educational and habilitation goals.

4 (a) If the IEP for a student enrolled in a public  
5 school program indicates placement in a public or private  
6 residential program is necessary to provide special education  
7 and related services to a client, the local education agency  
8 shall provide for the costs of that service in accordance with  
9 the requirements of the Individuals with Disabilities  
10 Education Act, I.D.E.A., as amended. This shall not preclude  
11 local education agencies and the agency from sharing the  
12 residential service costs of students who are clients and  
13 require residential placement. ~~Under no circumstances shall~~  
14 ~~clients entitled to a public education or their parents be~~  
15 ~~assessed a fee by the agency under s. 402.33 for placement in~~  
16 ~~a residential program.~~

17 (b) For clients who are entering or exiting the school  
18 system, an interdepartmental staffing team composed of  
19 representatives of the agency and the local school system  
20 shall develop a written transitional living and training plan  
21 with the participation of the client or with the parent or  
22 guardian of the client, or the client advocate, as  
23 appropriate.

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

27 (4) In the development of the family or individual  
28 support plan, a client advocate may be appointed by the  
29 support planning team for a client who is a minor or for a  
30 client who is not capable of express and informed consent  
31 when:

- 1 (a) The parent or guardian cannot be identified;  
2 (b) The whereabouts of the parent or guardian cannot  
3 be discovered; or  
4 (c) The state is the only legal representative of the  
5 client.

6  
7 Such appointment shall not be construed to extend the powers  
8 of the client advocate to include any of those powers  
9 delegated by law to a legal guardian.

10 (5) The agency shall place a client in the most  
11 appropriate and least restrictive, and cost-beneficial,  
12 residential facility according to his or her individual  
13 support ~~habilitation~~ plan. ~~The parent or guardian of The~~  
14 ~~client or~~, if competent, the client's parent or guardian  
15 ~~client~~, or, when appropriate, the client advocate, and the  
16 administrator of the ~~residential~~ facility to which placement  
17 is proposed shall be consulted in determining the appropriate  
18 placement for the client. Considerations for placement shall  
19 be made in the following order:

- 20 (a) Client's own home or the home of a family member  
21 or direct service provider.  
22 (b) Foster care facility.  
23 (c) Group home facility.  
24 (d) Intermediate care facility for the developmentally  
25 disabled.  
26 (e) Other facilities licensed by the agency which  
27 offer special programs for people with developmental  
28 disabilities.  
29 (f) Developmental disabilities ~~services~~ institution.  
30 (6) In developing a client's annual family or  
31 individual support plan, the individual or family with the

1 assistance of the support planning team shall identify  
2 measurable objectives for client progress and shall specify a  
3 time period expected for achievement of each objective.

4 (7) The individual, family, and support coordinator  
5 shall review progress in achieving the objectives specified in  
6 each client's family or individual support plan, and shall  
7 revise the plan annually, following consultation with the  
8 client, if competent, or with the parent or guardian of the  
9 client, or, when appropriate, the client advocate. The agency  
10 or designated contractor shall annually report in writing to  
11 the client, if competent, or to the parent or guardian of the  
12 client, or to the client advocate, when appropriate, with  
13 respect to the client's habilitative and medical progress.

14 (8) Any client, or any parent of a minor client, or  
15 guardian, authorized guardian advocate, or client advocate for  
16 a client, who is substantially affected by the client's  
17 initial family or individual support plan, or the annual  
18 review thereof, shall have the right to file a notice to  
19 challenge the decision pursuant to ss. 120.569 and 120.57.  
20 Notice of such right to appeal shall be included in all  
21 support plans provided by the agency.

22 Section 15. Section 393.0654, Florida Statutes, is  
23 created to read.

24 393.0654 Direct service providers; private sector  
25 services.--It is not a violation of s. 112.313(7) for a direct  
26 service provider who is employed by the agency to own,  
27 operate, or work in a private facility that is a service  
28 provider under contract with the agency if:

29 (1) The employee does not have any role in the  
30 agency's placement recommendations or the client's  
31 decisionmaking process regarding placement;

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

4           (3) The employee's employment outside the agency does  
5 not create a conflict with the employee's public duties and  
6 does not impede the full and faithful discharge of the  
7 employee's duties as assigned by the agency; and

8           (4) The service provider discloses the dual employment  
9 or ownership status to the agency and all clients within the  
10 provider's care. The disclosure must be given to the agency,  
11 the client, and the client's guardian or guardian advocate, if  
12 appropriate.

13           Section 16. Section 393.0655, Florida Statutes, is  
14 amended to read:

15           393.0655 Screening of direct service providers.--

16           (1) MINIMUM STANDARDS.--The agency shall require level  
17 2 employment screening pursuant to chapter 435 for direct  
18 service providers who are unrelated to their clients,  
19 including support coordinators, and managers and supervisors  
20 of residential facilities or comprehensive transitional  
21 education programs licensed under this chapter ~~s. 393.067~~ and  
22 any other person, including volunteers, who provide care or  
23 services, who have access to a client's living areas, or who  
24 have access to a client's funds or personal property.

25 Background screening shall include employment history checks  
26 as provided in s. 435.03(1) and local criminal records checks  
27 through local law enforcement agencies.

28           (a) A volunteer who assists on an intermittent basis  
29 for less than 40 hours per month does not have to be screened  
30 if the volunteer is under the direct and constant visual

31

1 supervision of persons who meet the screening requirements of  
2 this section.

3 (b) Licensed physicians, nurses, or other  
4 professionals licensed and regulated by the Department of  
5 Health are not subject to background screening pursuant to  
6 this section if they are providing a service that is within  
7 their scope of licensed practice.

8 (c) A person selected by the family or the individual  
9 with developmental disabilities and paid by the family or the  
10 individual to provide supports or services is not required to  
11 have a background screening under this section.

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

18 (e) A direct service provider who is awaiting the  
19 completion of background screening is temporarily exempt from  
20 the screening requirements under this section if the provider  
21 is under the direct and constant visual supervision of persons  
22 who meet the screening requirements of this section. Such  
23 exemption expires 90 days after the direct service provider  
24 first provides care or services to clients, has access to a  
25 client's living areas, or has access to a client's funds or  
26 personal property.

27 (2) EXEMPTIONS FROM DISQUALIFICATION.--The agency may  
28 grant exemptions from disqualification from working with  
29 children or adults with developmental disabilities only as  
30 provided in s. 435.07.  
31

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

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

9           (a) The agency shall deny, suspend, terminate, or  
10 revoke a license, certification, rate agreement, purchase  
11 order, or contract, or pursue other remedies provided in s.  
12 393.0673, s. 393.0675, or s. 393.0678 in addition to or in  
13 lieu of denial, suspension, termination, or revocation for  
14 failure to comply with this section.

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

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

26           (d) Refusal on the part of an employer to dismiss a  
27 manager, supervisor, or direct service provider who has been  
28 found to be in noncompliance with standards of this section  
29 shall result in automatic denial, termination, or revocation  
30 of the license or, certification, rate agreement, purchase  
31

1 order, or contract, in addition to any other remedies pursued  
2 by the agency.

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

5 393.0657 Persons not required to be refingerprinted or  
6 rescreened.--Persons who have undergone any portion of the  
7 background screening required under s. 393.0655 within the  
8 last 12 months are ~~Any provision of law to the contrary~~  
9 ~~notwithstanding, human resource personnel who have been~~  
10 ~~fingerprinted or screened pursuant to chapters 393, 394, 397,~~  
11 ~~402, and 409, and teachers who have been fingerprinted~~  
12 ~~pursuant to chapter 1012, who have not been unemployed for~~  
13 ~~more than 90 days thereafter, and who under the penalty of~~  
14 ~~perjury attest to the completion of such fingerprinting or~~  
15 ~~screening and to compliance with the provisions of this~~  
16 ~~section and the standards for good moral character as~~  
17 ~~contained in such provisions as ss. 110.1127(3), 393.0655(1),~~  
18 ~~394.457(6), 397.451, 402.305(2), and 409.175(6), shall not be~~  
19 ~~required to repeat such screening be refingerprinted or~~  
20 ~~rescreened in order to comply with the any direct service~~  
21 ~~provider screening or fingerprinting requirements. Such~~  
22 persons are responsible for providing documentation of the  
23 screening and shall undergo screening for any remaining  
24 background screening requirements that have never been  
25 conducted or have not been completed within the last 12  
26 months.

27 Section 18. Section 393.066, Florida Statutes, is  
28 amended to read:

29 393.066 Community services and treatment ~~for persons~~  
30 ~~who are developmentally disabled.--~~

31



1           (1) The agency shall plan, develop, organize, and  
2 implement its programs of services and treatment for persons  
3 with developmental disabilities ~~who are developmentally~~  
4 ~~disabled~~ to allow clients to live as independently as possible  
5 in their own homes or communities and to achieve productive  
6 lives as close to normal as possible. All elements of  
7 community-based services shall be made available, and  
8 eligibility for these services shall be consistent across the  
9 state. ~~In addition, all purchased services shall be approved~~  
10 ~~by the agency.~~

11           (2) All services needed shall be purchased instead of  
12 provided directly by the agency, when such arrangement is more  
13 cost-efficient than having those services provided directly.  
14 All purchased services must be approved by the agency.

15           (3) Community-based services that are medically  
16 necessary to prevent institutionalization shall, to the extent  
17 of available resources, include:

18           (a) Day habilitation services, including developmental  
19 training services.

20           (b) Family care services.

21           (c) Guardian advocate referral services.

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

25           (e) Parent training.

26           (f) Recreation.

27           (g) Residential facility services.

28           (h) Respite services.

29           (i) Social services.

30           (j) Specialized therapies.

31

1           (k) Supported employment,~~including enclave, job~~  
2 ~~coach, mobile work crew, and follow along services.~~

3           (l) Supported living.

4           (m) Training, including behavioral-analysis services  
5 ~~behavioral programming.~~

6           (n) Transportation.

7           (o) Other habilitative and rehabilitative services as  
8 needed.

9           (4) The agency shall utilize the services of private  
10 businesses, not-for-profit organizations, and units of local  
11 government whenever such services are more cost-efficient than  
12 such services provided directly by the department, including  
13 arrangements for provision of residential facilities.

14           (5) In order to improve the potential for utilization  
15 of more cost-effective, community-based residential  
16 facilities, the agency shall promote the statewide development  
17 of day habilitation services for clients who live with a  
18 direct service provider in a community-based residential  
19 facility and who do not require 24-hour-a-day care in a  
20 hospital or other health care institution, but who may, in the  
21 absence of day habilitation services, require admission to a  
22 developmental disabilities institution. Each day service  
23 facility shall provide a protective physical environment for  
24 clients, ensure that direct service providers meet minimum  
25 screening standards as required in s. 393.0655, make available  
26 to all day habilitation service participants at least one meal  
27 on each day of operation, provide facilities to enable  
28 participants to obtain needed rest while attending the  
29 program, as appropriate, and provide social and educational  
30 activities designed to stimulate interest and provide  
31 socialization skills.

1           (6) To promote independence and productivity, the  
2 agency shall provide supports and services, within available  
3 resources, to assist clients enrolled in Medicaid waivers who  
4 choose to pursue gainful employment.

5           (7) For the purpose of making needed community-based  
6 residential facilities available at the least possible cost to  
7 the state, the agency is authorized to lease privately owned  
8 residential facilities under long-term rental agreements, if  
9 such rental agreements are projected to be less costly to the  
10 state over the useful life of the facility than state purchase  
11 or state construction of such a facility.

12           (8) The agency may adopt rules providing definitions,  
13 eligibility criteria, and procedures for the purchase of  
14 services to ensure compliance with federal laws or regulations  
15 that apply to services provided pursuant to this section.

16           Section 19. Section 393.067, Florida Statutes, is  
17 amended to read:

18           393.067 Facility licensure of residential facilities  
19 and comprehensive transitional education programs.--

20           (1) The agency shall provide through its licensing  
21 authority and by rule license-application procedures, a system  
22 of provider qualifications, facility and client-care  
23 standards, requirements for client records, requirements for  
24 staff qualifications and training criteria for meeting  
25 standards, and requirements for monitoring foster care for  
26 residential facilities, group home facilities, residential  
27 habilitation centers, and comprehensive transitional education  
28 programs that serve agency clients. Receipt of a license under  
29 this section does not create a property right in the  
30 recipient. A license issued under this chapter is a public  
31 trust and a privilege, and is not an entitlement. This

1 privilege must guide the finder of fact or trier of law at any  
2 administrative proceeding or court action initiated by the  
3 agency.

4 (2) The agency shall conduct annual inspections and  
5 reviews of ~~residential~~ facilities and ~~comprehensive~~  
6 ~~transitional education~~ programs licensed under this section  
7 annually.

8 (3) An application for a license under this section  
9 must ~~for a residential facility or a comprehensive~~  
10 ~~transitional education program~~ shall be made to the agency on  
11 a form furnished by it and shall be accompanied by the  
12 appropriate license fee.

13 (4) The application shall be under oath and shall  
14 contain the following:

15 (a) The name and address of the applicant, if an  
16 applicant is an individual; if the applicant is a firm,  
17 partnership, or association, the name and address of each  
18 member thereof; if the applicant is a corporation, its name  
19 and address and the name and address of each director and each  
20 officer thereof; and the name by which the facility or program  
21 is to be known.

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

24 (c) The name of the person or persons under whose  
25 management or supervision the facility or program will be  
26 conducted.

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

30  
31

1           (e) The number and location of the component centers  
2 or units which will compose the comprehensive transitional  
3 education program.

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

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

8           (h) Certification that the staff of the facility or  
9 program will receive training to detect and prevent sexual  
10 abuse of residents and clients.

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

13           ~~(5) The applicant shall submit evidence which~~  
14 ~~establishes the good moral character of the manager or~~  
15 ~~supervisor of the facility or program and the direct service~~  
16 ~~providers in the facility or program and its component centers~~  
17 ~~or units. A license may be issued if all the screening~~  
18 ~~materials have been timely submitted; however, a license may~~  
19 ~~not be issued or renewed if any of the direct service~~  
20 ~~providers have failed the screening required by s. 393.0655.~~

21           ~~(a)1. A licensed residential facility or comprehensive~~  
22 ~~transitional education program which applies for renewal of~~  
23 ~~its license shall submit to the agency a list of direct~~  
24 ~~service providers who have worked on a continuous basis at the~~  
25 ~~applicant facility or program since submitting fingerprints to~~  
26 ~~the agency or the Department of Children and Family Services,~~  
27 ~~identifying those direct service providers for whom a written~~  
28 ~~assurance of compliance was provided by the agency or~~  
29 ~~department and identifying those direct service providers who~~  
30 ~~have recently begun working at the facility or program and are~~  
31 ~~awaiting the results of the required fingerprint check along~~

1 ~~with the date of the submission of those fingerprints for~~  
2 ~~processing. The agency shall by rule determine the frequency~~  
3 ~~of requests to the Department of Law Enforcement to run state~~  
4 ~~criminal records checks for such direct service providers~~  
5 ~~except for those direct service providers awaiting the results~~  
6 ~~of initial fingerprint checks for employment at the applicant~~  
7 ~~facility or program. The agency shall review the records of~~  
8 ~~the direct service providers at the applicant facility or~~  
9 ~~program with respect to the crimes specified in s. 393.0655~~  
10 ~~and shall notify the facility or program of its findings. When~~  
11 ~~disposition information is missing on a criminal record, it is~~  
12 ~~the responsibility of the person being screened, upon request~~  
13 ~~of the agency, to obtain and supply within 30 days the missing~~  
14 ~~disposition information to the agency. Failure to supply the~~  
15 ~~missing information within 30 days or to show reasonable~~  
16 ~~efforts to obtain such information shall result in automatic~~  
17 ~~disqualification.~~

18         ~~2. The applicant shall sign an affidavit under penalty~~  
19 ~~of perjury stating that all new direct service providers have~~  
20 ~~been fingerprinted and that the facility's or program's~~  
21 ~~remaining direct service providers have worked at the~~  
22 ~~applicant facility or program on a continuous basis since~~  
23 ~~being initially screened at that facility or program or have a~~  
24 ~~written assurance of compliance from the agency or department.~~

25         ~~(5)(b)~~ As a prerequisite for issuance of an the  
26 initial or renewal license, the applicant, manager,  
27 supervisor, and all staff members of the direct service  
28 provider of a facility or program licensed under this section  
29 must submit to background screening as required under s.  
30 393.0655. A license may not be issued or renewed if the  
31 applicant and any of the managers, supervisors, or direct

1 service providers have failed background screenings as  
2 required under s. 393.0655. The agency shall determine by rule  
3 the frequency of background screening. The applicant shall  
4 submit with each initial or renewal application a signed  
5 affidavit under penalty of perjury stating that the applicant  
6 is in compliance with all requirements for background  
7 screening. ~~to a residential facility or comprehensive~~  
8 ~~transitional education program;~~

9       1. ~~The applicant shall submit to the agency a complete~~  
10 ~~set of fingerprints, taken by an authorized law enforcement~~  
11 ~~agency or an employee of the agency who is trained to take~~  
12 ~~fingerprints, for the manager, supervisor, or direct service~~  
13 ~~providers of the facility or program;~~

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

17       3. ~~The agency shall review the record of the manager~~  
18 ~~or supervisor with respect to the crimes specified in s.~~  
19 ~~393.0655(1) and shall notify the applicant of its findings.~~  
20 ~~When disposition information is missing on a criminal record,~~  
21 ~~it is the responsibility of the manager or supervisor, upon~~  
22 ~~request of the agency, to obtain and supply within 30 days the~~  
23 ~~missing disposition information to the agency. Failure to~~  
24 ~~supply the missing information within 30 days or to show~~  
25 ~~reasonable efforts to obtain such information shall result in~~  
26 ~~automatic disqualification.~~

27       (c) ~~The agency or a residential facility or~~  
28 ~~comprehensive transitional education program may not use the~~  
29 ~~criminal records or juvenile records of a person obtained~~  
30 ~~under this subsection for any purpose other than determining~~  
31 ~~if that person meets the minimum standards for good moral~~

1 ~~character for a manager or supervisor of, or direct service~~  
2 ~~provider in, such a facility or program. The criminal records~~  
3 ~~or juvenile records obtained by the agency or a residential~~  
4 ~~facility or comprehensive transitional education program for~~  
5 ~~determining the moral character of a manager, supervisor, or~~  
6 ~~direct service provider are exempt from s. 119.07(1).~~

7 ~~(6) Each applicant for licensure as an intermediate~~  
8 ~~care facility for the developmentally disabled must comply~~  
9 ~~with the following requirements:~~

10 ~~(a) Upon receipt of a completed, signed, and dated~~  
11 ~~application, the agency shall require background screening, in~~  
12 ~~accordance with the level 2 standards for screening set forth~~  
13 ~~in chapter 435, of the managing employee, or other similarly~~  
14 ~~titled individual who is responsible for the daily operation~~  
15 ~~of the facility, and of the financial officer, or other~~  
16 ~~similarly titled individual who is responsible for the~~  
17 ~~financial operation of the center, including billings for~~  
18 ~~resident care and services. The applicant must comply with~~  
19 ~~the procedures for level 2 background screening as set forth~~  
20 ~~in chapter 435, as well as the requirements of s. 435.03(3).~~

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

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

31



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

23           ~~(e) Each applicant must submit to the agency, with its~~  
24 ~~application, a description and explanation of any exclusions,~~  
25 ~~permanent suspensions, or terminations of the applicant from~~  
26 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
27 ~~the requirements for disclosure of ownership and control~~  
28 ~~interests under the Medicaid or Medicare programs shall be~~  
29 ~~accepted in lieu of this submission.~~

30           ~~(f) Each applicant must submit to the agency a~~  
31 ~~description and explanation of any conviction of an offense~~

1 ~~prohibited under the level 2 standards of chapter 435 by a~~  
2 ~~member of the board of directors of the applicant, its~~  
3 ~~officers, or any individual owning 5 percent or more of the~~  
4 ~~applicant. This requirement does not apply to a director of a~~  
5 ~~not for profit corporation or organization if the director~~  
6 ~~serves solely in a voluntary capacity for the corporation or~~  
7 ~~organization, does not regularly take part in the day to day~~  
8 ~~operational decisions of the corporation or organization,~~  
9 ~~receives no remuneration for his or her services on the~~  
10 ~~corporation or organization's board of directors, and has no~~  
11 ~~financial interest and has no family members with a financial~~  
12 ~~interest in the corporation or organization, provided that the~~  
13 ~~director and the not for profit corporation or organization~~  
14 ~~include in the application a statement affirming that the~~  
15 ~~director's relationship to the corporation satisfies the~~  
16 ~~requirements of this paragraph.~~

17 ~~(g) A license may not be granted to an applicant if~~  
18 ~~the applicant or managing employee has been found guilty of,~~  
19 ~~regardless of adjudication, or has entered a plea of nolo~~  
20 ~~contendere or guilty to, any offense prohibited under the~~  
21 ~~level 2 standards for screening set forth in chapter 435,~~  
22 ~~unless an exemption from disqualification has been granted by~~  
23 ~~the agency as set forth in chapter 435.~~

24 ~~(h) The agency may deny or revoke licensure if the~~  
25 ~~applicant:~~

26 ~~1. Has falsely represented a material fact in the~~  
27 ~~application required by paragraph (c) or paragraph (f), or has~~  
28 ~~omitted any material fact from the application required by~~  
29 ~~paragraph (c) or paragraph (f); or~~

30  
31

1           ~~2. Has had prior action taken against the applicant~~  
2 ~~under the Medicaid or Medicare program as set forth in~~  
3 ~~paragraph (c).~~

4           ~~(i) An application for license renewal must contain~~  
5 ~~the information required under paragraphs (c) and (f).~~

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

10           ~~(7)(8)~~ The agency shall adopt rules establishing  
11 minimum standards for ~~licensure of residential~~ facilities and  
12 ~~comprehensive transitional education~~ programs licensed under  
13 this section, including rules requiring facilities and  
14 programs to train staff to detect and prevent sexual abuse of  
15 residents and clients, minimum standards of quality and  
16 adequacy of client care, incident-reporting requirements, and  
17 uniform firesafety standards established by the State Fire  
18 Marshal which are appropriate to the size of the facility or  
19 of the component centers or units of the program.

20           ~~(8)(9)~~ The agency ~~and the Agency for Health Care~~  
21 ~~Administration~~, after consultation with the Department of  
22 Community Affairs, shall adopt rules for foster care  
23 ~~residential~~ facilities, group home facilities, and residential  
24 habilitation centers which establish ~~under the respective~~  
25 ~~regulatory jurisdiction of each establishing~~ minimum standards  
26 for the preparation and annual update of a comprehensive  
27 emergency management plan. At a minimum, the rules must  
28 provide for plan components that address emergency evacuation  
29 transportation; adequate sheltering arrangements; postdisaster  
30 activities, including emergency power, food, and water;  
31 postdisaster transportation; supplies; staffing; emergency

1 equipment; individual identification of residents and transfer  
2 of records; and responding to family inquiries. The  
3 comprehensive emergency management plan for all comprehensive  
4 transitional education programs and for homes serving  
5 individuals who have complex medical conditions is subject to  
6 review and approval by the local emergency management agency.  
7 During its review, the local emergency management agency shall  
8 ensure that the agency and the Department of Community Affairs  
9 ~~following agencies~~, at a minimum, are given the opportunity to  
10 review the plan: ~~the Agency for Health Care Administration,~~  
11 ~~the Agency for Persons with Disabilities, and the Department~~  
12 ~~of Community Affairs~~. Also, appropriate volunteer  
13 organizations must be given the opportunity to review the  
14 plan. The local emergency management agency shall complete its  
15 review within 60 days and either approve the plan or advise  
16 the facility of necessary revisions.

17 ~~(9)(10)~~ The agency may conduct unannounced inspections  
18 to determine compliance by foster care residential facilities,  
19 group home facilities, residential habilitation centers, and  
20 comprehensive transitional education programs with the  
21 applicable provisions of this chapter and the rules adopted  
22 pursuant hereto, including the rules adopted for training  
23 staff of a facility or a program to detect and prevent sexual  
24 abuse of residents and clients. The facility or program shall  
25 make copies of inspection reports available to the public upon  
26 request.

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

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

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

6           ~~(10)(12)~~ Each residential facility or ~~comprehensive~~  
7 ~~transitional education~~ program licensed under this section ~~by~~  
8 ~~the agency~~ shall forward annually to the agency a true and  
9 accurate sworn statement of its costs of providing care to  
10 clients funded by the agency.

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

17           ~~(12)(14)~~ The agency shall establish, for the purpose  
18 of control of licensure costs, a uniform management  
19 information system and a uniform reporting system with uniform  
20 definitions and reporting categories.

21           ~~(13)(15)~~ Facilities and programs licensed pursuant to  
22 this section shall adhere to all rights specified in s.  
23 393.13, including those enumerated in s. 393.13(4).

24           ~~(14)(16)~~ An ~~No~~ unlicensed ~~residential~~ facility or  
25 ~~comprehensive transitional education~~ program may not ~~shall~~  
26 receive state funds. A license for the operation of a  
27 facility or program shall not be renewed if the licensee has  
28 any outstanding fines assessed pursuant to this chapter  
29 wherein final adjudication of such fines has been entered.

30           ~~(15)(17)~~ The agency is ~~shall~~ not ~~be~~ required to  
31 contract with new facilities licensed after October 1, 1989,

1 pursuant to this chapter. Pursuant to chapter 287, the agency  
2 shall continue to contract within available resources for  
3 residential services with facilities licensed prior to October  
4 1, 1989, if such facilities comply with the provisions of this  
5 chapter and all other applicable laws and regulations.

6 Section 20. Subsections (1) and (2) of section  
7 393.0673, Florida Statutes, are amended, and subsection (5) is  
8 added to that section, to read:

9 393.0673 Denial, suspension, revocation of license;  
10 moratorium on admissions; administrative fines; procedures.--

11 (1) The agency may deny, revoke, or suspend a license  
12 or impose an administrative fine, not to exceed \$1,000 per  
13 violation per day, for a violation of any provision of s.  
14 393.0655 or s. 393.067 or adopted rules ~~adopted pursuant~~  
15 ~~thereto~~. All hearings shall be held within the county in which  
16 the licensee or applicant operates or applies for a license to  
17 operate a facility as defined herein.

18 (2) The agency, as a part of any final order issued by  
19 it pursuant to ~~under~~ the provisions of this chapter, may  
20 impose such fine as it deems proper, except that such fine may  
21 not exceed \$1,000 for each violation. Each day a violation of  
22 this chapter occurs constitutes a separate violation and is  
23 subject to a separate fine, but in no event may the aggregate  
24 amount of any fine exceed \$10,000. Fines paid by any facility  
25 licensee under the provisions of this subsection shall be  
26 deposited in the Resident Protection Trust Fund and expended  
27 as provided in s. 400.063.

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

31

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

3           393.0674 Penalties.--

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

7           (a) Fail, by false statement, misrepresentation,  
8 impersonation, or other fraudulent means, to disclose in any  
9 application for voluntary or paid employment a material fact  
10 used in making a determination as to such person's  
11 qualifications to be a direct service provider;

12           (b) Provide or attempt to provide supports or services  
13 with direct service providers who are not in compliance  
14 ~~noncompliance~~ with the background-screening requirements  
15 ~~minimum standards for good moral character as contained in~~  
16 this chapter; or

17           (c) Use information from the criminal records or  
18 central abuse hotline obtained under s. 393.0655, s. 393.066,  
19 or s. 393.067 for any purpose other than screening that person  
20 for employment as specified in those sections or release such  
21 information to any other person for any purpose other than  
22 screening for employment as specified in those sections.

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

25           393.0675 Injunctive proceedings authorized.--

26           (3) The agency may institute proceedings for an  
27 injunction in a court of competent jurisdiction to terminate  
28 the operation of a provider of supports or services if such  
29 provider has willfully and knowingly refused to comply with  
30 the screening requirement for direct service providers or has  
31 refused to terminate direct service providers found not to be

1 in compliance with such ~~the~~ requirements for ~~good moral~~  
2 ~~character~~.

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

5 393.0678 Receivership proceedings.--

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

12 (a) Any person is operating a facility without a  
13 license and refuses to make application for a license as  
14 required by s. 393.067 ~~or, in the case of an intermediate care~~  
15 ~~facility for the developmentally disabled, as required by ss.~~  
16 ~~393.067 and 400.062.~~

17 (b) The licensee is closing the facility or has  
18 informed the department that it intends to close the facility;  
19 and adequate arrangements have not been made for relocation of  
20 the residents within 7 days, exclusive of weekends and  
21 holidays, of the closing of the facility.

22 (c) The agency determines that conditions exist in the  
23 facility which present an imminent danger to the health,  
24 safety, or welfare of the residents of the facility or which  
25 present a substantial probability that death or serious  
26 physical harm would result therefrom. Whenever possible, the  
27 agency shall facilitate the continued operation of the  
28 program.

29 (d) The licensee cannot meet its financial obligations  
30 to provide food, shelter, care, and utilities. Evidence such  
31 as the issuance of bad checks or the accumulation of



1 delinquent bills for such items as personnel salaries, food,  
2 drugs, or utilities constitutes prima facie evidence that the  
3 ownership of the facility lacks the financial ability to  
4 operate the home in accordance with the requirements of this  
5 chapter and all rules promulgated thereunder.

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

8 393.068 Family care program.--

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

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

- 26 (a) Attendant care.  
27 (b) Barrier-free modifications to the home.  
28 (c) Home visitation by agency workers.  
29 (d) In-home subsidies.  
30 (e) Low-interest loans.  
31

1 (f) Modifications for vehicles used to transport the  
2 individual with a developmental disability.

3 (g) Facilitated communication.

4 (h) Family counseling.

5 (i) Equipment and supplies.

6 (j) Self-advocacy training.

7 (k) Roommate services.

8 (l) Integrated community activities.

9 (m) Emergency services.

10 (n) Support coordination.

11 ~~(o) Supported employment.~~

12 (o)(p) Other support services as identified by the  
13 family or individual.

14 (3) When it is determined by the agency to be more  
15 cost-effective and in the best interest of the client to  
16 maintain such client in the home of a direct service provider,  
17 the parent or guardian of the client or, if competent, the  
18 client may enroll the client in the family care program. The  
19 direct service provider of a client enrolled in the family  
20 care program shall be reimbursed according to a rate schedule  
21 set by the agency, except that in-home subsidies ~~cited in~~  
22 ~~paragraph (2)(d)~~ shall be provided in accordance with  
23 ~~according to s. 393.0695 and are not subject to any other~~  
24 ~~payment method or rate schedule provided for in this section.~~

25 (5) The agency may contract for the provision of any  
26 portion of the services required by the program, except for  
27 in-home subsidies ~~cited in paragraph (2)(d)~~, which shall be  
28 provided pursuant to s. 393.0695. ~~Otherwise, purchase of~~  
29 ~~service contracts shall be used~~ whenever the services so  
30 provided are more cost-efficient than those provided by the  
31 agency.

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

4           393.0695 Provision of in-home subsidies.--

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

8           (5) The agency shall adopt rules to administer this  
9 section, including standards and procedures governing  
10 eligibility for services, selection of housing, selection of  
11 providers, and planning for services, and requirements for  
12 ongoing monitoring.

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

15           393.075 General liability coverage.--

16           (2) The Division of Risk Management of the Department  
17 of Financial Services shall provide coverage through the  
18 agency to any person who owns or operates a foster care  
19 facility or group home facility solely for the agency, who  
20 cares for children placed by ~~developmental services staff of~~  
21 the agency, and who is licensed pursuant to s. 393.067 to  
22 provide such supervision and care in his or her place of  
23 residence. The coverage shall be provided from the general  
24 liability account of the State Risk Management Trust Fund. The  
25 coverage is limited to general liability claims arising from  
26 the provision of supervision and care of children in a foster  
27 care facility or group home facility pursuant to an agreement  
28 with the agency and pursuant to guidelines established through  
29 policy, rule, or statute. Coverage shall be subject to the  
30 limits provided in ss. 284.38 and 284.385, and the exclusions  
31 set forth therein, together with other exclusions as may be

1 set forth in the certificate of coverage issued by the trust  
2 fund. A person covered under the general liability account  
3 pursuant to this subsection shall immediately notify the  
4 Division of Risk Management of the Department of Financial  
5 Services of any potential or actual claim.

6 Section 27. Section 393.11, Florida Statutes, is  
7 amended to read:

8 393.11 Involuntary admission to residential  
9 services.--

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

26 (2) PETITION.--

27 (a) A petition for involuntary admission to  
28 residential services may be executed by a petitioning  
29 commission. ~~For proposed involuntary admission to residential~~  
30 ~~services arising out of chapter 916, the petition may be filed~~  
31 ~~by a petitioning commission, the agency, the state attorney of~~

1 ~~the circuit from which the defendant was committed, or the~~  
2 ~~defendant's attorney.~~

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

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

7 1. State the name, age, and present address of the  
8 commissioners and their relationship to the person with mental  
9 retardation or autism;

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

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

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

21 5. State which residential setting is the least  
22 restrictive and most appropriate alternative and specify the  
23 factual information on which the ~~such~~ belief is based.

24 (d) The petition shall be filed in the circuit court  
25 of the county in which the person with mental retardation or  
26 autism resides.

27 (3) NOTICE.--

28 (a) Notice of the filing of the petition shall be  
29 given to the individual and his or her legal guardian. The  
30 notice shall be given both verbally and in writing in the  
31 language of the client, or in other modes of communication of

1 the client, and in English. Notice shall also be given to such  
2 other persons as the court may direct. The petition for  
3 involuntary admission to residential services shall be served  
4 with the notice.

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

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

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

21 (4) AGENCY DEVELOPMENTAL SERVICES PARTICIPATION.--

22 (a) Upon receiving the petition, the court shall  
23 immediately order the developmental services program of the  
24 agency to examine the person being considered for involuntary  
25 admission to residential services.

26 (b) Following examination, the agency shall file ~~After~~  
27 ~~the developmental services program examines the person, a~~  
28 written report ~~shall be filed~~ with the court not less than 10  
29 working days before the date of the hearing. The report must  
30 ~~shall~~ be served on the petitioner, the person with mental  
31

1 retardation, and the person's attorney at the time the report  
2 is filed with the court.

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

8 (5) EXAMINING COMMITTEE.--

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

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

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

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

1 | the committee ~~may shall~~ not have served as members of the  
2 | petitioning commission. Members of the committee ~~may shall~~  
3 | not be employees of the members of the petitioning commission  
4 | or be associated in practice with members of the commission.

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

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

13 |           2. Whether, because of the person's degree of mental  
14 | retardation, the person:

15 |           a. Lacks sufficient capacity to give express and  
16 | informed consent to a voluntary application for services  
17 | pursuant to s. 393.065;

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

23 |           c. Is likely to physically injure others if allowed to  
24 | remain at liberty.

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

26 |           4. A recommendation on the type of residential  
27 | placement which would be the most appropriate and least  
28 | restrictive for the person; and

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

30 |         (f) The committee shall file the report with the court  
31 | not less than 10 working days before the date of the hearing.



1 The report shall be served on the petitioner, the person with  
2 mental retardation, ~~and~~ the person's attorney at the time the  
3 report is filed with the court, and the agency.

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

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

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

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

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

30 (7) HEARING.--

31

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

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

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

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

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

31

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

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

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

13 (8) ORDER.--

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

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

20 1. The person is mentally retarded or autistic;

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

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

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

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.--

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

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

28 393.122 Applications for continued residential  
29 services.--  
30  
31

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

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

8 Section 29. Section 393.13, Florida Statutes, is  
9 amended to read:

10 393.13 ~~Personal~~ Treatment of persons with  
11 developmental disabilities ~~who are developmentally disabled.--~~

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

15 (2) LEGISLATIVE INTENT.--

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

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

25 1. Abate the use of large institutions.

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

31

1           3. Provide training and education that ~~to individuals~~  
2 ~~who are developmentally disabled which~~ will maximize their  
3 potential to lead independent and productive lives and that  
4 ~~which~~ will afford opportunities for outward mobility from  
5 institutions.

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

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

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

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

26           2. To provide a mechanism for the identification,  
27 evaluation, and treatment of persons with developmental  
28 disabilities.

29           3. To divert those individuals from institutional  
30 commitment who, by virtue of comprehensive assessment, can be  
31



1 placed in less costly, more effective community environments  
2 and programs.

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

6 5. To ensure that persons with developmental  
7 disabilities receive treatment and habilitation which fosters  
8 the developmental potential of the individual.

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

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

29 8. To achieve an ongoing reduction in the use of  
30 restraint and seclusion in facilities and programs serving  
31 persons with developmental disabilities.

1           (e) It is the clear, unequivocal intent of this act to  
2 guarantee individual dignity, liberty, pursuit of happiness,  
3 and protection of the civil and legal rights of persons with  
4 developmental disabilities.

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

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

12           (b) Persons with developmental disabilities shall have  
13 the right to religious freedom and practice. Nothing shall  
14 restrict or infringe on a person's right to religious  
15 preference and practice.

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

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

27           (e) Persons who are developmentally disabled shall  
28 have a right to social interaction and to participate in  
29 community activities.

30  
31

1 (f) Persons who are developmentally disabled shall  
2 have a right to physical exercise and recreational  
3 opportunities.

4 (g) Persons who are developmentally disabled shall  
5 have a right to be free from harm, including unnecessary  
6 physical, chemical, or mechanical restraint, isolation,  
7 excessive medication, abuse, or neglect.

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

11 (i) No otherwise qualified person shall, by reason of  
12 having a developmental disability, be excluded from  
13 participation in, or be denied the benefits of, or be subject  
14 to discrimination under, any program or activity which  
15 receives public funds, and all prohibitions set forth under  
16 any other statute shall be actionable under this statute.

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

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

24 (a) Clients shall have an unrestricted right to  
25 communication:

26 1. Each client ~~is shall be~~ allowed to receive, send,  
27 and mail sealed, unopened correspondence. ~~A No~~ client's  
28 incoming or outgoing correspondence may not ~~shall~~ be opened,  
29 delayed, held, or censored by the facility unless there is  
30 reason to believe that it contains items or substances which  
31 may be harmful to the client or others, in which case the

1 chief administrator of the facility may direct reasonable  
2 examination of such mail and regulate the disposition of such  
3 items or substances.

4 2. Clients in residential facilities shall be afforded  
5 reasonable opportunities for telephone communication, to make  
6 and receive confidential calls, unless there is reason to  
7 believe that the content of the telephone communication may be  
8 harmful to the client or others, in which case the chief  
9 administrator of the facility may direct reasonable  
10 observation and monitoring to the telephone communication.

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

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

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

28 2. All interest on money received and held for the  
29 personal use and benefit of a client shall be the property of  
30 that client and may ~~shall~~ not accrue to the general welfare of  
31 all clients or be used to defray the cost of residential care.

1 Interest so accrued shall be used or conserved for the  
2 personal use or benefit of the individual client as provided  
3 in s. 402.17(2).

4 3. Upon the discharge or death of a client, a final  
5 accounting shall be made of all personal effects and money  
6 belonging to the client held by the agency. All ~~such~~ personal  
7 effects and money, including interest, shall be promptly  
8 turned over to the client or his or her heirs.

9 (c) Each client shall receive prompt and appropriate  
10 medical treatment and care for physical and mental ailments  
11 and for the prevention of any illness or disability. Medical  
12 treatment shall be consistent with the accepted standards of  
13 medical practice in the community.

14 1. Medication shall be administered only at the  
15 written order of a physician. Medication shall not be used as  
16 punishment, for the convenience of staff, as a substitute for  
17 implementation of an individual or family support plan or  
18 behavior-analysis services ~~behavior modification programming~~,  
19 or in unnecessary or excessive quantities.

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

23 3. Periodically, but no less frequently than every 6  
24 months, the drug regimen of each client in a residential  
25 facility shall be reviewed by the attending physician or other  
26 appropriate monitoring body, consistent with appropriate  
27 standards of medical practice. All prescriptions shall have a  
28 termination date.

29 4. When pharmacy services are provided at any  
30 residential facility, such services shall be directed or  
31

1 supervised by a professionally competent pharmacist licensed  
2 according to the provisions of chapter 465.

3 5. Pharmacy services shall be delivered in accordance  
4 with the provisions of chapter 465.

5 6. Prior to instituting a plan of experimental medical  
6 treatment or carrying out any necessary surgical procedure,  
7 express and informed consent shall be obtained from the  
8 client, if competent, or the client's parent or legal  
9 guardian. Information upon which the client shall make  
10 necessary treatment and surgery decisions shall include, but  
11 not be limited to:

12 a. The nature and consequences of such procedures.

13 b. The risks, benefits, and purposes of such  
14 procedures.

15 c. Alternate procedures available.

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

31

1           8. The absence of express and informed consent  
2 notwithstanding, a licensed and qualified physician may render  
3 emergency medical care or treatment to any client who has been  
4 injured or who is suffering from an acute illness, disease, or  
5 condition if, within a reasonable degree of medical certainty,  
6 delay in initiation of emergency medical care or treatment  
7 would endanger the health of the client.

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

10           (e) Each client shall be provided with appropriate  
11 physical exercise as prescribed in the client's individual or  
12 family support plan. Indoor and outdoor facilities and  
13 equipment for such physical exercise shall be provided.

14           (f) Each client shall receive humane discipline.

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

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

22           2. All alleged violations of this paragraph shall be  
23 reported immediately to the chief administrator ~~administrative~~  
24 ~~officer~~ of the facility and ~~or the district administrator,~~ the  
25 agency head, ~~and the Florida local advocacy council.~~ A  
26 thorough investigation of each incident shall be conducted and  
27 a written report of the finding and results of the such  
28 investigation shall be submitted to the chief administrator  
29 ~~administrative officer~~ of the facility ~~or the district~~  
30 ~~administrator~~ and ~~to~~ the agency head within 24 hours after ~~of~~  
31 the occurrence or discovery of the incident.

1           3. The agency shall adopt by rule a system for the  
2 oversight of behavioral programs. ~~The~~ Such system shall  
3 establish guidelines and procedures governing the design,  
4 approval, implementation, and monitoring of all behavioral  
5 programs involving clients. The system shall ensure statewide  
6 and local review by committees of professionals certified as  
7 behavior analysts pursuant to s. 393.17. No behavioral program  
8 shall be implemented unless reviewed according to the rules  
9 established by the agency under this section. ~~Nothing stated~~  
10 ~~in this section shall prohibit the review of programs by the~~  
11 ~~Florida statewide or local advocacy councils.~~

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

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



1           1. ~~Mechanical supports used in normative situations to~~  
2 ~~achieve proper body position and balance shall not be~~  
3 ~~considered restraints, but shall be prescriptively designed~~  
4 ~~and applied under the supervision of a qualified professional~~  
5 ~~with concern for principles of good body alignment,~~  
6 ~~circulation, and allowance for change of position.~~

7           2. ~~Totally enclosed cribs and barred enclosures shall~~  
8 ~~be considered restraints.~~

9           1.3. Daily reports on the employment of restraint or  
10 seclusion physical, chemical, or mechanical restraints by  
11 ~~those~~ specialists authorized in the use of restraint and  
12 seclusion such restraints shall be made to the ~~appropriate~~  
13 ~~chief~~ administrator of the facility or program, and a monthly  
14 compilation summary of the such reports shall be relayed to  
15 the agency's local area office district administrator and the  
16 ~~Florida local advocacy council~~. The reports shall summarize  
17 all such cases of restraints, the type used, the duration of  
18 usage, and the reasons therefor. The area office Districts  
19 shall submit the districtwide quarterly reports of these  
20 summaries to the agency's headquarters state Developmental  
21 ~~Disabilities Program Office~~.

22           2.4. The agency shall adopt by rule standards and  
23 procedures governing the use of restraint and seclusion post a  
24 ~~copy of the rules adopted under this section in each living~~  
25 ~~unit of residential facilities~~. A copy of the rules adopted  
26 under this subparagraph section shall be given to the client,  
27 parent, guardian or guardian advocate, and all staff members  
28 of ~~licensed~~ facilities and programs licensed under this  
29 chapter and shall be made a part of all staff preservice and  
30 inservice training programs.

1           ~~(i)(j)1.~~ Each client shall have a central record. The  
2 central record shall be established by the agency at the time  
3 that an individual is determined eligible for services, shall  
4 be maintained by the client's support coordinator, and must  
5 contain information ~~include data~~ pertaining to admission,  
6 diagnosis and treatment history, present condition, and such  
7 other information as may be required ~~under rules of the~~  
8 ~~agency.~~ The central record is the property of the agency.

9           ~~1.2.~~ Unless waived by the client, if competent, or the  
10 client's parent or legal guardian if the client is  
11 incompetent, the client's central record shall be confidential  
12 and exempt from the provisions of s. 119.07(1), and no part of  
13 it shall be released except:

14           a. The record may be released to physicians,  
15 attorneys, and government agencies having need of the record  
16 to aid the client, as designated by the client, if competent,  
17 or the client's parent or legal guardian, if the client is  
18 incompetent.

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

22           c. The record or any part thereof may be disclosed to  
23 a qualified researcher, a staff member of the facility where  
24 the client resides, or an employee of the agency when the  
25 administrator of the facility or the director of the agency  
26 deems it necessary for the treatment of the client,  
27 maintenance of adequate records, compilation of treatment  
28 data, or evaluation of programs.

29           d. Information from the records may be used for  
30 statistical and research purposes if the information is  
31

1 abstracted in such a way to protect the identity of  
2 individuals.

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

7 ~~2.4.~~ The client, if competent, or the client's parent  
8 or legal guardian if the client is incompetent, shall be  
9 supplied with a copy of the client's central record upon  
10 request.

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

16 (5) LIABILITY FOR VIOLATIONS.--Any person who violates  
17 or abuses any rights or privileges of persons who are  
18 developmentally disabled provided by this chapter is act ~~shall~~  
19 ~~be~~ liable for damages as determined by law. Any person who  
20 acts in good faith compliance with the provisions of this  
21 chapter is act ~~shall be~~ immune from civil or criminal  
22 liability for actions in connection with evaluation,  
23 admission, habilitative programming, education, treatment, or  
24 discharge of a client. However, this section does ~~shall~~ not  
25 relieve any person from liability if the ~~such~~ person is guilty  
26 of negligence, misfeasance, nonfeasance, or malfeasance.

27 (6) NOTICE OF RIGHTS.--Each person with developmental  
28 disabilities, if competent, or parent or legal guardian of  
29 such person if the person is incompetent, shall promptly  
30 receive from the agency or the Department of Education a  
31 written copy of this act. Each person with developmental

1 disabilities able to comprehend shall be promptly informed, in  
2 the language or other mode of communication which such person  
3 understands, of the above legal rights of persons with  
4 developmental disabilities.

5 (7) RESIDENT GOVERNMENT.--Each residential facility  
6 providing services to clients who are desirous and capable of  
7 participating shall initiate and develop a program of resident  
8 government to hear the views and represent the interests of  
9 all clients served by the facility. The resident government  
10 shall be composed of residents elected by other residents,  
11 staff advisers skilled in the administration of community  
12 organizations, and, at the option of the residential  
13 government, representatives of advocacy groups for persons  
14 with developmental disabilities from the community a  
15 ~~representative of the Florida local advocacy council. The~~  
16 ~~resident government shall work closely with the Florida local~~  
17 ~~advocacy council and the district administrator to promote the~~  
18 ~~interests and welfare of all residents in the facility.~~

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

21 393.135 Sexual misconduct prohibited; reporting  
22 required; penalties.--

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

24 (a) "Covered person"~~"Employee"~~ includes any employee,  
25 paid staff member, volunteer, or intern of the agency ~~or the~~  
26 ~~department~~; any person under contract with the agency ~~or the~~  
27 ~~department~~; and any person providing care or support to a  
28 client on behalf of the agency department or its providers.

29 (b) "Sexual activity" means:

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

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

4           3. Intentionally touching in a lewd or lascivious  
5 manner the breasts, genitals, the genital area, or buttocks,  
6 or the clothing covering them, of a person, or forcing or  
7 enticing a person to touch the perpetrator.

8           4. Intentionally masturbating in the presence of  
9 another person.

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

12          6. Intentionally committing any other sexual act that  
13 does not involve actual physical or sexual contact with the  
14 victim, including, but not limited to, sadomasochistic abuse,  
15 sexual bestiality, or the simulation of any act involving  
16 sexual activity in the presence of a victim.

17          (c) "Sexual misconduct" means any sexual activity  
18 between a covered person ~~an employee~~ and a client to whom a  
19 covered person renders services, care, or support on behalf of  
20 the agency or its providers, or between a covered person and  
21 another client who lives in the same home as the client to  
22 whom a covered person is rendering the services, care, or  
23 support, regardless of the consent of the client. The term  
24 does not include an act done for a bona fide medical purpose  
25 or an internal search conducted in the lawful performance of  
26 duty by a covered person ~~an employee~~.

27          (2) A covered person ~~An employee~~ who engages in sexual  
28 misconduct with an individual with a developmental disability  
29 who:

30           ~~(a) Is in the custody of the department;~~  
31

1           ~~(a)(b)~~ Resides in a residential facility, including  
2 any comprehensive transitional education program,  
3 developmental disabilities services institution, foster care  
4 facility, group home facility, intermediate care facility for  
5 the developmentally disabled, or residential habilitation  
6 center; or

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

9  
10 commits a felony of the second degree, punishable as provided  
11 in s. 775.082, s. 775.083, or s. 775.084. A covered person ~~An~~  
12 ~~employee~~ may be found guilty of violating this subsection  
13 without having committed the crime of sexual battery.

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

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

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

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

22           (5) A covered person ~~An employee~~ who witnesses sexual  
23 misconduct, or who otherwise knows or has reasonable cause to  
24 suspect that a person has engaged in sexual misconduct, shall  
25 immediately report the incident to the ~~department's~~ central  
26 abuse hotline of the Department of Children and Family  
27 Services and to the appropriate local law enforcement agency.  
28 The covered person ~~Such employee~~ shall also prepare, date, and  
29 sign an independent report that specifically describes the  
30 nature of the sexual misconduct, the location and time of the  
31 incident, and the persons involved. The covered person

1 ~~employee~~ shall deliver the report to the supervisor or program  
2 director, who is responsible for providing copies to the  
3 agency's local office and the agency's department's inspector  
4 general. ~~The inspector general shall immediately conduct an~~  
5 ~~appropriate administrative investigation, and, if there is~~  
6 ~~probable cause to believe that sexual misconduct has occurred,~~  
7 ~~the inspector general shall notify the state attorney in the~~  
8 ~~circuit in which the incident occurred.~~

9 Section 31. Section 393.15, Florida Statutes, is  
10 amended to read:

11 393.15 Legislative intent; Community Resources  
12 Development Loan Program Trust Fund.--

13 (1) The Legislature finds and declares that the  
14 development of community-based treatment facilities for  
15 persons with developmental disabilities ~~who are~~  
16 ~~developmentally disabled~~ is desirable and recommended and  
17 should be encouraged and fostered by the state. The  
18 Legislature further recognizes that the development of such  
19 facilities is financially difficult for private individuals,  
20 due to initial expenditures required to adapt existing  
21 structures to the special needs of such persons ~~who are~~  
22 ~~developmentally disabled~~ who may be served in community-based  
23 foster care, group home, ~~developmental training,~~ and supported  
24 employment programs. Therefore, ~~it is the intent of the~~  
25 Legislature intends that the agency by this act to develop and  
26 administer a loan program trust fund to provide support and  
27 encouragement in the establishment of community-based foster  
28 care, group home, ~~developmental training,~~ and supported  
29 employment programs for persons with developmental  
30 disabilities ~~who are developmentally disabled.~~

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

5           ~~(2)(3)~~ There is created a Community Resources  
6 Development Loan Program in Trust Fund in the State Treasury  
7 ~~to be used by~~ the agency for the purpose of granting loans to  
8 eligible programs for the initial costs of development of the  
9 programs. In order to be eligible for the program, a foster  
10 home, group home, or supported employment program must:

11           (a) Serve persons with developmental disabilities;

12           (b) Be a nonprofit corporation, partnership, or sole  
13 proprietorship; and

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

17           (3) Loans may be made to pay for the costs of  
18 development and ~~may include~~ structural modification, the  
19 purchase of equipment and fire and safety devices,  
20 preoperational staff training, and the purchase of insurance.  
21 Such costs may ~~shall~~ not include the actual construction of a  
22 facility and may not be in lieu of payment for maintenance,  
23 client services, or care provided.

24           (4) The agency may grant to an eligible program a  
25 lump-sum loan in one payment not to exceed the cost ~~to the~~  
26 ~~program~~ of providing 2 months' services, care, or maintenance  
27 to each person who is developmentally disabled to be placed in  
28 the program by the agency, or the actual cost of firesafety  
29 renovations to a facility required by the state, whichever is  
30 greater. ~~Loans granted to programs shall not be in lieu of~~  
31



1 ~~payment for maintenance, services, or care provided, but shall~~  
2 ~~stand separate and distinct.~~

3       (5) The agency shall adopt rules, ~~as provided in~~  
4 ~~chapter 120,~~ to determine the criteria ~~standards~~ under which a  
5 program shall be eligible to receive a loan ~~as provided in~~  
6 ~~this section~~ and the methodology ~~criteria~~ for the equitable  
7 allocation of loan ~~trust~~ funds when eligible applications  
8 exceed the funds available.

9       ~~(6)(5)~~ Any loan granted by the agency under this  
10 section shall be repaid by the program within 5 years and the  
11 amount paid shall be deposited into the agency's  
12 Administrative Trust Fund. Moneys repaid shall be used to fund  
13 new loans. A program that operates as a nonprofit corporation  
14 meeting the requirements of s. 501(c)(3) of the Internal  
15 Revenue Code, and that seeks forgiveness of its loan shall  
16 submit to the agency an annual ~~a~~ statement setting forth the  
17 service it has provided during the year together with such  
18 other information as the agency by rule shall require, and,  
19 upon approval of each such annual statement, the agency may  
20 ~~shall~~ forgive up to 20 percent of the principal of any such  
21 loan granted ~~after June 30, 1975.~~

22       ~~(7)(6)~~ If any program that has received a loan under  
23 this section ceases to accept, or provide care, services, or  
24 maintenance to persons placed in the program by the  
25 department, or if such program files papers of bankruptcy, at  
26 that point in time the loan shall become an interest-bearing  
27 loan at the rate of 5 percent per annum on the entire amount  
28 of the initial loan which shall be repaid within a 1-year  
29 period from the date on which the program ceases to provide  
30 care, services, or maintenance, or files papers in bankruptcy,  
31 and the amount of the loan due plus interest shall constitute

1 a lien in favor of the state against all real and personal  
2 property of the program. The lien shall be perfected by the  
3 appropriate officer of the agency by executing and  
4 acknowledging a statement of the name of the program and the  
5 amount due on the loan and a copy of the promissory note,  
6 which shall be recorded by the agency with the clerk of the  
7 circuit court in the county wherein the program is located. If  
8 the program has filed a petition for bankruptcy, the agency  
9 shall file and enforce the lien in the bankruptcy proceedings.  
10 Otherwise, the lien shall be enforced in the manner provided  
11 in s. 85.011. All funds received by the agency from the  
12 enforcement of the lien shall be deposited in the agency's  
13 Administrative Community Resources Development Trust Fund and  
14 used to fund new loans.

15 Section 32. Section 393.17, Florida Statutes, is  
16 amended to read:

17 393.17 Behavioral programs; certification of behavior  
18 analysts.--

19 (1) The agency may establish a certification process  
20 for behavioral analysts in order to ensure that only qualified  
21 employees and service providers provide behavioral analysis  
22 services to clients. The procedures must be established by  
23 rule and must include criteria for scope of practice,  
24 qualifications for certification, including training and  
25 testing requirements, continuing education requirements for  
26 ongoing certification, and standards of performance. The  
27 procedures must also include decertification procedures that  
28 may be used to determine whether an individual continues to  
29 meet the qualifications for certification or the professional  
30 performance standards and, if not, the procedures necessary to  
31 decertify an employee or service provider.

1           (2) The agency may recognize the certification of  
2 behavior analysts awarded by a nonprofit corporation that  
3 adheres to the natural standards for professional  
4 credentialing boards and whose mission is to meet professional  
5 credentialing needs identified by behavior analysts, state  
6 governments, and consumers of behavior analysis services and  
7 whose work has the support of the Association for Behavior  
8 Analysis International. The certification procedure recognized  
9 by the agency must undergo regular psychometric review and  
10 validation, pursuant to a job analysis survey of the  
11 profession and standards established by content experts in the  
12 field.

13           Section 33. Section 393.18, Florida Statutes, is  
14 created to read:

15           393.18 Comprehensive transitional education  
16 program.--A comprehensive transition education program is a  
17 group of jointly operating centers or units, the collective  
18 purpose of which is to provide a sequential series of  
19 educational care, training, treatment, habilitation, and  
20 rehabilitation services to persons who have developmental  
21 disabilities and who have severe or moderate maladaptive  
22 behaviors. However, this section does not require such  
23 programs to provide services only to persons with  
24 developmental disabilities. All such services shall be  
25 temporary in nature and delivered in a structured residential  
26 setting, having the primary goal of incorporating the  
27 principle of self-determination in establishing permanent  
28 residence for persons with maladaptive behaviors in facilities  
29 that are not associated with the comprehensive transitional  
30 education program. The staff shall include psychologists and  
31 teachers who shall be available to provide services in each

1 component center or unit of the program. The psychologists  
2 shall be individuals who are licensed in this state and  
3 certified as behavior analysts in this state or individuals  
4 who are certified as behavior analysts pursuant to s. 393.17.

5 (1) Comprehensive transitional education programs  
6 shall include a minimum of two component centers or units, one  
7 of which shall be an intensive treatment and educational  
8 center or a transitional training and educational center,  
9 which provides services to persons with maladaptive behaviors  
10 in the following sequential order:

11 (a) Intensive treatment and educational center.--This  
12 component is a self-contained residential unit providing  
13 intensive psychological and educational programming for  
14 persons with severe maladaptive behaviors, whose behaviors  
15 preclude placement in a less-restrictive environment due to  
16 the threat of danger or injury to themselves or others.

17 (b) Transitional training and educational  
18 center.--This component is a residential unit for persons with  
19 moderate maladaptive behaviors, providing concentrated  
20 psychological and educational programming that emphasizes a  
21 transition toward a less-restrictive environment.

22 (c) Community transition residence.--This component is  
23 a residential center providing educational programs and any  
24 support services, training, and care that are needed to assist  
25 persons with maladaptive behaviors to avoid regression to more  
26 restrictive environments, while preparing them for more  
27 independent living. Continuous-shift staff shall be required  
28 for this component.

29 (d) Alternative living center.--This component is a  
30 residential unit providing an educational and family living  
31 environment for persons with maladaptive behaviors in a

1 moderately unrestricted setting. Residential staff shall be  
2 required for this component.

3 (e) Independent living education center.--This  
4 component is a facility providing a family living environment  
5 for persons with maladaptive behaviors in a largely  
6 unrestricted setting and includes education and monitoring  
7 that is appropriate to support the development of independent  
8 living skills.

9 (2) Components of a comprehensive transitional  
10 education program are subject to the license issued under s.  
11 393.067 to a comprehensive transitional education program and  
12 may be located on a single site or multiple sites.

13 (3) Comprehensive transitional education programs  
14 shall develop individual education plans for each person with  
15 maladaptive behaviors who receives services from the program.  
16 Each individual education plan shall be developed in  
17 accordance with the criteria specified in 20 U.S.C. ss. 401 et  
18 seq., and 34 C.F.R. part 300.

19 (4) The total number of persons with maladaptive  
20 behaviors being provided services in a comprehensive  
21 transitional education program may not in any instance exceed  
22 120 residents.

23 Section 34. Section 393.23, Florida Statutes, is  
24 created to read:

25 393.23 Developmental disabilities institutions; trust  
26 accounts.--All receipts from the operation of canteens,  
27 vending machines, hobby shops, sheltered workshops, activity  
28 centers, farming projects, and other like activities operated  
29 in a developmental disabilities institution, and moneys  
30 donated to the institution, must be deposited in a trust  
31 account in any bank, credit union, or savings and loan

1 association authorized by the State Treasury as a qualified  
2 depositor to do business in this state, if the moneys are  
3 available on demand.

4 (1) Moneys in the trust account must be expended for  
5 the benefit, education, and welfare of clients. However, if  
6 specified, moneys that are donated to the institution must be  
7 expended in accordance with the intentions of the donor. Trust  
8 account money may not be used for the benefit of employees of  
9 the agency, or to pay the wages of such employees. The welfare  
10 of the clients includes the expenditure of funds for the  
11 purchase of items for resale at canteens or vending machines,  
12 and for the establishment of, maintenance of, and operation of  
13 canteens, hobby shops, recreational or entertainment  
14 facilities, sheltered workshops, activity centers, farming  
15 projects, or other like facilities or programs established at  
16 the institutions for the benefit of clients.

17 (2) The institution may invest, in the manner  
18 authorized by law for fiduciaries, any money in a trust  
19 account which is not necessary for immediate use. The interest  
20 earned and other increments derived from the investments of  
21 the money must be deposited into the trust account for the  
22 benefit of clients.

23 (3) The accounting system of an institution must  
24 account separately for revenues and expenses for each  
25 activity. The institution shall reconcile the trust account to  
26 the institution's accounting system and check registers and to  
27 the accounting system of the Chief Financial Officer.

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

31

1           (5) Funds shall be expended in accordance with  
2 requirements and guidelines established by the Chief Financial  
3 Officer.

4           Section 35. Section 393.501, Florida Statutes, is  
5 amended to read:

6           393.501 Rulemaking.--

7           (1) The agency may shall adopt rules pursuant to s.  
8 120.54 to carry out its statutory duties ~~the provisions of~~  
9 ~~this chapter.~~

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

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

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

24           Section 36. Section 394.453, Florida Statutes, is  
25 amended to read:

26           394.453 Legislative intent.--It is the intent of the  
27 Legislature to authorize and direct the Department of Children  
28 and Family Services to evaluate, research, plan, and recommend  
29 to the Governor and the Legislature programs designed to  
30 reduce the occurrence, severity, duration, and disabling  
31 aspects of mental, emotional, and behavioral disorders. It is

1 | the intent of the Legislature that treatment programs for such  
2 | disorders shall include, but not be limited to, comprehensive  
3 | health, social, educational, and rehabilitative services to  
4 | persons requiring intensive short-term and continued treatment  
5 | in order to encourage them to assume responsibility for their  
6 | treatment and recovery. It is intended that such persons be  
7 | provided with emergency service and temporary detention for  
8 | evaluation when required; that they be admitted to treatment  
9 | facilities on a voluntary basis when extended or continuing  
10 | care is needed and unavailable in the community; that  
11 | involuntary placement be provided only when expert evaluation  
12 | determines that it is necessary; that any involuntary  
13 | treatment or examination be accomplished in a setting which is  
14 | clinically appropriate and most likely to facilitate the  
15 | person's return to the community as soon as possible; and that  
16 | individual dignity and human rights be guaranteed to all  
17 | persons who are admitted to mental health facilities or who  
18 | are being held under s. 394.463. It is the further intent of  
19 | the Legislature that the least restrictive means of  
20 | intervention be employed based on the individual needs of each  
21 | person, within the scope of available services. It is the  
22 | policy of this state that the use of restraint and seclusion  
23 | on clients is justified only as an emergency safety measure to  
24 | be used in response to imminent danger to the client or  
25 | others. It is, therefore, the intent of the Legislature to  
26 | achieve an ongoing reduction in the use of restraint and  
27 | seclusion in programs and facilities serving persons with  
28 | mental illness.

29 |           Section 37. Present subsections (28) through (33) of  
30 | section 394.455, Florida Statutes, are redesignated as  
31 |



1 subsections (30) through (35), respectively, and new

2 subsections (28) and (29) are added to that section, to read:

3           394.455 Definitions.--As used in this part, unless the  
4 context clearly requires otherwise, the term:

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

11           (b) A drug used as a restraint is a medication used to  
12 control the person's behavior or to restrict his or her  
13 freedom of movement. Physically holding a person during a  
14 procedure to forcibly administer psychotropic medication is a  
15 physical restraint.

16           (c) Restraint does not include physical devices, such  
17 as orthopedically prescribed appliances, surgical dressings  
18 and bandages, supportive body bands, or other physical holding  
19 when necessary for routine physical examinations and tests; or  
20 for purposes of orthopedic, surgical, or other similar medical  
21 treatment; when used to provide support for the achievement of  
22 functional body position or proper balance; or when used to  
23 protect a person from falling out of bed.

24           (29) "Seclusion" means the physical segregation of a  
25 person in any fashion or involuntary isolation of a person in  
26 a room or area from which the person is prevented from  
27 leaving. The prevention may be by physical barrier or by a  
28 staff member who is acting in a manner, or who is physically  
29 situated, so as to prevent the person from leaving the room or  
30 area. For purposes of this chapter, the term does not mean  
31 isolation due to a person's medical condition or symptoms.

1           Section 38. Paragraph (b) of subsection (5) of section  
2 394.457, Florida Statutes, is amended to read:

3           394.457 Operation and administration.--

4           (5) RULES.--

5           (b) The department shall adopt rules necessary for the  
6 implementation and administration of the provisions of this  
7 part, and a program subject to the provisions of this part  
8 shall not be permitted to operate unless rules designed to  
9 ensure the protection of the health, safety, and welfare of  
10 the patients treated through such program have been adopted.  
11 Rules adopted under this subsection must include provisions  
12 governing the use of restraint and seclusion which are  
13 consistent with recognized best practices and professional  
14 judgment; prohibit inherently dangerous restraint or seclusion  
15 procedures; establish limitations on the use and duration of  
16 restraint and seclusion; establish measures to ensure the  
17 safety of program participants and staff during an incident of  
18 restraint or seclusion; establish procedures for staff to  
19 follow before, during, and after incidents of restraint or  
20 seclusion; establish professional qualifications of and  
21 training for staff who may order or be engaged in the use of  
22 restraint or seclusion; and establish mandatory reporting,  
23 data-collection, and data-dissemination procedures and  
24 requirements. Rules adopted under this subsection must require  
25 that each instance of the use of restraint or seclusion be  
26 documented in the record of the patient.

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

29           394.879 Rules; enforcement.--

30           (1) The department, in consultation with the agency,  
31 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to

1 implement the provisions of this chapter, including, at a  
2 minimum, rules providing standards to ensure that:

3       (g) The use of restraint and seclusion is consistent  
4 with recognized best practices and professional judgment; that  
5 inherently dangerous restraint or seclusion procedures are  
6 prohibited; that limitations are established on the use and  
7 duration of restraint and seclusion; that measures are  
8 established to ensure the safety of program participants and  
9 staff during an incident of restraint or seclusion; that  
10 procedures are created for staff to follow before, during, and  
11 after incidents of restraint or seclusion; that professional  
12 qualifications and training are established for staff who may  
13 order or be engaged in the use of restraint or seclusion; and  
14 that mandatory reporting, data-collection, and  
15 data-dissemination procedures and requirements are instituted.  
16 Rules adopted under this section must require that any  
17 instance of the use of restraint or seclusion shall be  
18 documented in the record of the client.

19       Section 40. Subsection (9) of section 397.405, Florida  
20 Statutes, is amended to read:

21       397.405 Exemptions from licensure.--The following are  
22 exempt from the licensing provisions of this chapter:

23       (9) Facilities licensed under chapter 393 which s-  
24 ~~393.063 that~~, in addition to providing services to persons  
25 with developmental disabilities who are developmentally  
26 ~~disabled as defined therein~~, also provide services to persons  
27 developmentally at risk as a consequence of exposure to  
28 alcohol or other legal or illegal drugs while in utero.

29  
30 The exemptions from licensure in this section do not apply to  
31 any service provider that receives an appropriation, grant, or

1 contract from the state to operate as a service provider as  
2 defined in this chapter or to any substance abuse program  
3 regulated pursuant to s. 397.406. Furthermore, this chapter  
4 may not be construed to limit the practice of a physician  
5 licensed under chapter 458 or chapter 459, a psychologist  
6 licensed under chapter 490, or a psychotherapist licensed  
7 under chapter 491 who provides substance abuse treatment, so  
8 long as the physician, psychologist, or psychotherapist does  
9 not represent to the public that he or she is a licensed  
10 service provider and does not provide services to clients  
11 pursuant to part V of this chapter. Failure to comply with any  
12 requirement necessary to maintain an exempt status under this  
13 section is a misdemeanor of the first degree, punishable as  
14 provided in s. 775.082 or s. 775.083.

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

17 400.419 Violations; imposition of administrative  
18 fines; grounds.--

19 (13) The agency shall develop and disseminate an  
20 annual list of all facilities sanctioned or fined \$5,000 or  
21 more for violations of state standards, the number and class  
22 of violations involved, the penalties imposed, and the current  
23 status of cases. The list shall be disseminated, at no charge,  
24 to the Department of Elderly Affairs, the Department of  
25 Health, the Department of Children and Family Services, the  
26 Agency for Persons with Disabilities, the area agencies on  
27 aging, the Florida Statewide Advocacy Council, and the state  
28 and local ombudsman councils. The Department of Children and  
29 Family Services shall disseminate the list to service  
30 providers under contract to the department who are responsible  
31 for referring persons to a facility for residency. The agency

1 may charge a fee commensurate with the cost of printing and  
2 postage to other interested parties requesting a copy of this  
3 list.

4 Section 42. Section 400.960, Florida Statutes, is  
5 amended to read:

6 400.960 Definitions.--As used in this part, the term:

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

11 (2) "Agency" means the Agency for Health Care  
12 Administration.

13 (3) "Autism" or "autistic disorder" has the same  
14 meaning as in s. 393.063. ~~means a pervasive, neurologically~~  
15 ~~based developmental disability of extended duration which~~  
16 ~~causes severe learning, communication, and behavior disorders~~  
17 ~~with age of onset during infancy or childhood. Individuals~~  
18 ~~with autism exhibit impairment in reciprocal social~~  
19 ~~interaction, impairment in verbal and nonverbal communication~~  
20 ~~and imaginative ability, and a markedly restricted repertoire~~  
21 ~~of activities and interests.~~

22 (4) "Cerebral palsy" has the same meaning as in s.  
23 393.063. ~~means a group of disabling symptoms of extended~~  
24 ~~duration which results from damage to the developing brain~~  
25 ~~occurring before, during, or after birth and resulting in the~~  
26 ~~loss or impairment of control over voluntary muscles. The term~~  
27 ~~does not include those symptoms or impairments resulting~~  
28 ~~solely from a stroke.~~

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

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

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

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

14           ~~(7)~~(9) "Direct service provider" means a person 18  
15 years of age or older who has direct contact with individuals  
16 with developmental disabilities and who is unrelated to the  
17 individuals with developmental disabilities.

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

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

30           ~~(8)~~(12) "Intermediate care facility for the  
31 developmentally disabled" means a residential facility

1 licensed and certified in accordance with state law, and  
2 certified by the Federal Government, pursuant to the Social  
3 Security Act, as a provider of Medicaid services to persons  
4 with developmental disabilities ~~who are developmentally~~  
5 ~~disabled.~~

6 ~~(9)(13)~~ "Prader-Willi syndrome" has the same meaning  
7 as in s. 393.063. ~~means an inherited condition typified by~~  
8 ~~neonatal hypotonia with failure to thrive, hyperphagia, or an~~  
9 ~~excessive drive to eat which leads to obesity, usually at 18~~  
10 ~~to 36 months of age, mild to moderate retardation,~~  
11 ~~hypogonadism, short stature, mild facial dysmorphism, and a~~  
12 ~~characteristic neurobehavior.~~

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

19 (b) A drug used as a restraint is a medication used to  
20 control the person's behavior or to restrict his or her  
21 freedom of movement. Physically holding a person during a  
22 procedure to forcibly administer psychotropic medication is a  
23 physical restraint.

24 (c) Restraint does not include physical devices, such  
25 as orthopedically prescribed appliances, surgical dressings  
26 and bandages, supportive body bands, or other physical holding  
27 when necessary for routine physical examinations and tests;  
28 for purposes of orthopedic, surgical, or other similar medical  
29 treatment; when used to provide support for the achievement of  
30 functional body position or proper balance; or when used to  
31 protect a person from falling out of bed.

1           ~~(11)(14)~~ "Retardation" has the same meaning as in s.  
2 393.063. means significantly subaverage general intellectual  
3 functioning existing concurrently with deficits in adaptive  
4 behavior and manifested during the period from conception to  
5 age 18. "Significantly subaverage general intellectual  
6 functioning," for the purpose of this definition, means  
7 performance that is two or more standard deviations from the  
8 mean score on a standardized intelligence test specified in  
9 rules of the department. "Deficits in adaptive behavior," for  
10 the purpose of this definition, means deficits in the  
11 effectiveness or degree with which an individual meets the  
12 standards of personal independence and social responsibility  
13 expected of his or her age, cultural group, and community.

14           (12) "Seclusion" means the physical segregation of a  
15 person in any fashion or the involuntary isolation of a person  
16 in a room or area from which the person is prevented from  
17 leaving. The prevention may be by physical barrier or by a  
18 staff member who is acting in a manner, or who is physically  
19 situated, so as to prevent the person from leaving the room or  
20 area. For purposes of this part, the term does not mean  
21 isolation due to a person's medical condition or symptoms.

22           ~~(13)(15)~~ "Spina bifida" has the same meaning as in s.  
23 393.063 means a medical diagnosis of spina bifida cystica or  
24 myelomeningocele.

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

27           400.967 Rules and classification of deficiencies.--

28           (2) Pursuant to the intention of the Legislature, the  
29 agency, in consultation with the Agency for Persons with  
30 Disabilities ~~Department of Children and Family Services~~ and  
31 the Department of Elderly Affairs, shall adopt and enforce



1 rules to administer this part, which shall include reasonable  
2 and fair criteria governing:

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

1 (b) The number and qualifications of all personnel,  
2 including management, medical nursing, and other personnel,  
3 having responsibility for any part of the care given to  
4 residents.

5 (c) All sanitary conditions within the facility and  
6 its surroundings, including water supply, sewage disposal,  
7 food handling, and general hygiene, which will ensure the  
8 health and comfort of residents.

9 (d) The equipment essential to the health and welfare  
10 of the residents.

11 (e) A uniform accounting system.

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

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

1 Department of Community Affairs. Also, appropriate volunteer  
2 organizations must be given the opportunity to review the  
3 plan. The local emergency management agency shall complete its  
4 review within 60 days and either approve the plan or advise  
5 the facility of necessary revisions.

6 (h) Each licensee shall post its license in a  
7 prominent place that is in clear and unobstructed public view  
8 at or near the place where residents are being admitted to the  
9 facility.

10 (i) The use of restraint and seclusion. Such rules  
11 must be consistent with recognized best practices and  
12 professional judgment; prohibit inherently dangerous restraint  
13 or seclusion procedures; establish limitations on the use and  
14 duration of restraint and seclusion; establish measures to  
15 ensure the safety of program participants and staff during an  
16 incident of restraint or seclusion; create procedures for  
17 staff to follow before, during, and after incidents of  
18 restraint or seclusion; establish professional qualifications  
19 of and training for staff who may order or be engaged in the  
20 use of restraint or seclusion; and provide for mandatory  
21 reporting, data-collection, and data-dissemination procedures  
22 and requirements. Rules adopted under this section must  
23 require that any instance of the use of restraint or seclusion  
24 shall be documented in the facility's record of the client.

25 Section 44. Section 402.115, Florida Statutes, is  
26 amended to read:

27 402.115 Sharing confidential or exempt  
28 information.--Notwithstanding any other provision of law to  
29 the contrary, the Department of Health, ~~and~~ the Department of  
30 Children and Family Services, and the Agency for Persons with  
31 Disabilities may share confidential information or information

1 exempt from disclosure under chapter 119 on any individual who  
2 is or has been the subject of a program within the  
3 jurisdiction of each agency. Information so exchanged remains  
4 confidential or exempt as provided by law.

5 Section 45. Section 402.17, Florida Statutes, is  
6 amended to read:

7 402.17 Claims for care and maintenance; trust  
8 property.--The Department of Children and Family Services and  
9 the Agency for Persons with Disabilities shall protect the  
10 financial interest of the state with respect to claims that  
11 ~~which~~ the state may have for the care and maintenance of  
12 clients of the department or agency. The department or agency  
13 shall, as trustee, hold in trust and administer money ~~of~~  
14 ~~clients~~ and property designated for the personal benefit of  
15 clients. The department or agency shall act as trustee of  
16 clients' money and property entrusted to it in accordance with  
17 the usual fiduciary standards applicable generally to  
18 trustees, and shall act to protect both the short-term and  
19 long-term interests of the clients for whose benefit it is  
20 holding such money and property.

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

22 (a) The department or agency shall perform the  
23 following acts:

24 1. Receive and supervise the collection of sums due  
25 the state.

26 2. Bring any court action necessary to collect any  
27 claim the state may have against any client, former client,  
28 guardian of any client or former client, executor or  
29 administrator of the client's estate, or any person against  
30 whom any client or former client may have a claim.

31

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

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

8           5. Petition the court for appointment of a guardian or  
9 administrator for an otherwise unrepresented client or former  
10 client should the financial status report or other information  
11 indicate the need for such action. The cost of any such action  
12 shall be charged against the assets or estate of the client.

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

15           7. File claims with any person, firm, or corporation  
16 or with any federal, state, county, district, or municipal  
17 agency on behalf of an unrepresented client.

18           8. Represent the state in the settlement of the  
19 estates of deceased clients or in the settlement of estates in  
20 which a client or a former client against whom the state may  
21 have a claim has a financial interest.

22           9. Establish procedures by rule for the use of amounts  
23 held in trust for the client to pay for the cost of care and  
24 maintenance, if such amounts would otherwise cause the client  
25 to become ineligible for services which are in the client's  
26 best interests.

27           (b) The department or agency ~~of Children and Family~~  
28 ~~Services~~ may charge off accounts if it certifies that the  
29 accounts are uncollectible after diligent efforts have been  
30 made to collect them. If the department certifies an account  
31 to the Department of Financial Services, setting forth the

1 | circumstances upon which it predicates the uncollectibility,  
2 | and if, pursuant to s. 17.04, the Department of Financial  
3 | Services concurs, the account shall be charged off.

4 |         (2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE  
5 | OR BENEFIT OF ANY CLIENT.--The department or agency shall  
6 | perform the following acts:

7 |         (a) Accept and administer in trust, as a trustee  
8 | having a fiduciary responsibility to a client ~~of the~~  
9 | ~~department~~, any money or other property received for personal  
10 | use or benefit of that client. In the case of children in the  
11 | legal custody of the department, following the termination of  
12 | the parental rights ~~as to that client~~, until the child ~~such~~  
13 | ~~client~~ leaves the legal custody of the department due to ~~the~~  
14 | ~~client's~~ adoption or attaining ~~because the client attains~~ the  
15 | age of 18 or, in the case of children who are otherwise in the  
16 | custody of the department, the court having jurisdiction over  
17 | such child ~~client~~ shall have jurisdiction, upon application of  
18 | the department or other interested party, to review or approve  
19 | any extraordinary action of the department acting as trustee  
20 | as to the child's ~~client's~~ money or other property. When  
21 | directed by a court of competent jurisdiction, the department  
22 | may further hold money or property of a child ~~person under the~~  
23 | ~~age of 18~~ who has been in the care, custody, or control of the  
24 | department and who is the subject of a court proceeding during  
25 | the pendency of that proceeding.

26 |         (b) Deposit the money in banks qualified as state  
27 | depositories, or in any bank, credit union, or savings and  
28 | loan association authorized to do business in this state,  
29 | provided moneys so deposited or held by such institutions are  
30 | fully insured by a federal depository or share insurance  
31 |

1 program, or an approved state depository or share insurance  
2 program, and are available on demand.

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

19 (d) As trustee, invest in the manner authorized by law  
20 for fiduciaries money not used for current needs of clients.  
21 Such investments may include, but shall not be limited to,  
22 investments in savings share accounts of any credit union  
23 chartered under the laws of the United States and doing  
24 business in this state, and savings share accounts of any  
25 credit union chartered under the laws of this state, provided  
26 the credit union is insured under the federal share insurance  
27 program or an approved state share insurance program.

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

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

9           (5) LEGAL REPRESENTATION.--To the extent that the  
10 budget will permit, the Department of Legal Affairs shall  
11 furnish the legal services to carry out the provisions of this  
12 section. Upon the request of the department or agency ~~of~~  
13 ~~Children and Family Services,~~ the various state and county  
14 attorneys shall assist in litigation within their  
15 jurisdiction. ~~The Such~~ department or agency may retain legal  
16 counsel for necessary legal services which cannot be furnished  
17 by the Department of Legal Affairs and the various state and  
18 county attorneys.

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

20           (a) The department or agency ~~of Children and Family~~  
21 ~~Services~~ may deposit any funds of clients in its possession in  
22 any bank in the state or may invest or reinvest such funds in  
23 bonds or obligations of the United States for the payment of  
24 which the full faith and credit of the United States is  
25 pledged. For purposes of deposit only, the funds of any client  
26 may be mingled with the funds of any other clients.

27           (b) The interest or increment accruing on such funds  
28 shall be the property of the clients and shall be used or  
29 conserved for the personal use or benefit of the ~~individual~~  
30 client, in accordance with the department's or agency's  
31 fiduciary responsibility as a trustee for the money and



1 | property of the client ~~held by the department~~. Such interest  
2 | shall not accrue to the general welfare of all clients.  
3 | Whenever any proposed action of the department or agency,  
4 | acting in its own interest, may conflict with the department's  
5 | or agency's ~~obligation as a trustee with a~~ fiduciary  
6 | responsibility to the client, the department or agency shall  
7 | promptly present the matter to a court of competent  
8 | jurisdiction for the court's determination as to what action  
9 | the department or agency may take. The department or agency  
10 | shall establish ~~rules governing~~ reasonable fees by rule for  
11 | the cost of administering such accounts and for establishing  
12 | the minimum balance eligible to earn interest.

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

16 |           (a) Whenever a client of the department for whom the  
17 | department is holding money or property as a trustee attains  
18 | the age of 18, and thereby will no longer be in the legal  
19 | custody of the department, the department shall promptly  
20 | disburse such money and property ~~of the client the department~~  
21 | ~~has held as a trustee~~ to that client, or as that client  
22 | directs, as soon as practicable ~~once the client attains the~~  
23 | ~~age of 18~~.

24 |           (b) Whenever a client of the department over the age  
25 | of 18 for whom the department is holding money or property as  
26 | a trustee no longer requires the care, custody, control, or  
27 | services 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 or a  
30 | court directs, as soon as practicable.  
31 |

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

14           (d) When a client under the age of 18 who has been in  
15 the legal custody, care, or control of the department and for  
16 whom the department is holding money or property as a trustee  
17 leaves the care, custody, and control of the department due to  
18 adoption or placement of the client with a relative, or as  
19 otherwise directed by a court of competent jurisdiction, the  
20 department shall notify that court of the existence of the  
21 money and property ~~in the possession of the department~~ either  
22 prior to, or promptly after, receiving knowledge of the change  
23 of custody, care, or control. The department shall apply for  
24 an order from the court exercising jurisdiction over the  
25 client to direct the disposition of the money and property  
26 belonging to that client. The court order may establish a  
27 trust in which the money and property of the client will be  
28 deposited, appoint a guardian of a property as to the money or  
29 property of the client, or direct the creation of a Uniform  
30 Transfers Gifts to Minors Act account on behalf of that  
31 client, ~~as the court finds appropriate and~~ under the terms and

1 | conditions the court determines appropriate to the  
2 | circumstances.

3 |         Section 46. Section 402.181, Florida Statutes, is  
4 | amended to read:

5 |         402.181 State Institutions Claims Program.--

6 |         (1) There is created a State Institutions Claims  
7 | Program, for the purpose of making restitution for property  
8 | damages and direct medical expenses for injuries caused by  
9 | shelter children or foster children, or escapees, inmates, or  
10 | patients of state institutions under the Department of  
11 | Children and Family Services, the Department of Health, the  
12 | Department of Juvenile Justice, ~~or~~ the Department of  
13 | Corrections, or the Agency for Persons with Disabilities.

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

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

28 |         (b) The Department of Legal Affairs shall work with  
29 | the Department of Children and Family Services, the Department  
30 | of Health, the Department of Juvenile Justice, ~~and~~ the  
31 | Department of Corrections, and the Agency for Persons with

1 Disabilities to streamline the process of investigations,  
2 hearings, and determinations with respect to claims under this  
3 section, to ensure that eligible claimants receive restitution  
4 within a reasonable time.

5 Section 47. Section 402.20, Florida Statutes, is  
6 amended to read:

7 402.20 County contracts authorized for services and  
8 facilities for in mental health and developmental disabilities  
9 ~~retardation areas~~.--The boards of county commissioners are  
10 authorized to provide monetary grants and facilities, and to  
11 enter into renewable contracts, for services and facilities,  
12 for a period not to exceed 2 years, with public and private  
13 hospitals, clinics, and laboratories; other state agencies,  
14 departments, or divisions; the state colleges and  
15 universities; the community colleges; private colleges and  
16 universities; counties; municipalities; towns; townships; and  
17 any other governmental unit or nonprofit organization which  
18 provides needed facilities for persons with mental illness or  
19 developmental disabilities ~~the mentally ill or retarded~~.

20 These services are hereby declared to be for a public and  
21 county purpose. The county commissioners may make periodic  
22 inspections to assure that the services or facilities provided  
23 under this chapter meet the standards of the Department of  
24 Children and Family Services and the Agency for Persons with  
25 Disabilities.

26 Section 48. Section 402.22, Florida Statutes, is  
27 amended to read:

28 402.22 Education program for students who reside in  
29 residential care facilities operated by the Department of  
30 Children and Family Services or the Agency for Persons with  
31 Disabilities.--

1           (1)(a) The Legislature recognizes that the Department  
2 of Children and Family Services and the Agency for Persons  
3 with Disabilities have under their ~~has under its~~ residential  
4 care students with critical problems of physical impairment,  
5 emotional disturbance, mental impairment, and learning  
6 impairment.

7           (b) The Legislature recognizes the vital role of  
8 education in the rehabilitation of such students. It is the  
9 intent of the Legislature that all such students benefit from  
10 educational services and receive such services.

11           (c) It is the intent of the Legislature that  
12 educational services be coordinated with appropriate and  
13 existing diagnostic and evaluative, social, followup, and  
14 other therapeutic services of the department and agency of  
15 ~~Children and Family Services~~ so that the effect of the total  
16 rehabilitation process is maximized.

17           (d) It is the intent of the Legislature that, as  
18 educational programs for students in residential care  
19 facilities are implemented by the district school board,  
20 educational personnel in the ~~Department of Children and Family~~  
21 ~~Services~~ residential care facilities who meet the  
22 qualifications for employees of the district school board be  
23 employed by the district school board.

24           (2) District school boards shall establish educational  
25 programs for all students ages 5 through 18 under the  
26 residential care of the Department of Children and Family  
27 Services and the Agency for Persons with Disabilities, and may  
28 provide for students below age 3 as provided for in s.  
29 1003.21(1)(e). Funding of such programs shall be pursuant to  
30 s. 1011.62.  
31

1           (3) Notwithstanding any provisions of chapters 39,  
2 393, 394, and 397 to the contrary, the services of the  
3 Department of Children and Family Services and the Agency for  
4 Persons with Disabilities and those of the Department of  
5 Education and district school boards shall be mutually  
6 supportive and complementary of each other. The education  
7 programs provided by the district school board shall meet the  
8 standards prescribed by the State Board of Education and the  
9 district school board. Decisions regarding the design and  
10 delivery of department or agency ~~of Children and Family~~  
11 ~~Services~~ treatment or habilitative services shall be made by  
12 interdisciplinary teams of professional and paraprofessional  
13 staff of which appropriate district school system  
14 administrative and instructional personnel shall be invited to  
15 be participating members. The requirements for maintenance of  
16 confidentiality as prescribed in chapters 39, 393, 394, and  
17 397 shall be applied to information used by such  
18 interdisciplinary teams, and such information shall be exempt  
19 from the provisions of ss. 119.07(1) and 286.011.

20           (4) Students age 18 and under who are under the  
21 residential care of the Department of Children and Family  
22 Services or the Agency for Persons with Disabilities and who  
23 receive an education program shall be calculated as full-time  
24 equivalent student membership in the appropriate cost factor  
25 as provided for in s. 1011.62(1)(c). Residential care  
26 facilities ~~of the Department of Children and Family Services~~  
27 shall include, but not be limited to, developmental  
28 disabilities ~~services~~ institutions and state mental health  
29 facilities. All students shall receive their education  
30 program from the district school system, and funding shall be  
31

1 allocated through the Florida Education Finance Program for  
2 the district school system.

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

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

23 (7) Notwithstanding the provisions of s.  
24 1001.42(4)(n), the educational program at the Marianna Sunland  
25 Center in Jackson County shall be operated by the Department  
26 of Education, either directly or through grants or contractual  
27 agreements with other public educational agencies. The annual  
28 state allocation to any such agency shall be computed pursuant  
29 to s. 1011.62(1), (2), and (5) and allocated in the amount  
30 that would have been provided the local school district in  
31 which the residential facility is located.

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

4           402.33 Department authority to charge fees for  
5 services provided.--

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

7           (c) "Department" means the Department of Children and  
8 Family Services, ~~and~~ the Department of Health, and the Agency  
9 for Persons with Disabilities.

10          (2) The department, in accordance with rules  
11 established by it, shall either charge, assess, or collect, or  
12 cause to be charged, assessed, or collected, fees for any  
13 service it provides to its clients either directly or through  
14 its agencies or contractors, except for:

15          (a) Diagnosis and evaluation procedures necessary to  
16 determine the client's eligibility and need for services  
17 provided by the department;

18          (b) Customary and routine information and referral  
19 services;

20          (c) Educational services provided in lieu of public  
21 education;

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

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

26          (f) Specific classes or types of services provided in  
27 programs funded by grants, donations, or contracts that  
28 prohibit charging fees;

29          (g) Developmental disability services provided under  
30 chapter 393 to any person who is determined to be eligible for  
31 such services ~~by the department~~ and whose earned income falls



1 | below the federal Health and Human Services Poverty  
2 | Guidelines, unless such fees are collected from third-party  
3 | benefits and benefit payments; or

4 |         (h) Any type of service for which the department  
5 | determines that the net estimated revenue from such fees after  
6 | deducting any loss of funds from federal grants occasioned by  
7 | such fees will be less than the estimated cost to charge and  
8 | collect such fees.

9 |  
10 | Fees, other than third-party benefits and benefit payments,  
11 | may not be charged for services provided to indigents whose  
12 | only sources of income are from state and federal aid. In  
13 | addition, fees may not be charged parents of a minor client  
14 | for services requested by the minor without parental consent  
15 | or for services provided a minor client who has been  
16 | permanently committed to the care and custody of the  
17 | department with parental rights permanently severed. However,  
18 | lack of parental consent does not preclude the charging of  
19 | fees established under chapter 39. ~~The department may not~~  
20 | ~~require~~ A client who is receiving wages that which are below  
21 | the minimum wage under the federal Fair Labor Standards Act  
22 | may not be required to pay fees from such wages. Voluntary  
23 | payments for services must be encouraged.

24 |         Section 50. Paragraph (s) of subsection (3) of section  
25 | 408.036, Florida Statutes, is amended to read:

26 |         408.036 Projects subject to review; exemptions.--

27 |         (3) EXEMPTIONS.--Upon request, the following projects  
28 | are subject to exemption from the provisions of subsection  
29 | (1):

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

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

3           409.221 Consumer-directed care program.--

4           (4) CONSUMER-DIRECTED CARE.--

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

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

20           1. The agency and the Departments of Elderly Affairs,  
21 Health, and Children and Family Services and the Agency for  
22 Persons with Disabilities are authorized to adopt and enforce  
23 rules.

24           2. The agency shall take all necessary action to  
25 ensure state compliance with federal regulations. The agency  
26 shall apply for any necessary federal waivers or waiver  
27 amendments needed to implement the program.

28           (k) Reviews and reports.--The agency and the  
29 Departments of Elderly Affairs, Health, and Children and  
30 Family Services and the Agency for Persons with Disabilities  
31 shall each, on an ongoing basis, review and assess the

1 implementation of the consumer-directed care program. By  
2 January 15 of each year, the agency shall submit a written  
3 report to the Legislature that includes each department's  
4 review of the program and contains recommendations for  
5 improvements to the program.

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

9 409.908 Reimbursement of Medicaid providers.--Subject  
10 to specific appropriations, the agency shall reimburse  
11 Medicaid providers, in accordance with state and federal law,  
12 according to methodologies set forth in the rules of the  
13 agency and in policy manuals and handbooks incorporated by  
14 reference therein. These methodologies may include fee  
15 schedules, reimbursement methods based on cost reporting,  
16 negotiated fees, competitive bidding pursuant to s. 287.057,  
17 and other mechanisms the agency considers efficient and  
18 effective for purchasing services or goods on behalf of  
19 recipients. If a provider is reimbursed based on cost  
20 reporting and submits a cost report late and that cost report  
21 would have been used to set a lower reimbursement rate for a  
22 rate semester, then the provider's rate for that semester  
23 shall be retroactively calculated using the new cost report,  
24 and full payment at the recalculated rate shall be effected  
25 retroactively. Medicare-granted extensions for filing cost  
26 reports, if applicable, shall also apply to Medicaid cost  
27 reports. Payment for Medicaid compensable services made on  
28 behalf of Medicaid eligible persons is subject to the  
29 availability of moneys and any limitations or directions  
30 provided for in the General Appropriations Act or chapter 216.  
31 Further, nothing in this section shall be construed to prevent

1 or limit the agency from adjusting fees, reimbursement rates,  
2 lengths of stay, number of visits, or number of services, or  
3 making any other adjustments necessary to comply with the  
4 availability of moneys and any limitations or directions  
5 provided for in the General Appropriations Act, provided the  
6 adjustment is consistent with legislative intent.

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

12 2. Unless otherwise limited or directed in the General  
13 Appropriations Act, reimbursement to hospitals licensed under  
14 part I of chapter 395 for the provision of swing-bed nursing  
15 home services must be made on the basis of the average  
16 statewide nursing home payment, and reimbursement to a  
17 hospital licensed under part I of chapter 395 for the  
18 provision of skilled nursing services must be made on the  
19 basis of the average nursing home payment for those services  
20 in the county in which the hospital is located. When a  
21 hospital is located in a county that does not have any  
22 community nursing homes, reimbursement shall ~~must~~ be  
23 determined by averaging the nursing home payments~~7~~ in counties  
24 that surround the county in which the hospital is located.  
25 Reimbursement to hospitals, including Medicaid payment of  
26 Medicare copayments, for skilled nursing services shall be  
27 limited to 30 days, unless a prior authorization has been  
28 obtained from the agency. Medicaid reimbursement may be  
29 extended by the agency beyond 30 days, and approval must be  
30 based upon verification by the patient's physician that the  
31 patient requires short-term rehabilitative and recuperative

1 services only, in which case an extension of no more than 15  
2 days may be approved. Reimbursement to a hospital licensed  
3 under part I of chapter 395 for the temporary provision of  
4 skilled nursing services to nursing home residents who have  
5 been displaced as the result of a natural disaster or other  
6 emergency may not exceed the average county nursing home  
7 payment for those services in the county in which the hospital  
8 is located and is limited to the period of time which the  
9 agency considers necessary for continued placement of the  
10 nursing home residents in the hospital.

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

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

29 409.9127 Preauthorization and concurrent utilization  
30 review; conflict-of-interest standards.--  
31

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

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

9           411.224 Family support planning process.--The  
10 Legislature establishes a family support planning process to  
11 be used by the Department of Children and Family Services as  
12 the service planning process for targeted individuals,  
13 children, and families under its purview.

14           (2) To the extent possible within existing resources,  
15 the following populations must be included in the family  
16 support planning process:

17           (c) Children from age 3 ~~birth~~ through age 5 who are  
18 served by the Agency for Persons with Disabilities  
19 ~~Developmental Disabilities Program Office of the Department of~~  
20 ~~Children and Family Services.~~

21           (5) There must be only a single-family support plan to  
22 address the problems of the various family members unless the  
23 family requests that an individual family support plan be  
24 developed for different members of that family. The family  
25 support plan must replace individual habilitation plans for  
26 children from 3 ~~birth~~ through 5 years old who are served by  
27 the Agency for Persons with Disabilities ~~Developmental~~  
28 ~~Disabilities Program Office of the Department of Children and~~  
29 ~~Family Services. To the extent possible, the family support~~  
30 ~~plan must replace other case planning forms used by the~~  
31 ~~Department of Children and Family Services.~~

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

3           411.232 Children's Early Investment Program.--

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

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

9           415.102 Definitions of terms used in ss.

10          415.101-415.113.--As used in ss. 415.101-415.113, the term:

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

18          Section 57. Section 415.1035, Florida Statutes, is  
19 amended to read:

20          415.1035 Facility's duty to inform residents of their  
21 right to report abusive, neglectful, or exploitive  
22 practices.--The department shall work cooperatively with the  
23 Agency for Health Care Administration, the Agency for Persons  
24 with Disabilities, and the Department of Elderly Affairs to  
25 ensure that every facility that serves vulnerable adults  
26 informs residents of their right to report abusive,  
27 neglectful, or exploitive practices. Each facility must  
28 establish appropriate policies and procedures to facilitate  
29 such reporting.

30          Section 58. Subsections (1) and (10) of section  
31 415.1055, Florida Statutes, are amended to read:

1           415.1055 Notification to administrative entities.--

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

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

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

23           415.107 Confidentiality of reports and records.--

24           (3) Access to all records, excluding the name of the  
25 reporter which shall be released only as provided in  
26 subsection (6), shall be granted only to the following  
27 persons, officials, and agencies:

28           (a) Employees or agents of the department, the Agency  
29 for Persons with Disabilities, ~~of~~ the Agency for Health Care  
30 Administration, or ~~of~~ the Department of Elderly Affairs who  
31 are responsible for carrying out protective investigations,



1 ongoing protective services, or licensure or approval of  
2 nursing homes, assisted living facilities, adult day care  
3 centers, adult family-care homes, home care for the elderly,  
4 hospices, residential facilities licensed under chapter 393,  
5 or other facilities used for the placement of vulnerable  
6 adults.

7 (h) Any appropriate official of the department, the  
8 Agency for Persons with Disabilities, ~~of~~ the Agency for Health  
9 Care Administration, or ~~of~~ the Department of Elderly Affairs  
10 who is responsible for:

11 1. Administration or supervision of the programs for  
12 the prevention, investigation, or treatment of abuse, neglect,  
13 or exploitation of vulnerable adults when carrying out an  
14 official function; or

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

18 Section 60. Subsection (1) of section 419.001, Florida  
19 Statutes, is amended to read:

20 419.001 Site selection of community residential  
21 homes.--

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

24 (a) "Community residential home" means a dwelling unit  
25 licensed to provide ~~serve clients of the Department of~~  
26 ~~Children and Family Services, which provides~~ a living  
27 environment for 7 to 14 unrelated residents who operate as the  
28 functional equivalent of a family, including such supervision  
29 and care by supportive staff as may be necessary to meet the  
30 physical, emotional, and social needs of the residents.

31

1 (b) "Department" means the Department of Children and  
2 Family Services, the Agency for Health Care Administration, or  
3 the Agency for Persons with Disabilities.

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

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

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

19 Section 61. Paragraph (a) of subsection (3) of section  
20 435.03, Florida Statutes, is amended to read:

21 435.03 Level 1 screening standards.--

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

23 (a) For employees and employers licensed or registered  
24 pursuant to chapter 400, and for employees and employers of  
25 developmental disabilities services institutions as defined in  
26 s. 393.063, intermediate care facilities for the  
27 developmentally disabled as defined in s. 400.960 ~~s. 393.063~~,  
28 and mental health treatment facilities as defined in s.  
29 394.455, meets the requirements of this chapter.

30 Section 62. Paragraph (a) of subsection (2) of section  
31 490.014, Florida Statutes, is amended to read:

1           490.014 Exemptions.--

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

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

18           Section 63. Paragraph (a) of subsection (4) of section  
19 491.014, Florida Statutes, is amended to read:

20           491.014 Exemptions.--

21           (4) No person shall be required to be licensed,  
22 provisionally licensed, registered, or certified under this  
23 chapter who:

24           (a) Is a salaried employee of a government agency;  
25 developmental disability facility or ~~services~~ program, mental  
26 health, alcohol, or drug abuse facility operating under  
27 ~~pursuant to~~ chapter 393, chapter 394, or chapter 397;  
28 subsidized child care program, subsidized child care case  
29 management program, or child care resource and referral  
30 program operating pursuant to chapter 402; child-placing or  
31 child-caring agency licensed pursuant to chapter 409; domestic

1 | violence center certified pursuant to chapter 39; accredited  
2 | academic institution; or research institution, if such  
3 | employee is performing duties for which he or she was trained  
4 | and hired solely within the confines of such agency, facility,  
5 | or institution, so long as the employee is not held out to the  
6 | public as a clinical social worker, mental health counselor,  
7 | or marriage and family therapist.

8 |         Section 64. Section 944.602, Florida Statutes, is  
9 | amended to read:

10 |         944.602 Agency notification ~~of Department of Children~~  
11 | ~~and Family Services~~ before release of mentally retarded  
12 | inmates.--Before the release by parole, release by reason of  
13 | gain-time allowances provided for in s. 944.291, or expiration  
14 | of sentence of any inmate who has been diagnosed as mentally  
15 | retarded as defined in s. 393.063, the Department of  
16 | Corrections shall notify the Agency for Persons with  
17 | Disabilities ~~Department of Children and Family Services~~ in  
18 | order that sufficient time be allowed to notify the inmate or  
19 | the inmate's representative, in writing, at least 7 days prior  
20 | to the inmate's release, of available community services.

21 |         Section 65. Subsections (2) and (3) of section  
22 | 945.025, Florida Statutes, are amended to read:

23 |         945.025 Jurisdiction of department.--

24 |         (2) In establishing, operating, and utilizing these  
25 | facilities, the department shall attempt, whenever possible,  
26 | to avoid the placement of nondangerous offenders who have  
27 | potential for rehabilitation with repeat offenders or  
28 | dangerous offenders. Medical, mental, and psychological  
29 | problems shall be diagnosed and treated whenever possible. The  
30 | Department of Children and Family Services and the Agency for  
31 | Persons with Disabilities shall cooperate to ensure the

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

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

28 |           Section 66. Section 947.185, Florida Statutes, is  
29 | amended to read:

30 |           947.185 Application for mental retardation services as  
31 | condition of parole.--The Parole Commission may require as a

1 | condition of parole that any inmate who has been diagnosed as  
2 | mentally retarded as defined in s. 393.063 shall, upon  
3 | release, apply for ~~retardation~~ services from the Agency for  
4 | Persons with Disabilities ~~Department of Children and Family~~  
5 | ~~Services~~.

6 |           Section 67. Subsection (3) of section 984.19, Florida  
7 | Statutes, is amended to read:

8 |           984.19 Medical screening and treatment of child;  
9 | examination of parent, guardian, or person requesting  
10 | custody.--

11 |           (3) A judge may order that a child alleged to be or  
12 | adjudicated a child in need of services be examined by a  
13 | licensed health care professional. The judge may also order  
14 | such child to be evaluated by a psychiatrist or a  
15 | psychologist, by a district school board educational needs  
16 | assessment team, or, if a developmental disability is  
17 | suspected or alleged, by a ~~the~~ developmental disability  
18 | diagnostic and evaluation team with ~~of~~ the Agency for Persons  
19 | with Disabilities ~~Department of Children and Family Services~~.  
20 | The judge may order a family assessment if that assessment was  
21 | not completed at an earlier time. If it is necessary to place  
22 | a child in a residential facility for such evaluation, then  
23 | the criteria and procedure established in s. 394.463(2) or  
24 | chapter 393 shall be used, whichever is applicable. The  
25 | educational needs assessment provided by the district school  
26 | board educational needs assessment team shall include, but not  
27 | be limited to, reports of intelligence and achievement tests,  
28 | screening for learning disabilities and other handicaps, and  
29 | screening for the need for alternative education pursuant to  
30 | s. 1003.53.

1           Section 68. Subsection (8) of section 984.225, Florida  
2 Statutes, is amended to read:

3           984.225 Powers of disposition; placement in a  
4 staff-secure shelter.--

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

11           Section 69. Paragraph (e) of subsection (5) of section  
12 984.226, Florida Statutes, is amended to read:

13           984.226 Physically secure setting.--

14           (5)

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

21           Section 70. Subsection (1) of section 985.224, Florida  
22 Statutes, is amended to read:

23           985.224 Medical, psychiatric, psychological, substance  
24 abuse, and educational examination and treatment.--

25           (1) After a detention petition or a petition for  
26 delinquency has been filed, the court may order the child  
27 named in the petition to be examined by a physician. The court  
28 may also order the child to be evaluated by a psychiatrist or  
29 a psychologist, by a district school board educational needs  
30 assessment team, or, if a developmental disability is  
31 suspected or alleged, by ~~a~~ the developmental disabilities

1 diagnostic and evaluation team ~~with~~ of the Agency for Persons  
2 with Disabilities ~~Department of Children and Family Services.~~

3 If it is necessary to place a child in a residential facility  
4 for such evaluation, the criteria and procedures established  
5 in chapter 393, chapter 394, or chapter 397, whichever is  
6 applicable, shall be used.

7 Section 71. Section 1003.58, Florida Statutes, is  
8 amended to read:

9 1003.58 Students in residential care facilities.--Each  
10 district school board shall provide educational programs  
11 according to rules of the State Board of Education to students  
12 who reside in residential care facilities operated by the  
13 Department of Children and Family Services or the Agency for  
14 Persons with Disabilities.

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

21 (2) If additional facilities are required, the  
22 district school board and the Department of Children and  
23 Family Services or the Agency for Persons with Disabilities,  
24 as appropriate, shall agree on the appropriate site based on  
25 the instructional needs of the students. When the most  
26 appropriate site for instruction is on district school board  
27 property, a special capital outlay request shall be made by  
28 the commissioner in accordance with s. 1013.60. When the most  
29 appropriate site is on state property, state capital outlay  
30 funds shall be requested by the department or agency in  
31 accordance with chapter 216 ~~of Children and Family Services as~~



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

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

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

22  
23 Notwithstanding the provisions herein, the educational program  
24 at the Marianna Sunland Center in Jackson County shall be  
25 operated by the Department of Education, either directly or  
26 through grants or contractual agreements with other public or  
27 duly accredited educational agencies approved by the  
28 Department of Education.

29 Section 72. Paragraph (c) of subsection (3) of section  
30 17.61, Florida Statutes, is amended to read:

31

1           17.61 Chief Financial Officer; powers and duties in  
2 the investment of certain funds.--

3           (3)

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

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

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

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

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

18           c. The Refugee Assistance Trust Fund.

19           d. The Social Services Block Grant Trust Fund.

20           e. The Tobacco Settlement Trust Fund.

21           f. The Working Capital Trust Fund.

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

24           4. The Department of Corrections.

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

26           a. The Federal Grants Trust Fund.

27           b. The Tobacco Settlement Trust Fund.

28           6. The Department of Health, except for:

29           a. The Federal Grants Trust Fund.

30           b. The Grants and Donations Trust Fund.

31

- 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 73. 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

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 74. 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 75. This act shall take effect July 1, 2006.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2012

Requires confirmation by the Senate of the Director of the Agency for Persons with Disabilities and authorizes the agency to create a budget division and an operations division.

Amends s. 287.155, F.S., to allow the Agency for Persons with Disabilities to purchase vehicles.

Reinserts current definitions of "autism" and "active treatment."

Deletes language that prohibited a paid service provider from also acting as an authorized representative of a client in an administrative hearing process.

Authorizes the Department of Children and Family Services and the Agency for Health Care Administration to promulgate rules for the use of physical restraints and seclusion.

Authorizes the Agency for Persons with Disabilities to develop a consumer-directed care program with the Medicaid program in the Agency for Health Care Administration.