CHAPTER 99-8

House Bill No. 1053

An act relating to the Florida Statutes; amending ss. 11.50, 40.022, 61.13, 61.20, 90.503, 90.6063, 98.093, 110.205, 112.061, 120.80, 125.0109, 125.901, 154.205, 154.245, 166.0445, 186.901, 189.415, 194.013, 196.1975, 205.1965, 215.3208, 216.0172, 216.136, 218.65, 222.21, 228.093, 228.121, 229.8075, 229.832, 230.2305, 230.33, 231.02, 231.381, 232.0315, 232.2481, 232.36, 236.145, 236.602, 238.01, 239.301, 240.5121, 240.514, 240.705, 245.08, 252.35, 252.355, 252.36, 255.565, 284.40, 287.057, 287.155, 288.9620, 288.975, 290.009, 314.05, 316.613, 316.6135, 318.14, 321.19, 322.055, 322.20, 364.510, 370.0605, 370.16, 372.57, 372.6672, 373.309, 376.30, 376.3071, 377.712, 380.05, 380.0555, 381.731, 381.733, 383.0113, 383.335, 383.336, 390.0112, 393.002, 393.063, 393.064, 393.065, 393.066, 393.067, 393.0673, 393.0675, 393.071, 393.075, 393.11, 393.13, 393.15, 393.31, 393.32, 393.502, 393.503, 394.453, 394.457, 394.4615, 394.4781, 394.480, 394.66, 395.002, 395.1027, 395.1055, 395.1065, 395.4025, 397.311, 397.753, 397.754, 397.801, 400.0061, 400.0065, 400.0067, 400.0069, 400.0075, 400.0089, 400.021, 400.022, 400.179, 400.211, 400.23, 400.401, 400.431, 400.434, 400.4415, 400.462, 400.471, 400.914, 402.04, 402.06, 402.07, 402.12, 402.16, 402.165, 402.166, 402.167, 402.17, 402.18, 402.181, 402.19, 402.20, 402.24, 402.27, 402.28, 402.3015, 402.3026, 402.3115, 402.33, 402.35, 402.40, 402.45, 402.49, 402.50, 402.55, 403.061, 403.081, 403.085, 403.086, 403.088, 403.703, 403.7841, 403.786, 403.813, 403.851, 403.852, 403.855, 403.856, 403.858, 403.859, 403.861, 403.862, 403.8635, 403.864, 406.02, 408.033, 408.05, 408.061, 408.20, 408.301, 408.302, 409.166, 409.352, 409.901, 409.910, 409.911, 409.9112, 409.91151, 409.912, 409.914, 409.915, 409.916, 409.919, 409.942, 410.0245, 410.502, 411.224, 411.242, 411.243, 413.031, 415.104, 415.1113, 420.621, 421.10, 427.012, 430.015, 430.04, 435.02, 435.05, 435.08, 440.151, 442.005, 443.036, 446.205, 446.23, 446.25, 446.603, 446.604, 450.191, 450.211, 455.674, 458.3165, 458.331, 459.015, 461.013, 466.023, 467.009, 467.0125, 468.1685, 470.021, 470.025, 470.0301, 487.0615, 489.503, 489.551, 499.003, 499.004, 499.02, 499.022, 499.039, 499.051, 499.601, 499.61, 500.12, 501.001, 509.013, 509.032, 509.251, 509.291, 513.01, 561.121, 561.17, 561.19, 561.29, 570.42, 576.045, 585.15, 585.21, 624.424, 627.429, 627.6418, 627.6613, 627.736, 636.052, 641.22, 641.23, 641.261, 641.3007, 641.405, 641.406, 641.411, 641.412, 641.443, 641.454, 641.455, 651.021, 651.117, 713.77, 741.01, 741.29, 741.32, 742.08, 742.107, 744.474, 765.110, 766.105, 766.1115, 766.305, 766.314, 768.28, 768.76, 775.0877, 775.16, 784.081, 790.157, 790.256, 796.08, 817.505, 873.01, 877.111, 893.02, 893.04, 893.11, 893.12, 893.15, 893.165, 895.09, 938.23, 944.012, 944.024, 944.17, 944.602, 944.706, 945.025, 945.10, 945.12, 945.35, 945.41, 945.47, 945.49, 947.13, 947.146, 947.185, 948.01, 949.02, 951.27, 958.12, and 960.003, Florida Statutes, pursuant to the directive of the Legislature in s. 1, ch.

98-224, Laws of Florida, to make specific changes in terminology to conform the Florida Statutes to the name change of the Department of Health and Rehabilitative Services and the divestiture of programs of the former department to other departments or agencies and to make further changes as necessary to conform the Florida Statutes to the organizational changes effected by previous acts of the Legislature.

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

Section 1. Paragraph (b) of subsection (1) and subsections (3) and (4) of section 11.50, Florida Statutes, are amended to read:

11.50 Division of Public Assistance Fraud.—

(1)

(b) All public assistance recipients, as a condition precedent to qualification for assistance under the provisions of chapter 409 or chapter 414, shall first give in writing, to the Agency for Health Care Administration or the Department of Children and Family ~~Health and Rehabilitative~~ Services, as appropriate, and to the Division of Public Assistance Fraud, consent to make inquiry of past or present employers and records, financial or otherwise.

(3) The results of such investigation shall be reported by the Auditor General to the Legislative Auditing Committee, the Agency for Health Care Administration, the Department of Children and Family ~~Health and Rehabilitative~~ Services, and to such others as the Legislative Auditing Committee or the Auditor General may determine.

(4) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall report to the Auditor General the final disposition of all cases wherein action has been taken pursuant to s. 414.39, based upon information furnished by the Division of Public Assistance Fraud.

Section 2. Subsection (2) of section 40.022, Florida Statutes, is amended to read:

40.022 Clerk to purge jury selection lists; restoration.—

(2) The Department of Health ~~and Rehabilitative Services~~ shall furnish monthly to each clerk of the circuit court a list containing the name, address, age, race, and sex of each person 18 years of age or older and a resident of such clerk's county who died during the preceding calendar month.

Section 3. Subsection (6) of section 61.13, Florida Statutes, 1998 Supplement, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(6) In any proceeding under this section, the court may not deny shared parental responsibility, custody, or visitation rights to a parent or grandparent solely because that parent or grandparent is or is believed to be infected

with human immunodeficiency virus; but the court may condition such rights upon the parent's or grandparent's agreement to observe measures approved by the Centers for Disease Control and Prevention of the United States Public Health Service or by the Department of Health ~~and Rehabilitative Services~~ for preventing the spread of human immunodeficiency virus to the child.

Section 4. Subsection (2) of section 61.20, Florida Statutes, is amended to read:

61.20 Social investigation and recommendations when child custody is in issue.—

(2) A social investigation and study, when ordered by the court, shall be conducted by qualified staff of the court; a child-placing agency licensed pursuant to s. 409.175; a psychologist licensed pursuant to chapter 490; or a clinical social worker, marriage and family therapist, or mental health counselor licensed pursuant to chapter 491. If a certification of indigence based on an affidavit filed with the court pursuant to s. 57.081 is provided by an adult party to the proceeding and the court does not have qualified staff to perform the investigation and study, the court may request that the Department of Children and Family ~~Health and Rehabilitative~~ Services conduct the investigation and study.

Section 5. Paragraph (a) of subsection (1) of section 90.503, Florida Statutes, is amended to read:

90.503 Psychotherapist-patient privilege.—

(1) For purposes of this section:

(a) A "psychotherapist" is:

1. A person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, who is engaged in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

2. A person licensed or certified as a psychologist under the laws of any state or nation, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

3. A person licensed or certified as a clinical social worker, marriage and family therapist, or mental health counselor under the laws of this state, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction; or

4. Treatment personnel of facilities licensed by the state pursuant to chapter 394, chapter 395, or chapter 397, of facilities designated by the Department of Children and Family ~~Health and Rehabilitative~~ Services pursuant to chapter 394 as treatment facilities, or of facilities defined as community mental health centers pursuant to s. 394.907(1), who are en-

gaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

Section 6. Paragraph (b) of subsection (5) of section 90.6063, Florida Statutes, is amended to read:

90.6063 Interpreter services for deaf persons.—

(5) The appointing authority may channel requests for qualified interpreters through:

(b) The Vocational Rehabilitation Program Office of the Department of Labor and Employment Security ~~Health and Rehabilitative Services~~; or

Section 7. Subsection (1) of section 98.093, Florida Statutes, is amended to read:

98.093 Duty of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.—

(1) The Department of Health ~~and Rehabilitative Services~~ shall furnish monthly to each supervisor of elections a list containing the name, address, date of birth, race, and sex of each deceased person 17 years of age or older who was a resident of such supervisor's county.

Section 8. Paragraphs (i) and (l) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(i) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family ~~Health and Rehabilitative~~ Services, and the State Transportation Planner, State Highway Engineer, State Public Transportation Administrator, district secretaries, district directors of planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)(d)2., of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the

department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution: positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health ~~and Rehabilitative Services~~ that are assigned the duty of an Environmental Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 9. Paragraph (g) of subsection (3) and paragraph (b) of subsection (11) of section 112.061, Florida Statutes, 1998 Supplement, are amended to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

(g) The secretary of the Department of Health ~~and Rehabilitative Services~~ or a designee may authorize travel expenses incidental to the rendering of medical services for and on behalf of clients of the Department of Health ~~and Rehabilitative Services~~. The Department of Health ~~and Rehabilitative Services~~ may establish rates lower than the maximum provided in this section for these travel expenses.

(11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.—

(b) Voucher forms.—

1. The Department of Banking and Finance shall furnish a uniform travel voucher form which shall be used by all state officers and employees and authorized persons when submitting travel expense statements for approval and payment. No travel expense statement shall be approved for payment by the Comptroller unless made on the form prescribed and furnished by the department. The travel voucher form shall provide for, among other things, the purpose of the official travel and a certification or affirmation, to be signed by the traveler, indicating the truth and correctness of the claim in every material matter, that the travel expenses were actually incurred by the traveler as necessary in the performance of official duties, that per diem claimed has been appropriately reduced for any meals or lodging included in the convention or conference registration fees claimed by the traveler, and that the voucher conforms in every respect with the requirements of this section. The original copy of the executed uniform travel authorization request form shall be attached to the uniform travel voucher on file with the respective agency.

2. Statements for travel expenses incidental to the rendering of medical services for and on behalf of clients of the Department of Health ~~and Reha-~~

~~bilitative Services~~ shall be on forms approved by the Department of Banking and Finance.

Section 10. Subsection (7) of section 120.80, Florida Statutes, 1998 Supplement, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(7) DEPARTMENT OF CHILDREN AND FAMILY ~~HEALTH AND REHABILITATIVE~~ SERVICES.—Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Children and Family ~~Health and Rehabilitative~~ Services in the execution of those social and economic programs administered by the former Division of Family Services of that department prior to the reorganization effected by chapter 75-48, Laws of Florida, need not be conducted by an administrative law judge assigned by the division.

Section 11. Section 125.0109, Florida Statutes, is amended to read:

125.0109 Family day care homes; local zoning regulation.—The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Family ~~Health and Rehabilitative~~ Services shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 12. Paragraph (a) of subsection (1) of section 125.901, Florida Statutes, is amended to read:

125.901 Children's services; independent special district; council; powers, duties, and functions.—

(1) Each county may by ordinance create an independent special district, as defined in ss. 189.403(3) and 200.001(8)(e), to provide funding for children's services throughout the county in accordance with this section. The boundaries of such district shall be coterminous with the boundaries of the county. The county governing body shall obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which shall not exceed the maximum millage rate authorized by this section. Any district created pursuant to the provisions of this subsection shall be required to levy and fix millage subject to the provisions of s. 200.065. Once such millage is approved by the electorate, the district shall not be required to seek approval of the electorate in future years to levy the previously approved millage.

(a) The governing board of the district shall be a council on children's services, which may also be known as a juvenile welfare board or similar name as established in the ordinance by the county governing body. Such council shall consist of 10 members, including: the superintendent of schools; a local school board member; the district administrator from the appropriate district of the Department of Children and Family ~~Health and Rehabilitative~~ Services, or his or her designee who is a member of the Senior

Management Service or of the Selected Exempt Service; one member of the county governing body; and the judge assigned to juvenile cases who shall sit as a voting member of the board, except that said judge shall not vote or participate in the setting of ad valorem taxes under this section. In the event there is more than one judge assigned to juvenile cases in a county, the chief judge shall designate one of said juvenile judges to serve on the board. The remaining five members shall be appointed by the Governor, and shall, to the extent possible, represent the demographic diversity of the population of the county. After soliciting recommendations from the public, the county governing body shall submit to the Governor the names of at least three persons for each vacancy occurring among the five members appointed by the Governor, and the Governor shall appoint members to the council from the candidates nominated by the county governing body. The Governor shall make a selection within a 45-day period or request a new list of candidates. All members appointed by the Governor shall have been residents of the county for the previous 24-month period. Such members shall be appointed for 4-year terms, except that the length of the terms of the initial appointees shall be adjusted to stagger the terms. The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the council required to be appointed by the Governor under the provisions of this subsection shall resign, die, or be removed from office, the vacancy thereby created shall, as soon as practicable, be filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

Section 13. Subsection (4) of section 154.205, Florida Statutes, is amended to read:

154.205 Definitions.—The following terms, whenever used in this part, shall have the following meanings unless a different meaning clearly appears from the context:

(4) "Certificate of need" means a written advisory statement issued by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, having as its basis a written advisory statement issued by an areawide council and, where there is no council, by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, evidencing community need for a new, converted, expanded, or otherwise significantly modified health facility.

Section 14. Section 154.245, Florida Statutes, is amended to read:

154.245 Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ certificate of need required as a condition to bond validation and project construction.—Notwithstanding any provision of this part to the contrary, before any project authorized by this part and subject to review under ss. 408.031-408.045 is approved by the authority, and before revenue bonds are validated for the project, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall issue a certificate of need for such project, which shall be a condition precedent to the validation and issuance of any bonds hereunder,

other than bonds for refunding or refinancing purposes, and to the construction of the project. However, any portion of a life care facility not requiring licensure under chapter 395 or part II of chapter 400 shall be exempt from the certificate-of-need requirement.

Section 15. Section 166.0445, Florida Statutes, is amended to read:

166.0445 Family day care homes; local zoning regulation.—The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Family ~~Health and Rehabilitative~~ Services shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 16. Paragraph (b) of subsection (2) of section 186.901, Florida Statutes, is amended to read:

186.901 Population census determination.—

(2)

(b) For the purpose of revenue-sharing distribution formulas and distribution proportions for the local government half-cent sales tax, inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, the Department of Health, or the Department of Children and Family ~~Health and Rehabilitative~~ Services shall not be considered to be residents of the governmental unit in which the institutions are located.

Section 17. Subsection (3) of section 189.415, Florida Statutes, is amended to read:

189.415 Special district public facilities report.—

(3) A special district proposing to build, improve, or expand a public facility which requires a certificate of need pursuant to chapter 408 shall elect to notify the appropriate local general-purpose government of its plans either in its 5-year plan or at the time the letter of intent is filed with the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 408.039.

Section 18. Subsection (2) of section 194.013, Florida Statutes, is amended to read:

194.013 Filing fees for petitions; disposition; waiver.—

(2) The value adjustment board shall waive the filing fee with respect to a petition filed by a taxpayer who demonstrates at the time of filing, by an appropriate certificate or other documentation issued by the Department of Children and Family ~~Health and Rehabilitative~~ Services and submitted with the petition, that the petitioner is then an eligible recipient of temporary assistance under chapter 414.

Section 19. Subsection (2) of section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(2) A facility will not qualify as a "home for the aged" unless at least 75 percent of the occupants are over the age of 62 years or totally and permanently disabled. For homes for the aged which are exempt from paying income taxes to the United States as specified in subsection (1), licensing by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ is required for ad valorem tax exemption hereunder only if the home:

(a) Furnishes medical facilities or nursing services to its residents, or

(b) Qualifies as an assisted living facility under part III of chapter 400.

Section 20. Section 205.1965, Florida Statutes, is amended to read:

205.1965 Assisted living facilities.—A county or municipality may not issue an occupational license for the operation of an assisted living facility pursuant to part III of chapter 400 without first ascertaining that the applicant has been licensed by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ to operate such facility at the specified location or locations. The Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall furnish to local agencies responsible for issuing occupational licenses sufficient instructions for making the above required determinations.

Section 21. Paragraph (c) of subsection (1) of section 215.3208, Florida Statutes, is amended to read:

215.3208 Trust funds; schedule for termination; legislative review.—

(1) Except for those trust funds exempt from automatic termination pursuant to the provisions of s. 19(f)(3), Art. III of the State Constitution, trust funds administered by the following entities shall be reviewed and may be terminated or re-created by the Legislature, as appropriate, during the regular session of the Legislature in the year indicated:

(c) In 1996:

1. Agency for Health Care Administration.

2. Commission on Ethics.

3. Department of Business and Professional Regulation.

4. Department of Children and Family Services.

5.~~4.~~ Department of Commerce.

6.~~5.~~ Department of Community Affairs.

7.~~6.~~ Department of Elderly Affairs.

8.~~7.~~ Department of Health ~~and Rehabilitative Services~~.

9.~~8.~~ Department of Insurance.

10. Department of Juvenile Justice.

11.~~9.~~ Department of Labor and Employment Security.

12.~~10.~~ Department of State.

13.~~11.~~ Department of Veterans' Affairs.

14.~~12.~~ Legislative branch.

Section 22. Paragraph (b) of subsection (2) of section 216.0172, Florida Statutes, 1998 Supplement, is amended to read:

216.0172 Schedule for submission of performance-based program budgets.—In order to implement the provisions of chapter 94-249, Laws of Florida, state agencies shall submit performance-based program budget legislative budget requests for programs approved pursuant to s. 216.0166 to the Executive Office of the Governor and the Legislature based on the following schedule:

(2) By September 1, 1995, for the 1996-1997 fiscal year:

(b) Department of Children and Family ~~Health and Rehabilitative~~ Services (Alcohol, Drug Abuse, Mental Health).

Section 23. Subsection (6), paragraph (b) of subsection (8), and paragraph (b) of subsection (9) of section 216.136, Florida Statutes, 1998 Supplement, are amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(6) SOCIAL SERVICES ESTIMATING CONFERENCE.—

(a) Duties.—

1. The Social Services Estimating Conference shall develop such official information relating to the social services system of the state, including forecasts of social services caseloads, as the conference determines is needed for the state planning and budgeting system. Such official information shall include, but not be limited to, subsidized child care caseloads mandated by the Family Support Act of 1988.

2. In addition, the Social Services Estimating Conference shall develop estimates and forecasts of the unduplicated count of children eligible for subsidized child care as defined in s. 402.3015(1). These estimates and forecasts shall not include children enrolled in the prekindergarten early intervention program established in s. 230.2305.

3. The Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Education shall provide information on caseloads and waiting lists for the subsidized child care and prekindergarten early intervention programs requested by the Social Services Estimating Conference or individual conference principals, in a timely manner.

(b) Principals.—The Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff, who have forecasting expertise, from the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Senate, and the House of Representatives, or their designees, are the principals of the Social Services Estimating Conference. The principal representing the Executive Office of the Governor shall preside over sessions of the conference.

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(b) Principals.—The Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff who have forecasting expertise from the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Senate, and the House of Representatives, or their designees, are the principals of the Child Welfare System Estimating Conference. The principal representing the Executive Office of the Governor shall preside over sessions of the conference.

(9) JUVENILE JUSTICE ESTIMATING CONFERENCE.—

(b) Principals.—The Executive Office of the Governor, the Office of Economic and Demographic Research, and professional staff who have forecasting expertise from the Department of Juvenile Justice, the Department of Children and Family ~~Health and Rehabilitative~~ Services Alcohol, Drug Abuse, and Mental Health Program Office, the Department of Law Enforcement, the Senate Appropriations Committee staff, the House of Representatives Appropriations Committee staff, or their designees, are the principals of the Juvenile Justice Estimating Conference. The responsibility of presiding over sessions of the conference shall be rotated among the principals. To facilitate policy and legislative recommendations, the conference may call upon professional staff of the Juvenile Justice Advisory Board and appropriate legislative staff.

Section 24. Paragraph (b) of subsection (7) of section 218.65, Florida Statutes, 1998 Supplement, is amended to read:

218.65 Emergency distribution.—

(7)

(b) For the purposes of this subsection, the term:

1. "Inmate population" means the latest official state estimate of the number of inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, or the Department of Children and Family ~~Health and Rehabilitative~~ Services.

2. "Total population" includes inmate population and noninmate population.

Section 25. Paragraph (b) of subsection (2) of section 222.21, Florida Statutes, 1998 Supplement, is amended to read:

222.21 Exemption of pension money and retirement or profit-sharing benefits from legal processes.—

(2)

(b) Any plan or arrangement described in paragraph (a) is not exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any alternate payee under a qualified domestic relations order is exempt from all claims of any creditor, other than the Department of Children and Family ~~Health and Rehabilitative~~ Services, of the alternate payee. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meanings ascribed to them in s. 414(p) of the Internal Revenue Code of 1986.

Section 26. Paragraph (d) of subsection (3) of section 228.093, Florida Statutes, is amended to read:

228.093 Pupil and student records and reports; rights of parents, guardians, pupils, and students; notification; penalty.—

(3) RIGHTS OF PARENT, GUARDIAN, PUPIL, OR STUDENT.—The parent or guardian of any pupil or student who attends or has attended any public school, area vocational-technical training center, community college, or institution of higher education in the State University System shall have the following rights with respect to any records or reports created, maintained, and used by any public educational institution in the state. However, whenever a pupil or student has attained 18 years of age, or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents of the pupil or student shall thereafter be required of and accorded to the pupil or student only, unless the pupil or student is a dependent pupil or student of such parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954). The State Board of Education shall formulate, adopt, and promulgate rules whereby parents, guardians, pupils, or students may exercise these rights:

(d) Right of privacy.—Every pupil or student shall have a right of privacy with respect to the educational records kept on him or her. Personally identifiable records or reports of a pupil or student, and any personal information contained therein, are confidential and exempt from the provisions of s. 119.07(1). No state or local educational agency, board, public school, area technical center, community college, or institution of higher education in the State University System shall permit the release of such records, reports, or information without the written consent of the pupil's or student's parent or guardian, or of the pupil or student himself or herself if he or she is qualified as provided in this subsection, to any individual, agency, or organization. However, personally identifiable records or reports of a

pupil or student may be released to the following persons or organizations without the consent of the pupil or the pupil's parent:

1. Officials of schools, school systems, area technical centers, community colleges, or institutions of higher learning in which the pupil or student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent, guardian, pupil, or student upon request.

2. Other school officials, including teachers within the educational institution or agency, who have legitimate educational interests in the information contained in the records.

3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the United States Department of Education, or in applicable state statutes and rules of the State Board of Education.

4. Other school officials, in connection with a pupil's or student's application for or receipt of financial aid.

5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering pupil or student aid programs, or improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of pupils or students and their parents by persons other than representatives of such organizations and if such information will be destroyed when no longer needed for the purpose of conducting such studies.

6. Accrediting organizations, in order to carry out their accrediting functions.

7. For use as evidence in pupil or student expulsion hearings conducted by a district school board pursuant to the provisions of chapter 120.

8. Appropriate parties in connection with an emergency, if knowledge of the information in the pupil's or student's educational records is necessary to protect the health or safety of the pupil, student, or other individuals.

9. The Auditor General in connection with his or her official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General is confidential and exempt from the provisions of s. 119.07(1) and shall be protected in such a way as will not permit the personal identification of students and their parents by other than the Auditor General and his or her staff, and such personally identifiable data shall be destroyed when no longer needed for the Auditor General's official use.

10.a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena,

upon the condition that the pupil or student and the pupil's or student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

b. A person or entity pursuant to a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the pupil or student, or his or her parent if the pupil or student is either a minor and not attending an institution of postsecondary education or a dependent of such parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

11. Credit bureaus, in connection with an agreement for financial aid which the student has executed, provided that such information may be disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained pursuant to this paragraph to any person.

12. Parties to an interagency agreement among the Department of Juvenile Justice ~~Health and Rehabilitative Services~~, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy, in-school and out-of-school suspensions, to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and which support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent, guardian, or other responsible adult on behalf of the juvenile.

This paragraph does not prohibit any educational institution from publishing and releasing to the general public directory information relating to a pupil or student if the institution elects to do so. However, no educational institution shall release, to any individual, agency, or organization which is not listed in subparagraphs 1.-11., directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general. Any educational institution making directory information public shall give public notice of the categories of information which it has designated as directory information with respect to all pupils or students attending the institution and shall allow a reasonable period of time after such notice has been given for a parent, guardian, pupil, or student to inform the institution in writing that any or all of the information designated should not be released.

Section 27. Subsection (3) of section 228.121, Florida Statutes, is amended to read:

228.121 Nonresident tuition fee; tuition fee exemptions.—

(3) No tuition shall be charged pupils who are homeless children as defined in s. 228.041(35); pupils whose parent, parents, or guardian are in the federal military service or are civilian employees, the cost of whose education is provided in part or in whole by federal subsidy to state-supported schools; or pupils whose parent, parents, or guardian are migratory agricultural workers. No tuition shall be charged pupils who reside in residential care facilities operated by the Department of Children and Family ~~Health and Rehabilitative~~ Services and who receive their education under s. 230.23(4)(n).

Section 28. Subsection (3) of section 229.8075, Florida Statutes, 1998 Supplement, is amended to read:

229.8075 Florida Education and Training Placement Information Program.—

(3) The Florida Education and Training Placement Information Program must not make public any information that could identify an individual or the individual's employer. The Department of Education must assure that the purpose of obtaining placement information is to evaluate and improve public programs or to conduct research for the purpose of improving services to the individuals whose social security numbers are used to identify their placement. If an agreement assures that this purpose will be served and that privacy will be protected, the Department of Education shall have access to the unemployment insurance wage reports maintained by the Department of Labor and Employment Security, the files of the Department of Children and Family ~~Health and Rehabilitative~~ Services that contain information about the distribution of public assistance, the files of the Department of Corrections that contain records of incarcerations, and the files of the Department of Business and Professional Regulation that contain the results of licensure examination.

Section 29. Subsection (1) of section 229.832, Florida Statutes, is amended to read:

229.832 Creation of a system of diagnostic and learning resource centers.—The Department of Education is directed to establish regional diagnostic and learning resource centers for exceptional students, to assist in the provision of medical, physiological, psychological, and educational testing and other services designed to evaluate and diagnose exceptionalities, to make referrals for necessary instruction and service, and to facilitate the provision of instruction and services to exceptional students.

(1) ESTABLISHMENT AND OPERATION.—The Department of Education shall cooperate with the Department of Children and Family ~~Health and Rehabilitative~~ Services in establishing regional centers and identifying service areas. All centers shall be operated by the Department of Education, either directly or through grants.

Section 30. Subsection (1), paragraph (b) of subsection (2), paragraphs (b), (f), (h), and (k) of subsection (3), and paragraph (b) of subsection (7) of section 230.2305, Florida Statutes, are amended to read:

230.2305 Prekindergarten early intervention program.—

(1) LEGISLATIVE INTENT; PURPOSE.—The Legislature recognizes that high-quality prekindergarten education programs increase children's chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that such programs be developmental, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of all children, and support family education and the involvement of parents in their child's educational progress. Each prekindergarten early intervention program shall provide the elements necessary to prepare children for school, including health screening and referral and a developmentally appropriate educational program and opportunities for parental involvement in the program. It is the legislative intent that the prekindergarten early intervention program not exist as an isolated program, but build upon existing services and work in cooperation with other programs for young children. It is intended that procedures such as, but not limited to, contracting, collocation, mainstreaming, and cooperative funding be used to coordinate the program with Head Start, public and private providers of child care, preschool programs for children with disabilities, programs for migrant children, Chapter I, subsidized child care, adult literacy programs, and other services. It is further the intent of the Legislature that the Commissioner of Education seek the advice of the Secretary of Children and Family ~~Health and Rehabilitative~~ Services in the development and implementation of the prekindergarten early intervention program and the coordination of services to young children. The purpose of the prekindergarten early intervention program is to assist local communities in implementing programs that will enable all the families and children in the school district to be prepared for the children's success in school.

(2) ELIGIBILITY.—There is hereby created the prekindergarten early intervention program for children who are 3 and 4 years of age. A prekindergarten early intervention program shall be administered by a district school board and shall receive state funds pursuant to subsection (5). Each public school district shall make reasonable efforts to accommodate the needs of children for extended day and extended year services without compromising the quality of the 6-hour, 180-day program. The school district shall report on such efforts. School district participation in the prekindergarten early intervention program shall be at the discretion of each school district.

(b) An "economically disadvantaged" child shall be defined as a child eligible to participate in the free lunch program. Notwithstanding any change in a family's economic status or in the federal eligibility requirements for free lunch, a child who meets the eligibility requirements upon initial registration for the program shall be considered eligible until the child reaches kindergarten age. In order to assist the school district in establishing the priority in which children shall be served, and to increase the efficiency in the provision of child care services in each district, the

district shall enter into a written collaborative agreement with other publicly funded early education and child care programs within the district. Such agreement shall be facilitated by the interagency coordinating council and shall set forth, among other provisions, the measures to be undertaken to ensure the programs' achievement and compliance with the performance standards established in subsection (3) and for maximizing the public resources available to each program. In addition, the central agency for state-subsidized child care or the local service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services shall provide the school district with an updated list of 3-year-old and 4-year-old children residing in the school district who are on the waiting list for state-subsidized child care.

(3) STANDARDS.—

(b) The Department of Education and the Department of Children and Family ~~Health and Rehabilitative~~ Services, in consultation with the Legislature, shall develop a minimum set of performance standards for publicly funded early education and child care programs and a method for measuring the progress of local school districts and central agencies in meeting a desired set of outcomes based on these performance measures. The defined outcomes must be consistent with the state's first education goal, readiness to start school, and must also consider efficiency measures such as the employment of a simplified point of entry to the child care services system, coordinated staff development programs, and other efforts within the state to increase the opportunity for welfare recipients to become self-sufficient. Performance standards shall be developed for all levels of administration of the programs, including individual programs and providers, and must incorporate appropriate expectations for the type of program and the setting in which care is provided.

(f) All staff must meet the following minimum requirements:

1. The minimum level of training is to be the completion of a 30-clock-hour training course planned jointly by the Department of Education and the Department of Children and Family ~~Health and Rehabilitative~~ Services to include the following areas: state and local rules that govern child care, health, safety, and nutrition; identification and report of child abuse and neglect; child growth and development; use of developmentally appropriate early childhood curricula; and avoidance of income-based, race-based, and gender-based stereotyping.

2. When individual classrooms are staffed by certified teachers, those teachers must be certified for the appropriate grade levels under s. 231.17 and State Board of Education rules. Teachers who are not certified for the appropriate grade levels must obtain proper certification within 2 years. However, the commissioner may make an exception on an individual basis when the requirements are not met because of serious illness, injury, or other extraordinary, extenuating circumstance.

3. When individual classrooms are staffed by noncertified teachers, there must be a program director or lead teacher who is eligible for certification or certified for the appropriate grade levels pursuant to s. 231.17 and State

Board of Education rules in regularly scheduled direct contact with each classroom. Notwithstanding s. 231.15, such classrooms must be staffed by at least one person who has, at a minimum, a child development associate credential (CDA) or an amount of training determined by the commissioner to be equivalent to or to exceed the minimum, such as an associate in science degree in the area of early childhood education.

4. Beginning October 1, 1994, principals and other school district administrative and supervisory personnel with direct responsibility for the program must demonstrate knowledge of prekindergarten education programs that increase children's chances of achieving future educational success and becoming productive members of society in a manner established by the State Board of Education by rule.

5. All personnel who are not certified under s. 231.17 must comply with screening requirements under ss. 231.02 and 231.1713.

(h) Services are to be provided during a school day and school year equal to or exceeding the requirements for kindergarten under ss. 228.041 and 236.013. Strategies to provide care before school, after school, and 12 months a year, when needed, must be developed by the school district in cooperation with the central agency for state-subsidized child care or the local service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the district interagency coordinating council. Programs may be provided on Saturdays and through other innovative scheduling arrangements.

(k) The school district must coordinate with the central agency for state-subsidized child care or the local service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services to verify family participation in the WAGES Program, thus ensuring accurate reporting and full utilization of federal funds available through the Family Support Act, and for the agency's or service district's sharing of the waiting list for state-subsidized child care under paragraph (a).

(7) DISTRICT INTERAGENCY COORDINATING COUNCILS.—

(b) Each district coordinating council must consist of at least 12 members to be appointed by the district school board, the county commission for the county in which participating schools are located, and the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator and must include at least the following:

1. One member who is a parent of a child enrolled in, or intending to enroll in, the public school prekindergarten program, appointed by the school board.

2. One member who is a director or designated director of a prekindergarten program in the district, appointed by the school board.

3. One member who is a member of a district school board, appointed by the school board.

4. One member who is a representative of an agency serving children with disabilities, appointed by the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator.

5. Four members who are representatives of organizations providing prekindergarten educational services, one of whom is a representative of a Head Start Program, appointed by the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator; one of whom is a representative of a Title XX subsidized child day care program, if such programs exist within the county, appointed by the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator; and two of whom are private providers of preschool care and education to 3-year-old and 4-year-old children, one appointed by the county commission and one appointed by the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator. If there is no Head Start Program or Title XX program operating within the county, these two members must represent community interests in prekindergarten education.

6. Two members who are representatives of agencies responsible for providing social, medical, dental, adult literacy, or transportation services, one of whom represents the county health department, both appointed by the county commission.

7. One member to represent a local child advocacy organization, appointed by the Department of Children and Family ~~Health and Rehabilitative~~ Services' district administrator.

8. One member to represent the district K-3 program, appointed by the school board.

Section 31. Paragraph (b) of subsection (14) of section 230.33, Florida Statutes, is amended to read:

230.33 Duties and responsibilities of superintendent.—The superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law; provided, that in so doing he or she shall advise and counsel with the school board. The superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the school board. All such recommendations, nominations, proposals, and reports by the superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the board. It shall be presumed that, in the absence of the record required in this paragraph, the recommendations, nominations, and proposals required of the superintendent were not contrary to the action taken by the school board in such matters.

(14) COOPERATION WITH OTHER AGENCIES.—

(b) Cooperation with other local administrators to achieve the first state education goal.—Cooperate with the district administrator of the Department of Children and Family ~~Health and Rehabilitative~~ Services and with

administrators of other local public and private agencies to achieve the first state education goal, readiness to start school.

Section 32. Subsection (1) of section 231.02, Florida Statutes, 1998 Supplement, is amended to read:

231.02 Qualifications of personnel.—

(1) To be eligible for appointment in any position in any district school system, a person shall be of good moral character; shall have attained the age of 18 years, if he or she is to be employed in an instructional capacity; and shall, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Children and Family ~~Health and Rehabilitative~~ Services, except when employed pursuant to s. 231.15 or under the emergency provisions of s. 236.0711. Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

Section 33. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family ~~Health and Rehabilitative~~ Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. 110.122. Educational personnel in Department of Children and Family ~~Health and Rehabilitative~~ Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 34. Subsection (2) of section 232.0315, Florida Statutes, is amended to read:

232.0315 School-entry health examinations.—

(2) The Department of Education, subject to the concurrence of the Department of Health ~~and Rehabilitative Services~~, shall adopt rules to govern medical examinations performed under this section.

Section 35. Subsection (1) of section 232.2481, Florida Statutes, is amended to read:

232.2481 Graduation and promotion requirements for publicly operated schools.—

(1) Each state or local public agency, including the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of

Corrections, the Board of Regents, boards of trustees of community colleges, and the Board of Trustees of the Florida School for the Deaf and the Blind, which agency is authorized to operate educational programs for students at any level of grades kindergarten through 12 shall be subject to all applicable requirements of ss. 232.245, 232.246, 232.247, and 232.248. Within the content of these cited statutes each such state or local public agency shall be considered a "district school board."

Section 36. Subsection (1) of section 232.36, Florida Statutes, is amended to read:

232.36 Sanitation of schools.—

(1) The State Board of Education and the Department of Health ~~and Rehabilitative Services~~ shall jointly adopt and promulgate all needful rules having to do with sanitation of school buildings, grounds, shops, cafeterias, toilets, school buses, laboratories, restrooms, first aid rooms, and all rooms or places in which pupils congregate in pursuit of the school duties or activities, and the school board shall see that such rules are enforced.

Section 37. Subsection (1) of section 236.145, Florida Statutes, is amended to read:

236.145 Residential nonpublic school contract reimbursement.—

(1) Annually, the Commissioner of Education shall obtain the cost of all residential nonpublic school contracts and calculate the cost to be reimbursed. The commissioner shall calculate by district and by student the total cost of the contracts and deduct the amount of the weighted full-time equivalent students generated plus the amount of federal entitlement funds for the disabled per student and any amount paid by the Department of Children and Family ~~Health and Rehabilitative~~ Services or other federal, state, or local agency. Sixty percent of the difference between the actual cost of contract and the funds deducted shall be eligible for reimbursement.

Section 38. Subsection (1) of section 236.602, Florida Statutes, is amended to read:

236.602 Bonds payable from motor vehicle license tax funds; instruction units computed.—

(1) For the purpose of administering the provisions of s. 9(d), Art. XII of the State Constitution as amended in 1972, the number of current instruction units in districts shall be computed annually by the department by multiplying the number of full-time equivalent students in programs under s. 236.081(1)(c) in each district by the cost factors established in the General Appropriations Act and dividing by 23, except that all basic program cost factors shall be one, and the special program cost factors for hospital and homebound I and for community service shall be zero. Full-time equivalent membership for students residing in Department of Children and Family ~~Health and Rehabilitative~~ Services residential care facilities shall not be included in this computation. Any portion of the fund not expended during any fiscal year may be carried forward in ensuing budgets and shall be temporarily invested as prescribed by law or regulations of the state board.

Section 39. Subsection (3) of section 238.01, Florida Statutes, is amended to read:

238.01 Definitions.—The following words and phrases as used in this chapter shall have the following meanings unless a different meaning is plainly required by the context:

(3) "Teacher" means any member of the teaching or professional staff and any certificated employee of any public free school, of any district school system and vocational school, any member of the teaching or professional staff of the Florida School for the Deaf and Blind, child training schools of the Department of Juvenile Justice ~~Health and Rehabilitative Services~~, the Department of Corrections, and any tax-supported institution of higher learning of the state, and any member and any certified employee of the Department of Education, any certified employee of the retirement system, any full-time employee of any nonprofit professional association or corporation of teachers functioning in Florida on a statewide basis, which seeks to protect and improve public school opportunities for children and advance the professional and welfare status of its members, any person now serving as superintendent, or who was serving as county superintendent of public instruction on July 1, 1939, and any hereafter duly elected or appointed superintendent, who holds a valid Florida teachers' certificate. In all cases of doubt the division shall determine whether any person is a teacher as defined herein.

Section 40. Paragraphs (a) and (c) of subsection (3) of section 239.301, Florida Statutes, 1998 Supplement, are amended to read:

239.301 Adult general education.—

(3)(a) Each school board or community college board of trustees shall negotiate with local personnel of the Department of Children and Family ~~Health and Rehabilitative~~ Services for basic and functional literacy skills assessments for participants in employment and training programs under the WAGES Program. Such assessments shall be conducted at a site mutually acceptable to the school board or community college board of trustees and the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(c) To the extent funds are available, the Department of Children and Family ~~Health and Rehabilitative~~ Services shall provide for day care and transportation services to clients who enroll in adult basic education programs.

Section 41. Paragraphs (c) and (f) of subsection (3) of section 240.5121, Florida Statutes, 1998 Supplement, are amended to read:

240.5121 Cancer control and research.—

(3) DEFINITIONS.—The following words and phrases when used in this section have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

(c) "Department" means the Department of Health ~~and Rehabilitative Services~~.

(f) "Secretary" means the Secretary of Health ~~and Rehabilitative Services~~.

Section 42. Subsection (2) of section 240.514, Florida Statutes, is amended to read:

240.514 Florida Mental Health Institute.—There is established the Florida Mental Health Institute within the University of South Florida.

(2) The Department of Children and Family ~~Health and Rehabilitative~~ Services is authorized to designate the Florida Mental Health Institute a treatment facility for the purpose of accepting voluntary and involuntary clients in accordance with institute programs. Clients to be admitted are exempted from prior screening by a community mental health center.

Section 43. Section 240.705, Florida Statutes, is amended to read:

240.705 Partnerships to develop child protection workers.—The Department of Children and Family ~~Health and Rehabilitative~~ Services is directed to form partnerships with the schools of social work of the universities of the state in order to encourage the development of graduates trained to work in child protection. The department shall give hiring preferences for child protection jobs to graduates who have earned bachelor's and master's degrees from these programs with a concentration in child protection. The partnership between the department and the schools of social work shall include, but not be limited to, modifying existing graduate and undergraduate social work curricula, providing field placements for students into child protection internships in the department, and collaborating in the design and delivery of advanced levels of social work practice.

Section 44. Subsection (2) of section 245.08, Florida Statutes, is amended to read:

245.08 Death of indigents; notice; delivery to the anatomical board when unclaimed; exceptions; assessment of fees.—

(2) When the Department of Health ~~and Rehabilitative Services~~ claims the body of a client according to this section, the department shall assess fees for burial pursuant to s. 402.33.

Section 45. Paragraph (a) of subsection (2) of section 252.35, Florida Statutes, is amended to read:

252.35 Emergency management powers; Division of Emergency Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.91. In performing its duties under ss. 252.31-252.91, the division shall:

(a) Prepare a state comprehensive emergency management plan, which shall be integrated into and coordinated with the emergency management plans and programs of the Federal Government. The plan shall be implemented by a continuous, integrated comprehensive emergency management program. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters, and the division shall work closely with local governments and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The state comprehensive emergency management plan shall be operations oriented and:

1. Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities. This component must, at a minimum: contain guidelines for lifting tolls on state highways; ensure coordination pertaining to evacuees crossing county lines; set forth procedures for directing people caught on evacuation routes to safe shelter; establish strategies for ensuring sufficient, reasonably priced fueling locations along evacuation routes; and establish policies and strategies for emergency medical evacuations.

2. Include a shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private, and nonprofit sectors. This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each region of the state; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and set forth policy guidance for sheltering people with special needs.

3. Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major, or catastrophic. The postdisaster response and recovery component must, at a minimum: establish the structure of the state's postdisaster response and recovery organization; establish procedures for activating the state's plan; set forth policies used to guide postdisaster response and recovery activities; describe the chain of command during the postdisaster response and recovery period; describe initial and continuous postdisaster response and recovery actions; identify the roles and responsibilities of each involved agency and organization; provide for a comprehensive communications plan; establish procedures for monitoring mutual aid agreements; provide for rapid impact assessment teams; ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services; ensure the existence of a comprehensive statewide medical care and relief plan administered by the Department of Health ~~and Rehabilitative Services~~; and estab-

lish systems for coordinating volunteers and accepting and distributing donated funds and goods.

4. Include additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the division.

5. Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Florida National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Florida National Guard and the United States Armed Forces.

6. Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.

7. Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies. Such exercises shall be coordinated with local governments and, to the extent possible, the Federal Government.

8. Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

The division shall prepare an interim postdisaster response and recovery component that substantially complies with the provisions of this paragraph by June 1, 1993. Each state agency assigned lead responsibility for an emergency support function by the state comprehensive emergency management plan shall also prepare a detailed operational plan needed to implement its responsibilities by June 1, 1993. The complete state comprehensive emergency management plan shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than February 1, 1994, and on February 1 of every even-numbered year thereafter.

Section 46. Subsection (1) of section 252.355, Florida Statutes, is amended to read:

252.355 Registry of disabled persons; notice.—

(1) In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical or mental handicaps, each local emergency management agency in the state shall maintain a registry of disabled persons located within the jurisdiction of the local agency. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the local emergency management agency in identifying such persons, the Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Agency for Health Care Administration, and Department of Elderly Affairs shall provide registration information to all of their

~~its~~ special needs clients and to all incoming clients as a part of the intake process. The registry shall be updated annually. The registration program shall give disabled persons the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare following disasters.

Section 47. Subsection (7) of section 252.36, Florida Statutes, is amended to read:

252.36 Emergency management powers of the Governor.—

(7) The Governor shall employ such measures and give such directions to the Department of Health ~~and Rehabilitative Services~~ and the Agency for Health Care Administration as may be reasonably necessary for the purpose of securing compliance with the provisions of ss. 252.31-252.91 or with the findings or recommendations of such agency of health by reason of conditions arising from emergencies or threats of emergency.

Section 48. Section 255.565, Florida Statutes, is amended to read:

255.565 Asbestos Oversight Program Team.—There is created an Asbestos Oversight Program Team, which shall consist of the Asbestos Program Coordinator appointed by the Secretary of Labor and Employment Security, one member appointed by the Secretary of Health ~~and Rehabilitative Services~~, one member appointed by the Secretary of Environmental Protection, one member appointed by the Secretary of Business and Professional Regulation, one member appointed by the Secretary of Transportation, one member appointed by the Chancellor of the State University System, one member appointed by the Department of Education, and one member appointed by the secretary of the Department of Management Services. The Asbestos Oversight Program Team is responsible for asbestos policy development; regulatory review; asbestos training course approval, except as provided for under chapter 469; and coordination with regional asbestos project managers and building contact persons on policy and procedures.

Section 49. Subsection (3) of section 284.40, Florida Statutes, is amended to read:

284.40 Division of Risk Management.—

(3) Upon certification by the division director or his or her designee to the custodian of any records maintained by the Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Agency for Health Care Administration, or Department of Elderly Affairs that such records are necessary to investigate a claim against the Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Agency for Health Care Administration, or Department of Elderly Affairs being handled by the Division of Risk Management, the records shall be released to the division subject to the provisions of subsection (2), any conflicting provisions as to the confidentiality of such records notwithstanding.

Section 50. Paragraph (f) of subsection (3) of section 287.057, Florida Statutes, 1998 Supplement, is amended to read:

287.057 Procurement of commodities or contractual services.—

(3) When the purchase price of commodities or contractual services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, no purchase of commodities or contractual services may be made without receiving competitive sealed bids or competitive sealed proposals unless:

(f) The following contractual services and commodities are not subject to the competitive sealed bid requirements of this section:

1. Artistic services.

2. Academic program reviews.

3. Lectures by individuals.

4. Auditing services.

5. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

6. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.

7. Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the United States Internal Revenue Code or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

8. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~. However, this exception shall be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed by the agency ~~department~~.

9. Family placement services.

10. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

11. Training and education services provided to injured employees pursuant to s. 440.49(1).

12. Contracts entered into pursuant to s. 337.11.

13. Services or commodities provided by governmental agencies.

Section 51. Subsection (1) of section 287.155, Florida Statutes, is amended to read:

287.155 Motor vehicles; purchase by Division of Universities, Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Department of Juvenile Justice, and Department of Corrections.—

(1) The Division of Universities of the Department of Education, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, the Department of Juvenile Justice, and the Department of Corrections are hereby authorized, subject to the approval of the Department of Management Services, to purchase automobiles, trucks, tractors, and other automotive equipment for the use of institutions under the management of the Division of Universities, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, and the Department of Corrections, and for the use of residential facilities managed or contracted by the Department of Juvenile Justice.

Section 52. Paragraph (c) of subsection (3) of section 288.9620, Florida Statutes, is amended to read:

288.9620 Workforce development board.—

(3) The workforce development board shall be governed by a board of directors. The board of directors is to consist of the following members:

(c) The secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 53. Subsection (8) and paragraph (a) of subsection (9) of section 288.975, Florida Statutes, 1998 Supplement, are amended to read:

288.975 Military base reuse plans.—

(8) At the request of a host local government, the Office of Tourism, Trade, and Economic Development shall coordinate a presubmission workshop concerning a military base reuse plan within the boundaries of the host jurisdiction. Agencies that shall participate in the workshop shall include any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health; the Department of Children and Family Services; the Department of Juvenile Justice; the Department of Agriculture and Consumer Services; the Department of State; the Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils. The purposes of the workshop shall be to assist the host local government to understand issues of concern to the above listed entities pertaining to the military base site and to identify opportunities for better coordination of planning and review efforts with the information and analyses generated by the federal environmental impact statement process and the federal community base reuse planning process.

(9) If a host local government elects to use the optional provisions of this act, it shall, no later than 12 months after notifying the agencies of its intent pursuant to subsection (3) either:

(a) Send a copy of the proposed military base reuse plan for review to any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health; the Department of Children and Family Services; the Department of Juvenile Justice; the Department of Agriculture and Consumer Services; the Department of State; the Florida Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils, or

Section 54. Subsection (1) of section 290.009, Florida Statutes, is amended to read:

290.009 Enterprise Zone Interagency Coordinating Council.—

(1) There is created within the Office of Tourism, Trade, and Economic Development the Enterprise Zone Interagency Coordinating Council. The council shall be composed of the secretaries or executive directors, or their designees, of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, the Department of Juvenile Justice, the Department of Labor and Employment Security, the Department of State, the Department of Transportation, the Department of Environmental Protection, the Department of Law Enforcement, and the Department of Revenue; the Attorney General or his or her designee; and the executive directors or their designees of the State Community College System, the Florida Black Business Investment Board, and the Florida State Rural Development Council.

Section 55. Section 314.05, Florida Statutes, is amended to read:

314.05 Duties as to boarding vessel.—The harbormaster, by himself or herself or deputy, shall board every vessel entering the port for which the harbormaster is appointed, after such vessel has been released by the health authorities of the port, demand of the master the certificate of the vessel's release by such health authorities and deliver the same within 24 hours to the Department of Health ~~and Rehabilitative Services~~; but it is unlawful for any such officer, in boarding such vessels under this section, to solicit from such vessel any business either for the officer or anyone else, and any violation of this provision by any such officer shall subject him or her to removal from said office, by the Governor, if such violation be committed by the harbormaster, and, if committed by any deputy harbormaster, then, by the harbormaster, who in such cases shall remove promptly such deputy.

Section 56. Subsection (5) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(5) Any person who violates the provisions of this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver's license as set forth in s. 322.27. In lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates the provisions of this section may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and upon completing such program, the penalty specified in chapter 318 and associated costs may be waived at the court's discretion and the assessment of points shall be waived. The child restraint safety program must use a course approved by the Department of Health ~~and Rehabilitative Services~~, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 57. Subsection (5) of section 316.6135, Florida Statutes, is amended to read:

316.6135 Leaving children unattended or unsupervised in motor vehicle; penalty; authority of law enforcement officer.—

(5) The child shall be remanded to the custody of the Department of Children and Family ~~Health and Rehabilitative~~ Services pursuant to chapter 39, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

Section 58. Paragraph (b) of subsection (10) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(10)

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of $22, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of $7. One dollar of such costs shall be distributed to the Department of Children and Family ~~Health and Rehabilitative~~ Services for deposit into the Child Welfare Training Trust Fund. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. Twelve dollars of such costs shall be distributed to the municipality and $8 shall be retained by the county, if the offense was committed within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the county shall retain the entire amount, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

Section 59. Subsection (4) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(4) The Secretary of Health ~~director of the Division of Health of the Department of Health and Rehabilitative Services~~ and two other reputable physicians, one to be appointed by the Department of Highway Safety and Motor Vehicles and one by the applicant, shall examine every applicant for a pension on the grounds of disability, and shall determine whether or not total or partial disability exists, and if partial, the extent thereof, and shall certify the results of their findings to the executive director of the department and to the Governor and Cabinet, as head of the department, which findings shall be binding upon the department.

Section 60. Subsections (1), (2), (3), and (4) of section 322.055, Florida Statutes, are amended to read:

322.055 Revocation or suspension of, or delay of eligibility for, driver's license for persons 18 years of age or older convicted of certain drug offenses.—

(1) Notwithstanding the provisions of s. 322.28, upon the conviction of a person 18 years of age or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court shall direct the department to revoke the driver's license or driving privilege of the person. The period of such revocation shall be 2 years or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(2) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is eligible by reason of age for a driver's license or privilege, the court shall direct the department to withhold issuance of such person's driver's license or driving privilege for a period of 2 years after the date the person was convicted or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or

revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(3) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person's driver's license or driving privilege is already under suspension or revocation for any reason, the court shall direct the department to extend the period of such suspension or revocation by an additional period of 2 years or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

(4) If a person 18 years of age or older is convicted for the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance and such person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of such person's driver's license or driving privilege for a period of 2 years after the date that he or she would otherwise have become eligible or until he or she becomes eligible by reason of age for a driver's license and is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license. A driver whose license or driving privilege has been suspended or revoked under this section or s. 322.056 may, upon the expiration of 6 months, petition the department for restoration of the driving privilege on a restricted or unrestricted basis depending on the length of suspension or revocation. In no case shall a restricted license be available until 6 months of the suspension or revocation period has expired.

Section 61. Subsection (7) of section 322.20, Florida Statutes, is amended to read:

322.20 Records of the department; fees; destruction of records.—

(7) The requirement for the department to keep records shall terminate upon the death of an individual licensed by the department upon notification

by the Department of Health ~~and Rehabilitative Services~~ of such death. The department shall make such notification as is proper of the deletions from their records to the court clerks of the state.

Section 62. Subsection (2) of section 364.510, Florida Statutes, is amended to read:

364.510 Duties of the Board of Directors of the Florida Distance Learning Network.—The duties of the Board of Directors of the Florida Distance Learning Network include, but are not limited to:

(2) Coordinating the use of existing resources, including, but not limited to, the state's satellite transponder on Telestar 401 (the education satellite), the Sunstar Network, the SUNCOM Network, the Florida Information Resource Network (FIRN), Department of Management Services, Department of Corrections, Department of Health, and the Department of Children and Family ~~Health and Rehabilitative~~ Services' satellite communication facilities to support a statewide advanced telecommunications services and distance learning network.

Section 63. Paragraph (g) of subsection (3) of section 370.0605, Florida Statutes, 1998 Supplement, is amended to read:

370.0605 Saltwater fishing license required; fees.—

(3) A saltwater fishing license is not required for:

(g) Any person who has been accepted by the Department of Children and Family ~~Health and Rehabilitative~~ Services for developmental services or any licensed provider of services to the State of Florida through contract with the Department of Children and Family ~~Health and Rehabilitative~~ Services, where such service involves the need, normally, for possession of a saltwater fishing license and such service is provided as part of a court-decided rehabilitation program involving training in Florida's aquatic resources.

Section 64. Subsection (26) of section 370.16, Florida Statutes, 1998 Supplement, is amended to read:

370.16 Oysters and shellfish; regulation.—

(26) OYSTER CULTURE.—The Division of Marine Resources shall protect all oyster beds, oyster grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting and control the pollution of the waters over or surrounding oyster grounds, beds, or reefs, and to this end the Department of Health ~~and Rehabilitative Services~~ is authorized and directed to lend its cooperation to the division, to make available to it its laboratory testing facilities and apparatus. The division may also do and perform all acts and things within its power and authority necessary to the performance of its duties.

Section 65. Paragraph (g) of subsection (1) of section 372.57, Florida Statutes, 1998 Supplement, is amended to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger. Each applicant for a license, permit, or authorization shall provide the applicant's social security number on the application form. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D child support enforcement program and use by the commission, and as otherwise provided by law.

(1) A license or permit is not required for:

(g) Any person fishing who has been accepted as a client for developmental services by the Department of Children and Family ~~Health and Rehabilitative~~ Services, which department shall furnish such person proof thereof.

Section 66. Subsection (3) of section 372.6672, Florida Statutes, 1998 Supplement, is amended to read:

372.6672 Alligator management and trapping program implementation; commission authority.—

(3) The powers and duties of the commission hereunder shall not be construed so as to supersede the regulatory authority or lawful responsibility of the Department of Health ~~and Rehabilitative Services~~, the Department of Agriculture and Consumer Services, or any local governmental entity regarding the processing or handling of food products, but shall be deemed supplemental thereto.

Section 67. Paragraph (b) of subsection (1) of section 373.309, Florida Statutes, is amended to read:

373.309 Authority to adopt rules and procedures.—

(1) The department shall adopt, and may from time to time amend, rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of this part. With respect thereto, the department shall:

(b) Delegate, by interagency agreement adopted pursuant to s. 373.046, to water management districts, the Department of Health ~~and Rehabilitative Services~~, or any other political subdivision any of its authority under this part in the administration of the rules adopted hereunder under such terms and conditions as may be agreed upon, and may rescind such delegation upon a determination that the program is not being adequately administered.

Section 68. Paragraph (c) of subsection (3) of section 376.30, Florida Statutes, 1998 Supplement, is amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(3) The Legislature intends by the enactment of ss. 376.30-376.319 to exercise the police power of the state by conferring upon the Department of Environmental Protection the power to:

(c) Establish a program which will enable the department to:

1. Provide for expeditious restoration or replacement of potable water systems or potable private wells of affected persons where health hazards exist due to contamination from pollutants (which may include provision of bottled water on a temporary basis, after which a more stable and convenient source of potable water shall be provided) and hazardous substances, subject to the following conditions:

a. For the purposes of this subparagraph, the term "restoration" means restoration of a contaminated potable water supply to a level which meets applicable water quality standards or applicable water quality criteria, as adopted by rule, for the contaminant or contaminants present in the water supply, or, where no such standards or criteria have been adopted, to a level that is determined to be a safe, potable level by the State Health Officer in the Department of Health ~~and Rehabilitative Services~~, through the installation of a filtration system and provision of replacement filters as necessary or through employment of repairs or another treatment method or methods designed to remove or filter out contamination from the water supply; and the term "replacement" means replacement of a well or well field or connection to an alternative source of safe, potable water.

b. For the purposes of the Inland Protection Trust Fund and the dry-cleaning facility restoration funds in the Water Quality Assurance Trust Fund as provided in s. 376.3078, such restoration or replacement shall take precedence over other uses of the unobligated moneys within the fund after payment of amounts appropriated annually from the Inland Protection Trust Fund for payments under any service contract entered into by the department pursuant to s. 376.3075.

c. Funding for activities described in this subparagraph shall not exceed $10 million for any one county for any one year, other than for the provision of bottled water.

d. Funding for activities described in this subparagraph shall not be available to fund any increase in the capacity of a potable water system or potable private well over the capacity which existed prior to such restoration or replacement, unless such increase is the result of the use of a more cost-effective alternative than other alternatives available.

2. Provide for the inspection and supervision of activities described in this subsection.

3. Guarantee the prompt payment of reasonable costs resulting therefrom, including those administrative costs incurred by the Department of Health ~~and Rehabilitative Services~~ in providing field and laboratory services, toxicological risk assessment, and other services to the department in the investigation of drinking water contamination complaints.

Section 69. Paragraph (g) of subsection (4) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health ~~and Rehabilitative Services~~ in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.

The Inland Protection Trust Fund may only be used to fund the activities in ss. 376.30-376.319 except ss. 376.3078 and 376.3079. Amounts on deposit in the Inland Protection Trust Fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (o) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature prior to making or providing for other disbursements from the fund. Nothing in this subsection shall authorize the use of the Inland Protection Trust Fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 shall be presumed not to be excluded from eligibility pursuant to this section.

Section 70. Subsection (3) of section 377.712, Florida Statutes, is amended to read:

377.712 Florida participation.—

(3) The department, agencies and officers of this state, and its subdivisions are authorized to cooperate with the board in the furtherance of any of its activities pursuant to the compact, provided such proposed activities have been made known to, and have the approval of, either the Governor or the Department of Health ~~and Rehabilitative Services~~.

Section 71. Paragraph (a) of subsection (22) of section 380.05, Florida Statutes, 1998 Supplement, is amended to read:

380.05 Areas of critical state concern.—

(22) All state agencies with rulemaking authority for programs that affect a designated area of critical state concern shall review those programs for consistency with the purpose of the designation and principles for guiding development, and shall adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.

(a)1. Within 6 months after the effective date of the rule or statute that designates an area of critical state concern, and at any time thereafter as directed by the Administration Commission, the Department of Environmental Protection, the Department of Health ~~and Rehabilitative Services~~, the water management districts with jurisdiction over any portion of the area of critical state concern, and any other state agency specified in the designation rule, shall each submit a report to the Administration Commission, and a copy of the report to the state land planning agency. The report shall evaluate the effect of the reporting agency's programs upon the purpose of the designation.

2. If different permitting standards or criteria, or other changes to the program, are necessary in order to further the purpose of the designation, the report shall recommend rules which further that purpose and which are consistent with the principles for guiding development. The report shall explain and justify the reasons for any different permitting standards or criteria that may be recommended. The commission shall reject the agency's recommendation, or accept it with or without modification and direct the agency to adopt rules, including any changes. Any rule adopted pursuant to this paragraph shall be consistent with the principles for guiding development, and shall apply only within the boundary of the designated area. The agency shall file a copy of the adopted rule with the Administration Commission and the state land planning agency.

3. If statutory changes are required in order to implement the permitting standards or criteria that are necessary to further the purpose of the designation, the report shall recommend statutory amendments. The Administration Commission shall submit any report that recommends statutory amendments to the President of the Senate and the Speaker of the House

of Representatives, together with the Administration Commission's recommendation on the proposed amendments.

Section 72. Paragraphs (c) and (d) of subsection (10) of section 380.0555, Florida Statutes, 1998 Supplement, are amended to read:

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(10) REQUIREMENTS; LOCAL GOVERNMENTS.—

(c)1. The Department of Health ~~and Rehabilitative Services~~ shall survey all septic tank soil-absorption systems in the Apalachicola Bay Area to determine their suitability as onsite sewage treatment systems. Within 6 months from June 18, 1985, Franklin County and the municipalities within it, after consultation with the Department of Health ~~and Rehabilitative Services~~ and the Department of Environmental Regulation, shall develop a program designed to correct any onsite sewage treatment systems that might endanger the water quality of the bay.

2. Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact by ordinance procedures implementing this program. These procedures shall include notification to owners of unacceptable septic tanks and procedures for correcting unacceptable septic tanks. These ordinances shall not be effective until approved by the Department of Health ~~and Rehabilitative Services~~ and the Department of Environmental Regulation.

(d) Franklin County and the municipalities within it shall, within 12 months from June 18, 1985, establish by ordinance a map of "pollution-sensitive segments of the critical shoreline" within the Apalachicola Bay Area, which ordinance shall not be effective until approved by the Department of Health ~~and Rehabilitative Services~~ and the Department of Environmental Regulation. Franklin County and the municipalities within it, after the effective date of these ordinances, shall no longer grant permits for onsite wastewater disposal systems in pollution-sensitive segments of the critical shoreline, except for those onsite wastewater systems that will not degrade water quality in the river or bay. These ordinances shall not become effective until approved by the resource planning and management committee. Until such ordinances become effective, the Franklin County Health Department shall not give a favorable recommendation to the granting of a septic tank variance pursuant to section (1) of Ordinance 79-8, adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, or issue a permit for a septic tank or alternative waste disposal system pursuant to Ordinance 81-5, adopted on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, as amended as set forth in subparagraph (9)(a)2., unless the Franklin County Health Department certifies, in writing, that the use of such system will be consistent with paragraph (8)(f) and subsection (9).

Section 73. Subsection (1) of section 408.601, Florida Statutes (renumbered as section 381.731, 1998 Supplement), is amended to read:

381.731 Healthy Communities, Healthy People Plan.—

(1) The Department of Health ~~and Rehabilitative Services~~ shall develop a biennial Healthy Communities, Healthy People Plan that shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each even-numbered year.

Section 74. Subsection (1) of section 408.603, Florida Statutes (renumbered as section 381.733, 1998 Supplement), is amended to read:

381.733 Definitions.—As used in ss. 408.601-408.604, the term:

(1) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 75. Section 383.0113, Florida Statutes, is amended to read:

383.0113 Commission on Responsible Fatherhood; creation; membership; powers and duties.—There is created the Commission on Responsible Fatherhood in the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(1) The commission shall consist of not more than 25 members, as follows:

(a) Seven members to be appointed by the Governor.

(b) The executive director of the Florida Center for Children and Youth or the director's designee.

(c) The executive director of the Florida Coalition Against Domestic Violence or the director's designee.

(d) A judge, to be appointed by the Chief Justice of the Supreme Court.

(e) A representative of Healthy Start, to be chosen by the Florida Association of Healthy Start Coalitions.

(f) Two members of the House of Representatives, to be appointed by the Speaker.

(g) Two members of the Senate, to be appointed by the President.

(h) A representative from the Florida Association of Deans and Directors of Schools and departments of social work from Florida colleges and universities.

(i) A representative of the Florida chapter of the National Congress for Fathers and Children.

(j) A representative of Men Against Destruction, Defending Against Drugs and Social Disorder (MAD DADS).

(k) A representative of the Family Law Section of The Florida Bar Association.

(l) A representative of the American Association of Retired Persons.

(m) A representative of the Florida Chamber of Commerce.

(n) A representative from the Florida Family Council.

(o) Three additional members to be appointed by the other members of the commission based on specific needs.

(2) Technical assistance will be provided to the commission by the following:

(a) The Secretary of Children and Family ~~Health and Rehabilitative~~ Services, or the secretary's designee.

(b) The Commissioner of Education, or the commissioner's designee.

(c) The Secretary of Labor and Employment Security, or the secretary's designee.

(d) The executive director of the Department of Revenue, or the director's designee. The designee shall have experience with child support enforcement programs.

(e) A representative of The Parent Network of Florida.

(f) A representative of the Florida Network of Youth and Family Services.

Per diem and travel expenses for the individuals providing technical assistance is to be provided from the budgets of those agencies.

(3) All members of the commission, other than the Governor's appointments and the commission's appointments, must be appointed within 30 days after this section, s. 383.0112, and s. 383.0114 become law. The appointments of the Governor shall be made 30 days after the other appointments, to allow for the composition of the commission to be broadly reflective of the public. The chairperson and vice chairperson of the commission shall be appointed by the Governor. The commission is encouraged to appoint subcommittees, including regional subcommittees, that include citizens who are knowledgeable in a subject area but who are not members of the commission and who may not vote on the final report and recommendations of the commission, but may submit reports and recommendations for review by the commission and may be invited to testify to the commission by a member of the commission.

(4) The commission shall hold its first meeting within 30 days after the appointments, except the Governor's and the commission's appointments, are made. Members of the commission shall serve without compensation but shall be allowed per diem and travel expenses, as provided in s. 112.061. Per diem and travel expenses of members of the commission employed by the State of Florida are to be provided from the budgets of those employing agencies. Members of the commission who serve as members of the Legislature are to be reimbursed from the legislative budget.

(5) The commission shall meet as the resources of the commission allow.

(6) Subject to the availability of funds, the Department of Children and Family ~~Health and Rehabilitative~~ Services is directed to contract with one or more corporations, agencies, individuals, or governmental entities to accomplish the goals of s. 383.0112 and this section. The Department of Children and Family ~~Health and Rehabilitative~~ Services must ensure that the corporations, agencies, individuals, or governmental entities, either separately or together, are able to provide staff support services and must have the research ability to carry out the purposes and responsibilities of the commission.

(7) The commission shall have the authority to apply for grants and accept private contributions.

(8) The commission is assigned to the Department of Children and Family ~~Health and Rehabilitative~~ Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control, supervision, and direction of the department.

(9) The Governor may remove any member of the commission for cause.

(10) The commission shall develop a budget pursuant to the provisions of chapter 216. The budget is not subject to change by the department staff after it has been approved by the commission, but it shall be transmitted to the Governor along with the budget of the department.

Section 76. Subsection (1) of section 383.335, Florida Statutes, is amended to read:

383.335 Partial exemptions.—

(1) Any facility which was providing obstetrical and gynecological surgical services and was owned and operated by a board-certified obstetrician on June 15, 1984, and which is otherwise subject to licensure under ss. 383.30-383.335 as a birth center, is exempt from the provisions of ss. 383.30-383.335 which restrict the provision of surgical services and outlet forceps delivery and the administration of anesthesia at birth centers. The agency ~~department~~ shall adopt rules specifically related to the performance of such services and the administration of anesthesia at such facilities.

Section 77. Subsections (2) and (3) of section 383.336, Florida Statutes, are amended to read:

383.336 Provider hospitals; practice parameters; peer review board.—

(2) The Office of the Secretary of Health ~~Deputy Secretary for Health of the Department of Health and Rehabilitative Services~~, in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society, is directed to establish practice parameters to be followed by physicians in provider hospitals in performance of a caesarean section delivery when the delivery will be paid partly or fully by state funds or federal funds administered by the state. These parameters shall be directed to reduce the number

of unnecessary caesarean section deliveries. These practice parameters shall address, at a minimum, the following: feasibility of attempting a vaginal delivery for each patient with a prior caesarean section; dystocia, including arrested dilation and prolonged deceleration phase; fetal distress; and fetal malposition. The Department of Health ~~and Rehabilitative Services~~ shall adopt rules to implement the provisions of this subsection.

(3) Each provider hospital shall establish a peer review board consisting of obstetric physicians and other persons having credentials within that hospital to perform deliveries by caesarean section. This board shall review, at least monthly, every caesarean section performed since the previous review and paid for by state funds or federal funds administered by the state. The board shall conduct its review pursuant to the parameters specified in the rule adopted by the Department of Health ~~and Rehabilitative Services~~ pursuant to this act and shall pay particular attention to electronic fetal monitoring records, umbilical cord gas results, and Apgar scores in determining if the caesarean section delivery was appropriate. The results of this periodic review must be shared with the attending physician. These reviews and the resultant reports must be considered a part of the hospital's quality assurance monitoring and peer review process established pursuant to s. 395.0193.

Section 78. Subsections (1) and (4) of section 390.0112, Florida Statutes, are amended to read:

390.0112 Termination of pregnancies; reporting.—

(1) The director of any medical facility in which any pregnancy is terminated shall submit a monthly report which contains the number of procedures performed, the reason for same, and the period of gestation at the time such procedures were performed to the agency ~~department~~. The agency ~~department~~ shall be responsible for keeping such reports in a central place from which statistical data and analysis can be made.

(4) Any person required under this section to file a report or keep any records who willfully fails to file such report or keep such records may be subject to a $200 fine for each violation. The agency ~~department~~ shall be required to impose such fines when reports or records required under this section have not been timely received. For purposes of this section, timely received is defined as 30 days following the preceding month.

Section 79. Subsection (5) of section 393.002, Florida Statutes, is amended to read:

393.002 Transfer of Florida Developmental Disabilities Council as formerly created in this chapter to private nonprofit corporation.—

(5) Pursuant to the applicable provisions of chapter 284, the Division of Risk Management of the Department of Insurance is authorized to insure this nonprofit corporation under the same general terms and conditions as the Florida Developmental Disabilities Council was insured in the Department of Children and Family ~~Health and Rehabilitative~~ Services by the division prior to the transfer of its functions authorized by this section.

Section 80. Subsection (11) of section 393.063, Florida Statutes, 1998 Supplement, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(11) "Department" means the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 81. Subsections (1) and (2), paragraph (b) of subsection (4), and subsection (5) of section 393.064, Florida Statutes, are amended to read:

393.064 Prevention.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services, in carrying out its assigned purpose under s. 20.19(1) of preventing to the maximum extent possible the occurrence and incidence of physical and mental diseases and disabilities, shall give priority to the development, planning, and implementation of programs which have the potential to prevent, correct, cure, or reduce the severity of developmental disabilities. The department shall direct an interdepartmental and interprogram effort for the continued development of a prevention plan and program. The department shall identify, through demonstration projects, through departmental program evaluation, and through monitoring of programs and projects conducted outside of the department, any medical, social, economic, or educational methods, techniques, or procedures which have the potential to effectively ameliorate, correct, or cure developmental disabilities. The department shall determine the costs and benefits that would be associated with such prevention efforts and shall implement, or recommend the implementation of, those methods, techniques, or procedures which are found likely to be cost-beneficial. The department in its legislative budget request shall identify funding needs for such prevention programs.

(2) Prevention services provided by the developmental services program include services to high-risk and developmentally disabled children from birth to 5 years of age, and their families, to meet the intent of chapter 411. Such services shall include individual evaluations or assessments necessary to diagnose a developmental disability or high-risk condition and to determine appropriate individual family and support services, unless evaluations or assessments are the responsibility of the Division of Children's Medical Services ~~program~~ for children ages birth to 3 years eligible for services under this chapter or part H of the Individuals with Disabilities Education Act, and may include:

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

(b) Support services, such as respite care, parent education and training, parent-to-parent counseling, homemaker services, and other services which

allow families to maintain and provide quality care to children in their homes. The Division of Children's Medical Services ~~program~~ is responsible for the provision of services to children from birth to 3 years who are eligible for services under this chapter.

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

(b) Ensuring that new knowledge is rapidly disseminated throughout the developmental services program of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(5) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall have the authority, within available resources, to contract for the supervision and management of the Raymond C. Philips Research and Education Unit, and such contract shall include specific program objectives.

Section 82. Subsection (1) of section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(1) Application for services shall be made in writing to the Department of Children and Family ~~Health and Rehabilitative~~ Services, in the district in which the applicant resides. Employees of the department's developmental services program shall review each applicant for eligibility within 45 days of the date the application is signed for children under 6 years of age and within 60 days of the date the application is signed for all other applicants. When necessary to definitively identify individual conditions or needs, the department shall provide a comprehensive assessment. Only individuals whose domicile is in Florida shall be eligible for services. Information accumulated by other agencies, including professional reports and collateral data, shall be considered in this process when available.

Section 83. Subsection (1) of section 393.066, Florida Statutes, 1998 Supplement, is amended to read:

393.066 Community services and treatment for persons who are developmentally disabled.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall plan, develop, organize, and implement its programs of services and treatment for persons who are developmentally disabled along district lines. The goal of such programs shall be to allow clients to live as independently as possible in their own homes or communities and to achieve productive lives as close to normal as possible.

Section 84. Subsections (3) and (9) of section 393.067, Florida Statutes, 1998 Supplement, are amended to read:

393.067 Licensure of residential facilities and comprehensive transitional education programs.—

(3) An application for a license for a residential facility or a comprehensive transitional education program shall be made to the Department of Children and Family ~~Health and Rehabilitative~~ Services on a form furnished by it and shall be accompanied by the appropriate license fee.

(9) The department and the Agency for Health Care Administration, after consultation with the Department of Community Affairs, shall adopt rules for residential facilities under the respective regulatory jurisdiction of each establishing minimum standards for the preparation and annual update of a comprehensive emergency management plan. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan for all intermediate care facilities for the developmentally disabled, facilities serving seven or more people, and homes serving individuals who have complex medical conditions is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Agency for Health Care Administration, the Department of Children and Family ~~Health and Rehabilitative~~ Services, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

Section 85. Subsection (1) of section 393.0673, Florida Statutes, is amended to read:

393.0673 Denial, suspension, revocation of license; moratorium on admissions; administrative fines; procedures.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services may deny, revoke, or suspend a license or impose an administrative fine, not to exceed $500 per violation per day, for a violation of any provision of s. 393.0655 or s. 393.067 or rules promulgated pursuant thereto. All hearings shall be held within the county in which the licensee or applicant operates or applies for a license to operate a facility as defined herein.

Section 86. Subsection (1) of section 393.0675, Florida Statutes, is amended to read:

393.0675 Injunctive proceedings authorized.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services may institute injunctive proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of this chapter or any minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

(b) Terminate the operation of facilities licensed pursuant to this chapter when any of the following conditions exist:

1. Failure by the facility to take preventive or corrective measures in accordance with any order of the department.

2. Failure by the facility to abide by any final order of the department once it has become effective and binding.

3. Any violation by the facility constituting an emergency requiring immediate action as provided in s. 393.0673.

Section 87. Section 393.071, Florida Statutes, is amended to read:

393.071 Client fees.—The Department of Children and Family ~~Health and Rehabilitative~~ Services shall charge fees for services provided to clients in accordance with s. 402.33.

Section 88. Subsection (2) of section 393.075, Florida Statutes, is amended to read:

393.075 General liability coverage.—

(2) The Division of Risk Management of the Department of Insurance shall provide coverage through the Department of Children and Family ~~Health and Rehabilitative~~ Services to any person who owns or operates a foster care facility or group home facility solely for the Department of Children and Family ~~Health and Rehabilitative~~ Services, who cares for children placed by developmental services staff of the department, and who is licensed pursuant to s. 393.067 to provide such supervision and care in his or her place of residence. The coverage shall be provided from the general liability account of the Florida Casualty Insurance Risk Management Trust Fund. The coverage is limited to general liability claims arising from the provision of supervision and care of children in a foster care facility or group home facility pursuant to an agreement with the department and pursuant to guidelines established through policy, rule, or statute. Coverage shall be subject to the limits provided in ss. 284.38 and 284.385, and the exclusions set forth therein, together with other exclusions as may be set forth in the certificate of coverage issued by the trust fund. A person covered under the general liability account pursuant to this subsection shall immediately notify the Division of Risk Management of the Department of Insurance of any potential or actual claim.

Section 89. Subsection (1) of section 393.11, Florida Statutes, 1998 Supplement, is amended to read:

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—When a person is mentally retarded and requires involuntary admission to residential services provided by the developmental services program of the Department of Children and Family ~~Health and Rehabilitative~~ Services, the circuit court of the county in which the person resides shall have jurisdiction to conduct a hearing and enter an order

involuntarily admitting the person in order that the person may receive the care, treatment, habilitation, and rehabilitation which the person needs. For the purpose of identifying mental retardation, diagnostic capability shall be established in every program function of the department in the districts, including, but not limited to, programs provided by children and families; delinquency services; alcohol, drug abuse, and mental health; and economic services, and by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security. Except as otherwise specified, the proceedings under this section shall be governed by the Florida Rules of Civil Procedure.

Section 90. Subsection (6) of section 393.13, Florida Statutes, is amended to read:

393.13 Personal treatment of persons who are developmentally disabled.—

(6) NOTICE OF RIGHTS.—Each person with developmental disabilities, if competent, or parent or legal guardian of such person if the person is incompetent, shall promptly receive from the Department of Children and Family ~~Health and Rehabilitative~~ Services or the Department of Education a written copy of this act. Each person with developmental disabilities able to comprehend shall be promptly informed, in the language or other mode of communication which such person understands, of the above legal rights of persons with developmental disabilities.

Section 91. Subsection (3) of section 393.15, Florida Statutes, is amended to read:

393.15 Legislative intent; Community Resources Development Trust Fund.—

(3) There is created a Community Resources Development Trust Fund in the State Treasury to be used by the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of granting loans to eligible programs for the initial costs of development of the programs. Loans shall be made only to those facilities which are in compliance with the zoning regulations of the local community. Costs of development may include structural modification, the purchase of equipment and fire and safety devices, preoperational staff training, and the purchase of insurance. Such costs shall not include the actual construction of a facility.

Section 92. Subsection (1) of section 393.31, Florida Statutes, is amended to read:

393.31 Department authorized to contract with rehabilitation workshop facility.—

(1) Whenever it appears to the satisfaction of the Department of Children and Family ~~Health and Rehabilitative~~ Services that a developmentally disabled person over the age of 16 years can reasonably be expected to benefit from, or if his or her best interests reasonably require, extended employment in a rehabilitation workshop facility operated by an approved nonprofit

organization, the department is authorized to contract with the organization for the furnishing of extended employment to the developmentally disabled person.

Section 93. Subsection (2) of section 393.32, Florida Statutes, is amended to read:

393.32 Eligibility and standards of service.—

(2) The determination of developmental disability shall be made by the Department of Children and Family ~~Health and Rehabilitative~~ Services upon the basis of psychological or medical records on file in the rehabilitation workshop facility that provide suitable and adequate evidence of the developmental disability. The psychological or medical records which determine the condition of developmental disability shall not be more than 2 years old at the time of application by the facility for the support of such person. The department may require reexamination of a person by the facility in order to revalidate developmental disability.

Section 94. Subsection (1) of section 393.502, Florida Statutes, is amended to read:

393.502 Family care councils.—

(1) CREATION; APPOINTMENT.—There shall be established and located within each service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services a family care council. The council shall consist of nine persons recommended and appointed by the district health and human services board. One-half of the members of the council must be consumers who are family members or legal guardians of persons with developmental disabilities. At least one-half of the members of the council shall be current consumers of developmental services. A chairperson for the council must be chosen by the members to serve for 1 year. Members shall be appointed for a 2-year term and may be reappointed to not more than one additional term. A person who is currently serving on another board or council of the department may not be appointed to a family care council.

Section 95. Section 393.503, Florida Statutes, is amended to read:

393.503 Respite and family care subsidy expenditures; funding.—The Department of Children and Family ~~Health and Rehabilitative~~ Services shall determine the amount of expenditures per fiscal year for the respite and family care subsidy to families and individuals with developmental disabilities living in their own homes. This information shall be made available to the family care councils and to others requesting the information. The family care councils shall review the expenditures and make recommendations to the health and human services board with respect to any new funds that are made available for family care.

Section 96. Section 394.453, Florida Statutes, is amended to read:

394.453 Legislative intent.—It is the intent of the Legislature to authorize and direct the Department of Children and Family ~~Health and Rehabilitative~~ Services to evaluate, research, plan, and recommend to the Governor

and the Legislature programs designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders. It is the intent of the Legislature that treatment programs for such disorders shall include, but not be limited to, comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment in order to encourage them to assume responsibility for their treatment and recovery. It is intended that such persons be provided with emergency service and temporary detention for evaluation when required; that they be admitted to treatment facilities on a voluntary basis when extended or continuing care is needed and unavailable in the community; that involuntary placement be provided only when expert evaluation determines that it is necessary; that any involuntary treatment or examination be accomplished in a setting which is clinically appropriate and most likely to facilitate the person's return to the community as soon as possible; and that individual dignity and human rights be guaranteed to all persons who are admitted to mental health facilities or who are being held under s. 394.463. It is the further intent of the Legislature that the least restrictive means of intervention be employed based on the individual needs of each person, within the scope of available services.

Section 97. Subsection (1) of section 394.457, Florida Statutes, is amended to read:

394.457 Operation and administration.—

(1) ADMINISTRATION.—The Department of Children and Family ~~Health and Rehabilitative~~ Services is designated the "Mental Health Authority" of Florida. The department and the Agency for Health Care Administration shall exercise executive and administrative supervision over all mental health facilities, programs, and services.

Section 98. Paragraph (d) of subsection (2) of section 394.4615, Florida Statutes, is amended to read:

394.4615 Clinical records; confidentiality.—

(2) The clinical record shall be released when:

(d) The patient is committed to, or is to be returned to, the Department of Corrections from the Department of Children and Family ~~Health and Rehabilitative~~ Services, and the Department of Corrections requests such records. These records shall be furnished without charge to the Department of Corrections.

Section 99. Paragraph (b) of subsection (1) of section 394.4781, Florida Statutes, 1998 Supplement, is amended to read:

394.4781 Residential care for psychotic and emotionally disturbed children.—

(1) DEFINITIONS.—As used in this section:

(b) "Department" means the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 100. Section 394.480, Florida Statutes, is amended to read:

394.480 Compact administrator.—Pursuant to said compact, the Secretary of Children and Family ~~Health and Rehabilitative~~ Services shall be the compact administrator who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact of any supplementary agreement or agreements entered into by this state thereunder.

Section 101. Subsections (3) and (7) of section 394.66, Florida Statutes, are amended to read:

394.66 Legislative intent with respect to alcohol, drug abuse, and mental health services.—It is the intent of the Legislature to:

(3) Ensure that all activities of the Department of Children and Family ~~Health and Rehabilitative~~ Services and its contractors are directed toward the coordination of planning efforts in alcohol, drug abuse, and mental health treatment services.

(7) Include alcohol, drug abuse, and mental health services as a component of the integrated service delivery system of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 102. Subsection (14) of section 395.002, Florida Statutes, 1998 Supplement, is amended to read:

395.002 Definitions.—As used in this chapter:

(14) "Hospital bed" means a hospital accommodation which is ready for immediate occupancy, or is capable of being made ready for occupancy within 48 hours, excluding provision of staffing, and which conforms to minimum space, equipment, and furnishings standards as specified by rule of the agency ~~department~~ for the provision of services specified in this section to a single patient.

Section 103. Subsections (1) and (3) of section 395.1027, Florida Statutes, 1998 Supplement, are amended to read:

395.1027 Regional poison control centers.—

(1) There shall be created three accredited regional poison control centers, one each in the north, central, and southern regions of the state. Each regional poison control center shall be affiliated with and physically located in a certified Level I trauma center. Each regional poison control center shall be affiliated with an accredited medical school or college of pharmacy. The regional poison control centers shall be coordinated under the aegis of the Division of Children's Medical Services ~~Program Office~~ in the department.

(3) The Legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive directly from designated regional poison control centers telephonic management advice for acute poisoning emergencies. To facilitate rapid and direct access, telephone numbers for designated regional poison control centers shall be given special prominence. The local exchange telecommunications companies shall print immediately below "911" or other emergency calling instructions on the inside front cover of the telephone directory the words "Poison Information Center," the logo of the American Association of Poison Control Centers, and the telephone number of the local, if applicable, or, if not local, other toll-free telephone number of the Florida Poison Information Center Network. This information shall be outlined and be no less than 1 inch in height by 2 inches in width. Only those facilities satisfying criteria established in the current "Criteria for Certification of a Regional Poison Center" set by the American Association of Poison Control Centers, and the "Standards of the Poison Information Center Program" initiated by the Division of Children's Medical Services ~~Program Office~~ of the Department of Health ~~and Rehabilitative Services~~ shall be permitted to list such facility as a poison information center, poison control center, or poison center. Those centers under a developmental phase-in plan shall be given 2 years from the date of initial 24-hour service implementation to comply with the aforementioned criteria and, as such, will be permitted to be listed as a poison information center, poison control center, or poison center during that allotted time period.

Section 104. Paragraph (c) of subsection (1) of section 395.1055, Florida Statutes, 1998 Supplement, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(c) A comprehensive emergency management plan is prepared and updated annually. Such standards must be included in the rules adopted by the agency after consulting with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records, and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health ~~and Rehabilitative Services~~, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

Section 105. Subsection (6) of section 395.1065, Florida Statutes, is amended to read:

395.1065 Criminal and administrative penalties; injunctions; emergency orders; moratorium.—

(6) In seeking to impose penalties against a facility as defined in s. 394.455 for a violation of part I of chapter 394, the agency is authorized to rely on the investigation and findings by the Department of Health ~~and Rehabilitative Services~~ in lieu of conducting its own investigation.

Section 106. Subsection (8) of section 395.4025, Florida Statutes, is amended to read:

395.4025 Selection of state-approved trauma centers.—

(8) Notwithstanding any provision of chapter 381, a hospital licensed under ss. 395.001-395.3025 that operates a state-approved trauma center may not terminate or substantially reduce the availability of trauma service without providing at least 6 months' notice of its intent to terminate such service. Such notice shall be given to the Department of Health ~~and Rehabilitative Services~~, to all affected local or regional trauma agencies, and to all state-approved trauma centers, hospitals, and emergency medical service providers in the trauma service area.

Section 107. Subsection (9) of section 397.311, Florida Statutes, 1998 Supplement, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII:

(9) "Department" means the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 108. Subsection (3) of section 397.753, Florida Statutes, is amended to read:

397.753 Definitions.—As used in this part:

(3) "Inmate substance abuse services" means any service component as defined in s. 397.311 provided directly by the Department of Corrections and licensed and regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services pursuant to s. 397.406, or provided through contractual arrangements with a service provider licensed pursuant to part II; or any self-help program or volunteer support group operating for inmates.

Section 109. Subsection (6) of section 397.754, Florida Statutes, is amended to read:

397.754 Duties and responsibilities of the Department of Corrections.—The Department of Corrections shall:

(6) In cooperation with other agencies, actively seek to enhance resources for the provision of treatment services for inmates and to develop partner-

ships with other state agencies, including but not limited to the Departments of Children and Family ~~Health and Rehabilitative~~ Services, Education, Community Affairs, and Law Enforcement.

Section 110. Subsection (2) of section 397.801, Florida Statutes, is amended to read:

397.801 Substance abuse impairment coordination.—

(2) The Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Education, the Department of Corrections, the Department of Community Affairs, and the Department of Law Enforcement each shall appoint a policy level staff person to serve as the agency substance abuse impairment coordinator. The responsibilities of the agency coordinator include interagency and intraagency coordination, collection and dissemination of agency-specific data relating to substance abuse impairment, and participation in the development of the state comprehensive plan for substance abuse impairment.

Section 111. Subsection (1) of section 400.0061, Florida Statutes, is amended to read:

400.0061 Legislative findings and intent; long-term care facilities.—

(1) The Legislature finds that conditions in long-term care facilities in this state are such that the rights, health, safety, and welfare of residents are not ensured by rules of the Department of Elderly Affairs ~~Health and Rehabilitative Services~~ or the Agency for Health Care Administration, or by the good faith of owners or operators of long-term care facilities. Furthermore, there is a need for a formal mechanism whereby a long-term care facility resident or his or her representative may make a complaint against the facility or its employees, or against other persons who are in a position to restrict, interfere with, or threaten the rights, health, safety, or welfare of the resident. The Legislature finds that concerned citizens are more effective advocates of the rights of others than governmental agencies. The Legislature further finds that in order to be eligible to receive an allotment of funds authorized and appropriated under the federal Older Americans Act, the state must establish and operate an Office of State Long-Term Care Ombudsman, to be headed by the State Long-Term Care Ombudsman, and carry out a long-term care ombudsman program.

Section 112. Paragraph (f) of subsection (2) of section 400.0065, Florida Statutes, is amended to read:

400.0065 State Long-Term Care Ombudsman; duties and responsibilities; conflict of interest.—

(2) The State Long-Term Care Ombudsman shall have the duty and authority to:

(f) Perform the duties specified in state and federal law without interference by officials of the Department of Elderly Affairs, the Agency for Health Care Administration, or the Department of Children and Family ~~Health and~~

~~Rehabilitative~~ Services. The ombudsman shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives whenever organizational or departmental policy issues threaten the ability of the Office of State Long-Term Care Ombudsman to carry out its duties under state or federal law.

Section 113. Paragraphs (f) and (h) of subsection (2) of section 400.0067, Florida Statutes, are amended to read:

400.0067 Establishment of State Long-Term Care Ombudsman Council; duties; membership.—

(2) The State Long-Term Care Ombudsman Council shall:

(f) Be authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties, including assistance from the adult protective services program of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(h) Prepare an annual report describing the activities carried out by the ombudsman and the State Long-Term Care Ombudsman Council in the year for which the report is prepared. The State Long-Term Care Ombudsman Council shall submit the report to the Commissioner of the United States Administration on Aging, the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, the chairpersons of appropriate House and Senate committees, the Secretaries of Elderly Affairs and Children and Family ~~Health and Rehabilitative~~ Services, and the Director of Health Care Administration. The report shall be submitted at least 30 days before the convening of the regular session of the Legislature and shall, at a minimum:

1. Contain and analyze data collected concerning complaints about and conditions in long-term care facilities.

2. Evaluate the problems experienced by residents of long-term care facilities.

3. Contain recommendations for improving the quality of life of the residents and for protecting the health, safety, welfare, and rights of the residents.

4. Analyze the success of the ombudsman program during the preceding year and identify the barriers that prevent the optimal operation of the program. The report of the program's successes shall also address the relationship between the state long-term care ombudsman program, the Department of Elderly Affairs, the Agency for Health Care Administration, and the Department of Children and Family ~~Health and Rehabilitative~~ Services, and an assessment of how successfully the state long-term care ombudsman program has carried out its responsibilities under the Older Americans Act.

5. Provide policy and regulatory and legislative recommendations to solve identified problems; resolve residents' complaints; improve the quality of care and life of the residents; protect the health, safety, welfare, and

rights of the residents; and remove the barriers to the optimal operation of the state long-term care ombudsman program.

6. Contain recommendations from the district ombudsman councils regarding program functions and activities.

7. Include a report on the activities of the legal advocate and other legal advocates acting on behalf of the district and state councils.

Section 114. Subsections (4) and (9) of section 400.0069, Florida Statutes, are amended to read:

400.0069 District long-term care ombudsman councils; duties; membership.—

(4) Each district ombudsman council shall be composed of no less than 15 members and no more than 30 members from the district, to include the following: one medical or osteopathic physician whose practice includes or has included a substantial number of geriatric patients and who may have limited practice in a long-term care facility; one registered nurse who has geriatric experience, if possible; one licensed pharmacist; one registered dietitian; at least six nursing home residents or representative consumer advocates for nursing home residents; at least three residents of assisted living facilities or adult family-care homes or three representative consumer advocates for long-term care facility residents; one attorney; and one professional social worker. In no case shall the medical director of a long-term care facility or an employee of the Agency for Health Care Administration, the Department of Children and Family ~~Health and Rehabilitative~~ Services, or the Department of Elderly Affairs serve as a member or as an ex officio member of a council. Each member of the council shall certify that neither the council member nor any member of the council member's immediate family has any conflict of interest pursuant to subsection (10). District ombudsman councils are encouraged to recruit council members who are 60 years of age or older.

(9) The district ombudsman councils are authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of their duties. All state agencies shall cooperate with the district ombudsman councils in providing requested information and agency representatives at council meetings. The Department of Children and Family ~~Health and Rehabilitative~~ Services shall continue to provide space and in-kind administrative support for each district ombudsman council staff within available resources until the Legislature appropriates funds for office space and administrative support.

Section 115. Paragraphs (c) and (e) of subsection (2) of section 400.0075, Florida Statutes, are amended to read:

400.0075 Complaint resolution procedures.—

(2) Upon referral from the district ombudsman council, the state ombudsman council shall assume the responsibility for the disposition of the complaint. If a long-term care facility fails to take action on a complaint found valid by the state ombudsman council, the state council may:

(c) Recommend to the agency changes in rules for inspecting and licensing or certifying long-term care facilities, and recommend to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ changes in rules for licensing and regulating long-term care facilities.

(e) Recommend to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ that the long-term care facility no longer receive payments under the State Medical Assistance Program (Medicaid).

If the health, safety, welfare, or rights of the resident are in imminent danger, the State Long-Term Care Ombudsman Council shall seek immediate legal or administrative remedies to protect the resident.

Section 116. Section 400.0089, Florida Statutes, is amended to read:

400.0089 Agency reports.—The State Long-Term Care Ombudsman Council, shall, in cooperation with the Department of Elderly Affairs, maintain a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and to residents, for the purpose of identifying and resolving significant problems. The council shall submit such data as part of its annual report required pursuant to s. 400.0067(2)(h) to the Agency for Health Care Administration, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Statewide Human Rights Advocacy Committee, the Advocacy Center for Persons with Disabilities, the Commissioner for the United States Administration on Aging, the National Ombudsman Resource Center, and any other state or federal entities that the ombudsman determines appropriate.

Section 117. Subsection (6) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

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

Section 118. Paragraph (c) of subsection (1) of section 400.022, Florida Statutes, is amended to read:

400.022 Residents' rights.—

(1) All licensees of nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the following:

(c) Any entity or individual that provides health, social, legal, or other services to a resident has the right to have reasonable access to the resident. The resident has the right to deny or withdraw consent to access at any time by any entity or individual. Notwithstanding the visiting policy of the facil-

ity, the following individuals must be permitted immediate access to the resident:

1. Any representative of the federal or state government, including, but not limited to, representatives of the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Agency for Health Care Administration, and the Department of Elderly Affairs; any law enforcement officer; members of the state or district ombudsman council; and the resident's individual physician.

2. Subject to the resident's right to deny or withdraw consent, immediate family or other relatives of the resident.

The facility must allow representatives of the State Nursing Home and Long-Term Care Facility Ombudsman Council to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.

Section 119. Subsection (4) and paragraph (c) of subsection (5) of section 400.179, Florida Statutes, are amended to read:

400.179 Sale or transfer of ownership of a nursing facility; liability for Medicaid underpayments and overpayments.—

(4) The transferor shall, prior to transfer of ownership, repay or make arrangements to repay to the agency or the Department of Children and Family ~~Health and Rehabilitative~~ Services any amounts owed to the agency or the department. Should the transferor fail to repay or make arrangements to repay the amounts owed to the agency or the department prior to the transfer of ownership, the issuance of a license to the transferee shall be delayed until repayment or until arrangements for repayment are made.

(5) Because any transfer of a nursing facility may expose the fact that Medicaid may have underpaid or overpaid the transferor, and because in most instances, any such underpayment or overpayment can only be determined following a formal field audit, the liabilities for any such underpayments or overpayments shall be as follows:

(c) Where the facility transfer takes any form of a sale of assets, in addition to the transferor's continuing liability for any such overpayments, if the transferor fails to meet these obligations, the transferee shall be liable for all liabilities that can be readily identifiable 90 days in advance of the transfer. It shall be the burden of the transferee to determine the amount of all such readily identifiable overpayments from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, and the agency ~~department~~ shall cooperate in every way with the identification of such amounts. Readily identifiable overpayments shall include overpayments that will result from, but not be limited to:

1. Medicaid rate changes or adjustments;

2. Any depreciation recapture;

3. Any recapture of fair rental value system indexing; and/or

4. Audits completed by the agency ~~department~~.

The transferor shall remain liable for any such Medicaid overpayments that were not readily identifiable 90 days in advance of the nursing facility transfer.

Section 120. Subsection (2) of section 400.211, Florida Statutes, 1998 Supplement, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(2) The department ~~agency~~ may deny, suspend, or revoke the certification of any person to serve as a nursing assistant, based upon written notification from a court of competent jurisdiction, law enforcement agency, or administrative agency of any finding of guilt of, regardless of adjudication, or a plea of nolo contendere or guilty to, any offense set forth in the level 1 screening standards of chapter 435 or any confirmed report of abuse of a vulnerable adult.

Section 121. Subsections (2) and (4) of section 400.23, Florida Statutes, 1998 Supplement, are amended to read:

400.23 Rules; criteria; Nursing Home Advisory Committee; evaluation and rating system; fee for review of plans.—

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health ~~and Rehabilitative Services~~ and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to:

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents, including an adequate call system. The agency shall establish standards for facilities and equipment to increase the extent to which new facilities and a new wing or floor added to an existing facility after July 1, 1999, are structurally capable of serving as shelters only for residents, staff, and families of residents and staff, and equipped to be self-supporting during and immediately following disasters. The Agency for Health Care Administration shall work with facilities licensed under this part and report to the Governor and Legislature by April 1, 1999, its recommendations for cost-effective renovation standards to be applied to existing facilities. In making such rules, the agency shall be guided by criteria recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The agency shall update or revise such criteria as the need arises. All nursing homes must comply with those lifesafety code requirements and building code standards applicable at the time of approval of their construction plans. The agency may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health, or safety. The agency shall adopt fair and reasonable rules setting

forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards.

(b) The number and qualifications of all personnel, including management, medical, nursing, and other professional personnel, and nursing assistants, orderlies, and support personnel, having responsibility for any part of the care given residents.

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

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

(e) A uniform accounting system.

(f) The care, treatment, and maintenance of residents and measurement of the quality and adequacy thereof, based on rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.

(g) The preparation and annual update of a comprehensive emergency management plan. The agency shall adopt rules establishing minimum criteria for the plan after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health ~~and Rehabilitative Services~~, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(4) The agency, in collaboration with the Division of Children's Medical Services ~~Program Office~~ of the Department of Health ~~and Rehabilitative Services~~, must, no later than December 31, 1993, adopt rules for minimum standards of care for persons under 21 years of age who reside in nursing home facilities. The rules must include a methodology for reviewing a nursing home facility under ss. 408.031-408.045 which serves only persons under 21 years of age.

Section 122. Subsection (2) of section 400.401, Florida Statutes, is amended to read:

400.401 Short title; purpose.—

(2) The purpose of this act is to promote the availability of appropriate services for elderly persons and adults with disabilities in the least restrictive and most homelike environment, to encourage the development of facilities that promote the dignity, individuality, privacy, and decisionmaking ability of such persons, to provide for the health, safety, and welfare of residents of assisted living facilities in the state, to promote continued improvement of such facilities, to encourage the development of innovative and affordable facilities particularly for persons with low to moderate incomes, to ensure that all agencies of the state cooperate in the protection of such residents, and to ensure that needed economic, social, mental health, health, and leisure services are made available to residents of such facilities through the efforts of the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, assisted living facilities, and other community agencies. To the maximum extent possible, appropriate community-based programs must be available to state-supported residents to augment the services provided in assisted living facilities. The Legislature recognizes that assisted living facilities are an important part of the continuum of long-term care in the state. In support of the goal of aging in place, the Legislature further recognizes that assisted living facilities should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities. The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible. Regulations governing these facilities must be sufficiently flexible to allow facilities to adopt policies that enable residents to age in place when resources are available to meet their needs and accommodate their preferences.

Section 123. Subsection (2) of section 400.431, Florida Statutes, is amended to read:

400.431 Closing of facility; notice; penalty.—

(2) Immediately upon the notice by the agency of the voluntary or involuntary termination of such operation, the agency shall monitor the transfer of residents to other facilities and ensure that residents' rights are being protected. The department, in consultation with the Department of Children and Family ~~Health and Rehabilitative~~ Services, shall specify procedures for ensuring that all residents who receive services are appropriately relocated.

Section 124. Section 400.434, Florida Statutes, is amended to read:

400.434 Right of entry and inspection.—Any duly designated officer or employee of the department, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the agency, the state or local fire marshal, or a member of the state or district long-term care ombudsman council shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any

premises which the agency has reason to believe is being operated or maintained as a facility without a license; but no such entry or inspection of any premises may be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing such entry. The warrant requirement shall extend only to a facility which the agency has reason to believe is being operated or maintained as a facility without a license. Any application for a license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints. Any current valid license shall constitute unconditional permission for, and complete acquiescence in, any entry or inspection of the premises by authorized personnel. The agency shall retain the right of entry and inspection of facilities that have had a license revoked or suspended within the previous 24 months, to ensure that the facility is not operating unlawfully. However, before entering the facility, a statement of probable cause must be filed with the director of the agency, who must approve or disapprove the action within 48 hours. Probable cause shall include, but is not limited to, evidence that the facility holds itself out to the public as a provider of personal care services or the receipt of a complaint by the long-term care ombudsman council about the facility.

Section 125. Paragraphs (f) and (g) of subsection (1) of section 400.4415, Florida Statutes, are amended to read:

400.4415 Assisted living facilities advisory committee.—

(1) There is created the assisted living facilities advisory committee, which shall assist the agency in developing and implementing a pilot rating system for facilities. The committee shall consist of nine members who are to be appointed by, and report directly to, the director of the agency. The membership is to include:

(f) One representative from the ~~aging and~~ adult services program of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(g) One representative from the alcohol, drug abuse, and mental health program of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 126. Subsection (3) of section 400.462, Florida Statutes, is amended to read:

400.462 Definitions.—As used in this part, the term:

(3) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 127. Subsection (11) of section 400.471, Florida Statutes, 1998 Supplement, is amended to read:

400.471 Application for license; fee; provisional license; temporary permit.—

(11) The agency ~~department~~ shall not issue a license designated as certified to a home health agency which fails to receive a certificate of need under the provisions of ss. 408.031-408.045.

Section 128. Subsection (1) of section 400.914, Florida Statutes, 1998 Supplement, is amended to read:

400.914 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities and healthful programs, the agency in conjunction with the Division of Children's Medical Services of the Department of Health shall adopt and publish rules to implement the provisions of this part, which shall include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or city ordinances shall be resolved in favor of those having statewide effect. Such standards shall relate to:

(a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services.

(b) The maintenance of PPEC centers, not in conflict with the provisions of chapter 553 and based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served.

(c) The appropriate provisions of the most recent edition of the "Life Safety Code" (NFPA-101) shall be applied.

(d) The number and qualifications of all personnel who have responsibility for the care of the children served.

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served.

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians.

(g) Supportive, contracted, other operational, and transportation services.

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs. Such records shall be maintained in the facility for inspection by the agency.

Section 129. Section 402.04, Florida Statutes, is amended to read:

402.04 Award of scholarships and stipends; disbursement of funds; administration.—The award of scholarships or stipends provided for herein shall be made by the Department of Children and Family ~~Health and Rehabilitative~~ Services, hereinafter referred to as the department. The department shall handle the administration of the scholarship or stipend and the Department of Education shall, for and on behalf of the department, handle the notes issued for the payment of the scholarships or stipends provided for herein and the collection of same. The department shall prescribe regulations governing the payment of scholarships or stipends to the school, college, or university for the benefit of the scholarship or stipend holders. All scholarship awards, expenses and costs of administration shall be paid from moneys appropriated by the Legislature and shall be paid upon vouchers approved by the department and properly certified by the Comptroller.

Section 130. Section 402.06, Florida Statutes, is amended to read:

402.06 Notes required of scholarship holders.—Each person who receives a scholarship or stipend as provided for in this chapter shall execute a promissory note under seal, on forms to be prescribed by the Department of Education, which shall be endorsed by his or her parent or guardian or, if the person is 18 years of age or older, by some responsible citizen and shall deliver said note to the Department of Children and Family ~~Health and Rehabilitative~~ Services. Each note shall be payable to the state and shall bear interest at the rate of 5 percent per annum beginning 90 days after completion or termination of the training program. Said note shall provide for all costs of collection to be paid by the maker of the note. Said note shall be delivered by the Department of Children and Family ~~Health and Rehabilitative~~ Services to said Department of Education for collection and final disposition.

Section 131. Subsections (1) and (7) of section 402.07, Florida Statutes, are amended to read:

402.07 Payment of notes.—Prior to the award of a scholarship or stipend provided herein for trainees in psychiatric social work, psychiatry, clinical psychology, or psychiatric nursing, the recipient thereof must agree in writing to practice his or her profession in the employ of any one of the following institutions or agencies for 1 month for each month of grant immediately after graduation or, in lieu thereof, to repay the full amount of the scholarship or stipend together with interest at the rate of 5 percent per annum over a period not to exceed 10 years:

(1) The staff of one of the state hospitals of the ~~Division of~~ Mental Health Program Office.

(7) Such other accredited social agencies or state institutions as may be approved by the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 132. Section 402.12, Florida Statutes, is amended to read:

402.12 National Community Mental Health Centers Act.—Any federal funds accruing to the state for the purposes of carrying out the national

Community Mental Health Centers Act of 1963 shall be paid to the Department of Children and Family ~~Health and Rehabilitative~~ Services for expenditure as directed by said department.

Section 133. Section 402.16, Florida Statutes, is amended to read:

402.16 Proceedings by department.—

(1) Whenever it becomes necessary for the welfare and convenience of any of the institutions now under the supervision and control of the Department of Children and Family ~~Health and Rehabilitative~~ Services, or which may hereafter be placed under the supervision and control of said department, to acquire private property for the use of any of said institutions, and the same cannot be acquired by agreement satisfactory to the said department and the parties interested in, or the owners of said private property, the department is hereby empowered and authorized to exercise the right of eminent domain, and to proceed to condemn the said property in the same manner as provided by law for the condemnation of property.

(2) Any suit or actions brought by the said department to condemn property as provided in this section shall be brought in the name of the Department of Children and Family ~~Health and Rehabilitative~~ Services, and it shall be the duty of the Department of Legal Affairs to conduct the proceedings for, and to act as counsel for the said Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 134. Subsections (1) and (4) and paragraphs (a), (b), (d), and (g) of subsection (7) of section 402.165, Florida Statutes, 1998 Supplement, are amended to read:

402.165 Statewide Human Rights Advocacy Committee; confidential records and meetings.—

(1) There is created within the Department of Children and Family ~~Health and Rehabilitative~~ Services a Statewide Human Rights Advocacy Committee. The Department of Children and Family ~~Health and Rehabilitative~~ Services shall provide administrative support and service to the committee to the extent requested by the executive director within available resources. The Statewide Human Rights Advocacy Committee shall not be subject to control, supervision, or direction by the Department of Children and Family ~~Health and Rehabilitative~~ Services in the performance of its duties. The committee shall consist of 15 citizens, one from each service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services, who broadly represent the interests of the public and the clients of that department. The members shall be representative of five groups of citizens as follows: one elected public official; two providers who deliver services or programs to clients of the Department of Children and Family ~~Health and Rehabilitative~~ Services; four nonsalaried representatives of nonprofit agencies or civic groups; four representatives of health and rehabilitative services consumer groups who are currently receiving, or have received, services from the Department of Children and Family ~~Health and Rehabilitative~~ Services within the past 4 years, at least one of whom must be a consumer; and four residents of the state who do not represent any of

the foregoing groups, two of whom represent health-related professions and two of whom represent the legal profession. In appointing the representatives of the health-related professions, the appointing authority shall give priority of consideration to a physician licensed under chapter 458 or chapter 459; and, in appointing the representatives of the legal profession, the appointing authority shall give priority of consideration to a member in good standing of The Florida Bar. Except for the member who is an elected public official, each member of the Statewide Human Rights Advocacy Committee must have served as a member of a district human rights advocacy committee. Persons related to each other by consanguinity or affinity within the third degree may not serve on the Statewide Human Rights Advocacy Committee at the same time.

(4) The Governor shall fill each vacancy on the Statewide Human Rights Advocacy Committee from a list of nominees submitted by the statewide committee. A list of candidates shall be submitted to the statewide committee by the district human rights advocacy committee in the district from which the vacancy occurs. Priority of consideration shall be given to the appointment of an individual whose primary interest, experience, or expertise lies with a major client group of the Department of Children and Family ~~Health and Rehabilitative~~ Services not represented on the committee at the time of the appointment. If an appointment is not made within 60 days after a vacancy occurs on the committee, the vacancy shall be filled by a majority vote of the statewide committee without further action by the Governor. No person who is employed by the Department of Children and Family ~~Health and Rehabilitative~~ Services may be appointed to the committee.

(7) The responsibilities of the committee include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(b) Monitoring by site visit and inspection of records, the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. The Statewide Human Rights Advocacy Committee may conduct an unannounced site visit or monitoring visit that involves the inspection of records if such visit is conditioned upon a complaint. A complaint may be generated by the committee itself if information from the Department of Children and Family ~~Health and Rehabilitative~~ Services or other sources indicates a situation at the program or facility that indicates possible abuse or neglect of clients. The Statewide Human Rights Advocacy Committee shall establish and follow uniform criteria for the review of information and generation of complaints. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(d) Reviewing existing programs or services and new or revised programs of the Department of Children and Family ~~Health and Rehabilitative~~ Ser-

vices and making recommendations as to how the rights of clients are affected.

(g) Developing and adopting uniform procedures to be used to carry out the purpose and responsibilities of the human rights advocacy committees, which procedures shall include, but need not be limited to, the following:

1. The responsibilities of the committee;

2. The organization and operation of the statewide committee and district committees, including procedures for replacing a member, formats for maintaining records of committee activities, and criteria for determining what constitutes a conflict of interest for purposes of assigning and conducting investigations and monitoring;

3. Uniform procedures for the statewide committee and district committees to receive and investigate reports of abuse of constitutional or human rights;

4. The responsibilities and relationship of the district human rights advocacy committees to the statewide committee;

5. The relationship of the committee to the Department of Children and Family ~~Health and Rehabilitative~~ Services, including the way in which reports of findings and recommendations related to reported abuse are given to the Department of Children and Family ~~Health and Rehabilitative~~ Services;

6. Provision for cooperation with the State Long-Term Care Ombudsman Council;

7. Procedures for appeal. An appeal to the state committee is made by a district human rights advocacy committee when a valid complaint is not resolved at the district level. The statewide committee may appeal an unresolved complaint to the secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services. If, after exhausting all remedies, the statewide committee is not satisfied that the complaint can be resolved within the Department of Children and Family ~~Health and Rehabilitative~~ Services, the appeal may be referred to the Governor or the Legislature;

8. Uniform procedures for gaining access to and maintaining confidential information; and

9. Definitions of misfeasance and malfeasance for members of the statewide committee and district committees.

Section 135. Subsections (1) and (2) and paragraphs (a), (b), (d), and (e) of subsection (7) of section 402.166, Florida Statutes, 1998 Supplement, are amended to read:

402.166 District human rights advocacy committees; confidential records and meetings.—

(1) At least one district human rights advocacy committee is created in each service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services. The district human rights advocacy committees shall be subject to direction from and the supervision of the Statewide Human Rights Advocacy Committee. The district administrator shall assign staff to provide administrative support to the committees, and staff assigned to these positions shall perform the functions required by the committee without interference from the department. The district committees shall direct the activities of staff assigned to them to the extent necessary for the committees to carry out their duties. The number and areas of responsibility of the district human rights advocacy committees, not to exceed three in any district, shall be determined by the majority vote of district committee members. However, district II may have four committees. District committees shall meet at facilities under their jurisdiction whenever possible.

(2) Each district human rights advocacy committee shall have no fewer than 7 members and no more than 15 members, 25 percent of whom are or have been clients of the Department of Children and Family ~~Health and Rehabilitative~~ Services within the last 4 years, except that one member of this group may be an immediate relative or legal representative of a current or former client; two providers, who deliver services or programs to clients of the Department of Children and Family ~~Health and Rehabilitative~~ Services; and two representatives of professional organizations, one of whom represents health-related professions and one of whom represents the legal profession. Priority of consideration shall be given to the appointment of at least one medical or osteopathic physician, as defined in chapters 458 and 459, and one member in good standing of The Florida Bar. Priority of consideration shall also be given to the appointment of an individual whose primary interest, experience, or expertise lies with a major client group of the Department of Children and Family ~~Health and Rehabilitative~~ Services not represented on the committee at the time of the appointment. In no case shall a person who is employed by the Department of Children and Family ~~Health and Rehabilitative~~ Services be selected as a member of a committee. At no time shall individuals who are providing contracted services to the Department of Children and Family ~~Health and Rehabilitative~~ Services constitute more than 25 percent of the membership of a district committee. Persons related to each other by consanguinity or affinity within the third degree shall not serve on the same district human rights advocacy committee at the same time. All members of district human rights advocacy committees must successfully complete a standardized training course for committee members within 3 months after their appointment to a committee. A member may not be assigned an investigation which requires access to confidential information prior to the completion of the training course. After he or she completes the required training course, a member of a committee shall not be prevented from participating in any activity of that committee, including investigations and monitoring, except due to a conflict of interest as described in the procedures established by the Statewide Human Rights Advocacy Committee pursuant to subsection (7).

(7) A district human rights advocacy committee shall first seek to resolve a complaint with the appropriate local administration, agency, or program; any matter not resolved by the district committee shall be referred to the

Statewide Human Rights Advocacy Committee. A district human rights advocacy committee shall comply with appeal procedures established by the Statewide Human Rights Advocacy Committee. The duties, actions, and procedures of both new and existing district human rights advocacy committees shall conform to the provisions of this act. The duties of each district human rights advocacy committee shall include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, licensed, or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(b) Monitoring by site visit and inspection of records, the delivery and use of services, programs or facilities operated, funded, regulated or licensed by the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. A district human rights advocacy committee may conduct an unannounced site visit or monitoring visit that involves the inspection of records if such visit is conditioned upon a complaint. A complaint may be generated by the committee itself if information from the Department of Children and Family ~~Health and Rehabilitative~~ Services or other sources indicates a situation at the program or facility that indicates possible abuse or neglect of clients. The district human rights advocacy committees shall follow uniform criteria established by the Statewide Human Rights Advocacy Committee for the review of information and generation of complaints. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(d) Reviewing and making recommendation with respect to the involvement by clients of the Department of Children and Family ~~Health and Rehabilitative~~ Services as subjects for research projects, prior to implementation, insofar as their human rights are affected.

(e) Reviewing existing programs or services and new or revised programs of the Department of Children and Family ~~Health and Rehabilitative~~ Services and making recommendations as to how the rights of clients are affected.

Section 136. Section 402.167, Florida Statutes, is amended to read:

402.167 Department duties relating to the Statewide Human Rights Advocacy Committee and the District Human Rights Advocacy Committees.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall adopt rules which are consistent with law, amended to reflect any statutory changes, which rules address at least the following:

(a) Procedures by which Department of Children and Family ~~Health and Rehabilitative~~ Services district staff refer reports of abuse to district human rights advocacy committees.

(b) Procedures by which client information is made available to members of the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees.

(c) Procedures by which recommendations made by human rights advocacy committees will be incorporated into Department of Children and Family ~~Health and Rehabilitative~~ Services policies and procedures.

(d) Procedures by which committee members are reimbursed for authorized expenditures.

(2) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall provide for the location of district human rights advocacy committees in district headquarters offices and shall provide necessary equipment and office supplies, including, but not limited to, clerical and word processing services, photocopiers, telephone services, and stationery and other necessary supplies.

(3) The secretary shall ensure the full cooperation and assistance of employees of the Department of Children and Family ~~Health and Rehabilitative~~ Services with members and staff of the human rights advocacy committees. Further, the secretary shall ensure that to the extent possible, staff assigned to the Statewide Human Rights Advocacy Committees and District Human Rights Advocacy Committees are free of interference from or control by the department in performing their duties relative to those committees.

Section 137. Section 402.17, Florida Statutes, is amended to read:

402.17 Claims for care and maintenance; trust property.—The Department of Children and Family ~~Health and Rehabilitative~~ Services shall protect the financial interest of the state with respect to claims which the state may have for the care and maintenance of clients of the department. The department shall, as trustee, hold in trust and administer money of clients and property designated for the personal benefit of clients. The department shall act as trustee of clients' money and property entrusted to it in accordance with the usual fiduciary standards applicable generally to trustees, and shall act to protect both the short-term and long-term interests of the clients for whose benefit it is holding such money and property.

(1) CLAIMS FOR CARE AND MAINTENANCE.—

(a) The department shall perform the following acts:

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

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

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

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

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

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

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

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

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

(b) The Department of Children and Family ~~Health and Rehabilitative~~ Services may charge off accounts if it certifies that the accounts are uncollectible after diligent efforts have been made to collect them. If the department certifies an account to the Department of Banking and Finance, setting forth the circumstances upon which it predicates the uncollectibility, and if, pursuant to s. 17.04, the Department of Banking and Finance concurs, the account shall be charged off.

(2) MONEY OR OTHER PROPERTY RECEIVED FOR PERSONAL USE OR BENEFIT OF ANY CLIENT.—The department shall perform the following acts:

(a) Accept and administer in trust, as a trustee having a fiduciary responsibility to a client of the department, any money or other property received for personal use or benefit of that client. In the case of children in the legal custody of the department, following the termination of the parental rights as to that client, until such client leaves the legal custody of the department due to the client's adoption or because the client attains the age of 18 or, in the case of children who are otherwise in the custody of the department, the court having jurisdiction over such client shall have jurisdiction, upon application of the department or other interested party, to review or approve any extraordinary action of the department acting as trustee as to the client's money or other property. When directed by a court of competent jurisdiction, the department may further hold money or property of a person under the age of 18 who has been in the care, custody, or control of the department and who is the subject of a court proceeding during the pendency of that proceeding.

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

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

(c) Withdraw the money and use it to meet current needs of clients. For purposes of this paragraph, "current needs" includes payment of fees assessed under s. 402.33. The amount of money withdrawn by the department to meet current needs of a client shall take into account the need of the department, as the trustee of a client's money and property, to provide for the long-term needs of a client, including, but not limited to, to provide for the need of a client under the age of 18 to have financial resources available to be able to function as an adult upon reaching the age of 18, or to meet the special needs of a client who has a disability and whose special needs cannot otherwise be met by any form of public assistance or family resources, or to maintain the client's eligibility for public assistance, including medical assistance, under state or federal law.

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

(3) DEPOSIT OF FUNDS RECEIVED.—Funds received by the Department of Children and Family ~~Health and Rehabilitative~~ Services in accordance with s. 402.33 shall be deposited into a trust fund for the operation of the department.

(4) DISPOSITION OF UNCLAIMED TRUST FUNDS.—Upon the death of any client affected by the provisions of this section, any unclaimed money held in trust by the department or by the Treasurer for him or her shall be applied first to the payment of any unpaid claim of the state against the client, and any balance remaining unclaimed for a period of 1 year shall escheat to the state as unclaimed funds held by fiduciaries.

(5) LEGAL REPRESENTATION.—To the extent that the budget will permit, the Department of Legal Affairs shall furnish the legal services to carry out the provisions of this section. Upon the request of the Department of Children and Family ~~Health and Rehabilitative~~ Services, the various state and county attorneys shall assist in litigation within their jurisdiction. Such department may retain legal counsel for necessary legal services which cannot be furnished by the Department of Legal Affairs and the various state and county attorneys.

(6) DEPOSIT OR INVESTMENT OF FUNDS OF CLIENTS.—

(a) The Department of Children and Family ~~Health and Rehabilitative~~ Services may deposit any funds of clients in its possession in any bank in the state or may invest or reinvest such funds in bonds or obligations of the United States for the payment of which the full faith and credit of the United

States is pledged. For purposes of deposit only, the funds of any client may be mingled with the funds of any other clients.

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

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

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

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

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

(d) When a client under the age of 18 who has been in the legal custody, care, or control of the department and for whom the department is holding money or property as a trustee leaves the care, custody, and control of the department due to adoption or placement of the client with a relative, or as otherwise directed by a court of competent jurisdiction, the department shall notify that court of the existence of the money and property in the possession of the department either prior to, or promptly after, receiving knowledge of

the change of custody, care, or control. The department shall apply for an order from the court exercising jurisdiction over the client to direct the disposition of the money and property belonging to that client. The court order may establish a trust in which the money and property of the client will be deposited, appoint a guardian of a property as to the money or property of the client, or direct the creation of a Uniform Gifts to Minors Act account on behalf of that client, as the court finds appropriate and under the terms and conditions the court determines appropriate to the circumstances.

Section 138. Subsection (1) of section 402.18, Florida Statutes, is amended to read:

402.18 Welfare trust funds created; use of.—

(1) All moneys now held in any auxiliary, canteen, welfare, donated, or similar fund in any state institution under the jurisdiction of the Department of Children and Family ~~Health and Rehabilitative~~ Services shall be deposited in a welfare trust fund, which fund is hereby created in the State Treasury, or in a place which the department shall designate. The money in the fund of each institution of the department, or which may accrue thereto, is hereby appropriated for the benefit, education, and general welfare of clients in that institution. The general welfare of clients includes, but is not limited to, the establishment of, maintenance of, employment of personnel for, and the purchase of items for resale at canteens or vending machines maintained at the state institutions and for the establishment of, maintenance of, employment of personnel for, and the operation of canteens, hobby shops, recreational or entertainment facilities, sheltered workshops, activity centers, farming projects, or other like facilities or programs at the institutions.

Section 139. Subsection (1) and paragraph (b) of subsection (3) of section 402.181, Florida Statutes, are amended to read:

402.181 State Institutions Claims Program.—

(1) There is created a State Institutions Claims Program, for the purpose of making restitution for property damages and direct medical expenses for injuries caused by shelter children or foster children, or escapees or inmates of state institutions under the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Juvenile Justice, or the Department of Corrections.

(3)

(b) The Department of Legal Affairs shall work with the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Juvenile Justice, and the Department of Corrections to streamline the process of investigations, hearings, and determinations with respect to claims under this section, to ensure that eligible claimants receive restitution within a reasonable time.

Section 140. Section 402.19, Florida Statutes, is amended to read:

402.19 Photographing records; destruction of records; effect as evidence.—The Department of Children and Family ~~Health and Rehabilitative~~ Services may authorize each of the agencies under its supervision and control to photograph, microphotograph, or reproduce on film or prints, such correspondence, documents, records, data, and other information as the department shall determine, and which is not otherwise authorized to be reproduced under chapter 119, whether the same shall be of a temporary or permanent character and whether public, private, or confidential, including that pertaining to patients or inmates of the agencies, and to destroy any of said documents after they have been reproduced. Photographs or microphotographs in the form of film or prints made in compliance with the provisions of this section shall have the same force and effect as the originals thereof would have, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

Section 141. Section 402.20, Florida Statutes, is amended to read:

402.20 County contracts authorized for services and facilities in mental health and retardation areas.—The boards of county commissioners are authorized to provide monetary grants and facilities, and to enter into renewable contracts, for services and facilities, for a period not to exceed 2 years, with public and private hospitals, clinics, and laboratories; other state agencies, departments, or divisions; the state colleges and universities; the community colleges; private colleges and universities; counties; municipalities; towns; townships; and any other governmental unit or nonprofit organization which provides needed facilities for the mentally ill or retarded. These services are hereby declared to be for a public and county purpose. The county commissioners may make periodic inspections to assure that the services or facilities provided under this chapter meet the standards of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 142. Subsection (1) of section 402.24, Florida Statutes, is amended to read:

402.24 Recovery of third-party payments for medical services.—

(1) As used in this section, "medical services" means medical or medically related institutional or noninstitutional services which are provided or paid for by the Department of Health ~~and Rehabilitative Services~~, except for services provided or paid for pursuant to chapter 394 or chapter 397.

Section 143. Section 402.27, Florida Statutes, is amended to read:

402.27 Child care and early childhood resource and referral.—The Department of Children and Family ~~Health and Rehabilitative~~ Services shall establish a statewide child care resource and referral network. Preference shall be given to using the already established central agencies for subsidized child care as the child care resource and referral agency. If the agency cannot comply with the requirements to offer the resource information component or does not want to offer that service, the Department of Children and Family ~~Health and Rehabilitative~~ Services shall select the resource

information agency based upon a request for proposal. At least one child care resource and referral agency must be established in each district of the department, but no more than one may be established in any county. Child care resource and referral agencies shall provide the following services:

(1) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services. These services may include family day care, public and private child care programs, head start, prekindergarten early intervention programs, special education programs for prekindergarten handicapped children, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the WAGES Program, and related family support services. The resource file shall include, but not be limited to:

(a) Type of program.

(b) Hours of service.

(c) Ages of children served.

(d) Number of children served.

(e) Significant program information.

(f) Fees and eligibility for services.

(g) Availability of transportation.

(2) The establishment of a referral process which responds to parental need for information and which is provided with full recognition of the confidentiality rights of parents. Resource and referral programs shall make referrals to licensed child care facilities. Referrals shall be made to an unlicensed child care facility or arrangement only if there is no requirement that the facility or arrangement be licensed.

(3) Maintenance of ongoing documentation of requests for service tabulated through the internal referral process. The following documentation of requests for service shall be maintained by all child care resource and referral agencies:

(a) Number of calls and contacts to the child care information and referral agency component by type of service requested.

(b) Ages of children for whom service was requested.

(c) Time category of child care requests for each child.

(d) Special time category, such as nights, weekends, and swing shift.

(e) Reason that the child care is needed.

(f) Name of the employer and primary focus of the business.

(4) Provision of technical assistance to existing and potential providers of child care services. This assistance may include:

(a) Information on initiating new child care services, zoning, and program and budget development and assistance in finding such information from other sources.

(b) Information and resources which help existing child care services providers to maximize their ability to serve children and parents in their community.

(c) Information and incentives which could help existing or planned child care services offered by public or private employers seeking to maximize their ability to serve the children of their working parent employees in their community, through contractual or other funding arrangements with businesses.

(5) Assistance to families and employers in applying for various sources of subsidy including, but not limited to, subsidized child care, head start, prekindergarten early intervention programs, Project Independence, private scholarships, and the federal dependent care tax credit.

(6) Assistance to state agencies in determining the market rate for child care.

(7) Assistance in negotiating discounts or other special arrangements with child care providers.

(8) Information and assistance to local interagency councils coordinating services for prekindergarten handicapped children.

(9) A child care facility licensed under s. 402.305 and licensed and registered family day care homes must provide the statewide child care and resource and referral agencies with the following information annually:

(a) Type of program.

(b) Hours of service.

(c) Ages of children served.

(d) Fees and eligibility for services.

Section 144. Subsection (3) of section 402.28, Florida Statutes, is amended to read:

402.28 Child Care Plus.—

(3) The child care quality standards for a Child Care Plus facility or home shall be developed by the Department of Children and Family ~~Health and Rehabilitative~~ Services, in consultation with the Department of Education, and shall address, but not be limited to, the following areas:

(a) Child development, including language, cognitive, motor, social, and self-help skill development.

(b) Child health.

(c) Family counseling.

(d) Parent training.

(e) Child nutrition.

(f) Staff credentials.

Section 145. Paragraph (a) of subsection (1) and subsection (9) of section 402.3015, Florida Statutes, are amended to read:

402.3015 Subsidized child care program; purpose; fees; contracts.—

(1) The purpose of the subsidized child care program is to provide quality child care to enhance the development, including language, cognitive, motor, social, and self-help skills of children who are at risk of abuse or neglect and children of low-income families, and to promote financial self-sufficiency and life skills for the families of these children, unless prohibited by federal law. Priority for participation in the subsidized child care program shall be accorded to children under 13 years of age who are:

(a) Determined to be at risk of abuse, neglect, or exploitation and who are currently clients of the department's Children and Families ~~Services~~ Program Office;

(9) The central agency for state subsidized child care or the local service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services shall cooperate with the local interagency coordinating council as defined in s. 230.2305 in the development of written collaborative agreements with each local school district.

(a) The central agency shall develop in consultation with the local interagency council a plan for implementing and conducting a child care program. Such plan shall include the tentative budget and measures for maximizing public resources.

(b) The department shall monitor each subsidized child care provider at least annually to determine compliance with the collaborative agreement facilitated by the local interagency coordinating council. If a provider fails to bring its program into compliance with the agreement or the plan within 3 months after an evaluation citing deficiencies, the department must withhold such administrative funds as have been allocated to the program and which have not yet been released.

Section 146. Subsections (1) and (2) of section 402.3026, Florida Statutes, are amended to read:

402.3026 Full-service schools.—

(1) The State Board of Education and the Department of Health ~~and Rehabilitative Services~~ shall jointly establish full-service schools to serve students from schools that have a student population that has a high risk

of needing medical and social services, based on the results of the demographic evaluations. The full-service schools must integrate the services of the Department of Health ~~and Rehabilitative Services~~ that are critical to the continuity-of-care process. The Department of Health ~~and Rehabilitative Services~~ shall provide services to these high-risk students through facilities established within the grounds of the school. The Department of Health ~~and Rehabilitative Services~~ professionals shall carry out their specialized services as an extension of the educational environment. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, counseling for children at high risk for delinquent behavior and their parents, and adult education.

(2) The Department of Health ~~and Rehabilitative Services~~ shall designate an executive staff director to coordinate the full-service schools program and to act as liaison with the Department of Education to coordinate the provision of health and rehabilitative services in educational facilities.

Section 147. Section 402.3115, Florida Statutes, 1998 Supplement, is amended to read:

402.3115 Elimination of duplicative and unnecessary inspections; abbreviated inspections.—The Department of Children and Family ~~Health and Rehabilitative~~ Services and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, the department and the local governmental agencies shall develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local governmental agencies as being key indicators of whether the child care facility continues to provide quality care and programming. The department and local governmental agencies shall conduct the first meeting not later than August 15, 1996, and shall jointly share administrative responsibilities. The department and local governmental agencies shall report to the Legislature not later than January 15, 1997, regarding the status of implementing this section and any recommendations for statutory changes necessary to further reduce duplicative and unnecessary inspections and fully implement the plan for abbreviated inspections.

Section 148. Paragraph (c) of subsection (1) of section 402.33, Florida Statutes, is amended to read:

402.33 Department authority to charge fees for services provided.—

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

(c) "Department" means the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health.

Section 149. Section 402.35, Florida Statutes, is amended to read:

402.35 Employees.—All personnel of the Department of Children and Family ~~Health and Rehabilitative~~ Services shall be governed by rules and

regulations adopted and promulgated by the Department of Management Services relative thereto except the director and persons paid on a fee basis. The Department of Children and Family ~~Health and Rehabilitative~~ Services may participate with other state departments and agencies in a joint merit system. No federal, state, county, or municipal officer shall be eligible to serve as an employee of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 150. Subsection (1), paragraphs (a), (b), and (c) of subsection (3), paragraph (a) of subsection (5), and subsections (6) and (7) of section 402.40, Florida Statutes, are amended to read:

402.40 Child welfare training academies established; Child Welfare Standards and Training Council created; responsibilities of council; Child Welfare Training Trust Fund created.—

(1) LEGISLATIVE INTENT.—In order to enable the state to provide a systematic approach to staff development and training for dependency program staff that will meet the needs of such staff in their discharge of duties, it is the intent of the Legislature that the Department of Children and Family ~~Health and Rehabilitative~~ Services establish, maintain, and oversee the operation of child welfare training academies in the state. The Legislature further intends that the staff development and training programs that are established will aid in the reduction of poor staff morale and of staff turnover, will positively impact on the quality of decisions made regarding children and families who require assistance from dependency programs, and will afford better quality care of children who must be removed from their families.

(3) CHILD WELFARE STANDARDS AND TRAINING COUNCIL.—

(a) There is created within the Department of Children and Family ~~Health and Rehabilitative~~ Services the Child Welfare Training Council, hereinafter referred to as the council. The 21-member council shall consist of the Commissioner of Education or his or her designee; a member of the judiciary who has experience in the area of dependency and has served at least 3 years in the Juvenile Division of the circuit court, to be appointed by the Chief Justice of the Supreme Court; and 19 members to be appointed by the Secretary of Children and Family ~~Health and Rehabilitative~~ Services as follows:

1. Nine members shall be dependency program staff:

a. An intake supervisor or counselor, a protective services supervisor or counselor, a foster care supervisor or counselor, and an adoption and related services supervisor or counselor. Each such member shall have at least 5 years' experience working with children and families, at least two members shall each have a master's degree in social work, and any member not having a master's degree in social work shall have at least a bachelor's degree in social work, child development, behavioral psychology, or any other discipline directly related to providing care or counseling for families.

b. A representative from a licensed, residential child-caring agency contracted with by the state; a representative from a runaway shelter or similar program primarily serving adolescents, which shelter or program must be contracted with by the state; and a representative from a licensed child-placing agency contracted with by the state. At least two of these members shall each have a master's degree in social work, and any member not having a master's degree in social work shall have a degree as cited in sub-subparagraph a. All three members shall have at least 5 years' experience working with children and families.

c. A family foster home parent and an emergency shelter home parent, both of whom shall have been providing such care for at least 5 years and shall have participated in training for foster parents or shelter parents on an ongoing basis.

2. One member shall be a supervisor or counselor from the WAGES Program.

3. Two members shall be educators from the state's university and community college programs of social work, child development, psychology, sociology, or other field of study pertinent to the training of dependency program staff.

4. One member shall be a pediatrician with expertise in the area of child abuse and neglect.

5. One member shall be a psychiatrist or licensed clinical psychologist with extensive experience in counseling children and families.

6. One member shall be an attorney with extensive experience in the practice of family law.

7. One member shall be a guardian ad litem or a child welfare attorney, either of whom shall have extensive experience in the representation of children.

8. One member shall be a state attorney with experience and expertise in the area of dependency and family law.

9. One member shall be a representative from a local law enforcement unit specializing in child abuse and neglect.

10. One member shall be a lay citizen who is a member of a child advocacy organization.

The initial members of the council shall be appointed within 30 days of the effective date of this section. Of the initial appointments, the member appointed by the Chief Justice of the Supreme Court, three members appointed pursuant to subparagraph 1., one member appointed pursuant to subparagraph 3., and the members specified in subparagraphs 4. and 5. shall be appointed to terms of 3 years each; three members appointed pursuant to subparagraph 1., one of the members appointed pursuant to subparagraph 3., and the members specified in subparagraphs 2., 6., and 7. shall be

appointed for terms of 2 years each; and three members appointed pursuant to subparagraph 1., and the members specified in subparagraphs 8., 9., and 10. shall be appointed to terms of 1 year each. Thereafter, all appointed members shall serve terms of 3 years each. No person shall serve more than two consecutive terms.

(b) The functions of the council shall be to:

1. Advise the department on the overall comprehensive system for both preservice and inservice child welfare competency-based training and the components of such training; curriculum to be used in the training of dependency programs staff; targeting of areas of training and prioritization of dependency program staff to be trained; methods of delivery of the training; timeframes for participation in and completion of training by dependency program staff; location of training academies; types and frequencies of evaluations of the training academies; the budget for the child welfare training academies; and the contractor or contractors to be selected to organize and operate the training academies and to provide the training curriculum.

2. Advise the department on staffing for the council, including the securing of national consultants with expertise in the development of child welfare competency-based training and the securing of Florida professionals to assist in the development of the comprehensive system for training.

3. Review, evaluate, and advise the department concerning revisions, if needed, in both rules and law affecting standards and training for dependency programs.

4. Recommend improvements, if needed, in the administration of dependency programs as it relates to standards and training for dependency program staff, including, but not limited to, the qualifications, recruitment, and retention of such staff.

5. Report annually to the Secretary of Children and Family ~~Health and Rehabilitative~~ Services, the President of the Senate, and the Speaker of the House of Representatives.

(c) The Secretary of Children and Family ~~Health and Rehabilitative~~ Services shall respond to the recommendations of the council in writing. The response shall be forwarded to the council, the President of the Senate, and the Speaker of the House of Representatives.

(5) CHILD WELFARE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of funding a comprehensive system of child welfare training, including the securing of consultants to develop the system, the staff of the council, the expenses of the council members, the child welfare training academies and the participation of dependency program staff in the training.

(6) TIMEFRAME FOR ESTABLISHMENT OF TRAINING ACADEMIES.—By June 30, 1987, the department shall have established and have

operational at least one training academy, which shall be located in subdistrict IIB. The department shall contract for the operation of the academy with Tallahassee Community College. The number, location, and timeframe for establishment of additional training academies shall be according to the recommendation of the council as approved by the Secretary of Children and Family ~~Health and Rehabilitative~~ Services.

(7) ADOPTION OF RULES.—The Department of Children and Family ~~Health and Rehabilitative~~ Services shall adopt rules necessary to carry out the provisions of this section.

Section 151. Subsections (1), (3), (5), (6), (7), (8), and (9) of section 402.45, Florida Statutes, are amended to read:

402.45 Community resource mother or father program.—

(1) The Department of Health ~~and Rehabilitative Services~~ shall establish a community resource mother or father program pursuant to this section within the resources allocated. The purpose of the program shall be to demonstrate the benefits of utilizing community resource mothers or fathers to improve maternal and child health outcomes; to enhance parenting and child development, including the educational enrichment of children through the promotion of increased awareness by mothers and fathers of their own strengths and potentials as home educators; to support family integrity through the provision of social support and parent education and training; to provide assistance to children at high risk for delinquent behavior and their parents; and to provide assistance to high-risk pregnant women and to high-risk or handicapped infants, toddlers, and preschool children and their parents.

(3) The Department of Health ~~and Rehabilitative Services~~ shall contract with county health departments, other public agencies, or not-for-profit agencies, or any combination thereof, to carry out the programs utilizing community resource mother or father services.

(5) The Department of Health ~~and Rehabilitative Services~~ may, in addition to the criteria in subsection (4), require other criteria to contract for community resource mother or father services.

(6) The community resource mother or father program shall be included under the jurisdiction of the State Coordinating Council for Early Childhood Services established pursuant to s. 411.222. The council shall make recommendations for effective implementation of the program and shall advise the Department of Health ~~and Rehabilitative Services~~ in the development of program guidelines, the schedule for implementation, the establishment of evaluation procedures, the provision of technical assistance to individual programs, and the development of the program evaluation report.

(7) The Department of Health ~~and Rehabilitative Services~~ shall develop the program guidelines.

(8) Individuals under contract to provide community resource mother or father services shall participate in preservice and ongoing training as deter-

mined by the Department of Health ~~and Rehabilitative Services~~ in consultation with the State Coordinating Council for Early Childhood Services. A community resource mother or father shall not be assigned a client caseload until all preservice training requirements are completed.

(9) The community resource mother or father shall be assigned a caseload based on the criteria established by the Department of Health ~~and Rehabilitative Services~~, which criteria consider geographic distance, severity of problems on the caseload, and skills needed to address the problems. A plan shall be developed for each case that includes, at a minimum:

(a) A statement of the high-risk pregnant woman's problems or high-risk child's problems and needs.

(b) The goals and objectives of the intervention program.

(c) The services to be provided by the community resource mother or father.

(d) Community resources to be used.

(e) Schedule of visits between community resource mothers or fathers and clients.

Section 152. Subsection (1) of section 402.49, Florida Statutes, is amended to read:

402.49 Mediation process established.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall establish a mediation process for the purpose of resolving disputes that arise between the department and agencies that are operating under contracts with the department.

Section 153. Subsection (1) of section 402.50, Florida Statutes, is amended to read:

402.50 Administrative infrastructure; legislative intent; establishment of standards.—

(1) LEGISLATIVE INTENT.—The Legislature finds evidence of deficiencies in the administrative infrastructure of the Department of Children and Family ~~Health and Rehabilitative~~ Services, hereafter referred to as the "department," that may negatively affect the timeliness and quality of delivery of services. Particularly, the Legislature finds that inadequate client and management information systems have impeded integrated service delivery, that program evaluation activities have been insufficient, that workloads of administrative personnel are excessive, and that clients and service providers have been adversely affected by these administrative deficiencies. It is the intent of the Legislature that the administrative infrastructure of the department be established at levels necessary to support efficient and effective delivery of services. Further, it is the intent of the Legislature that contracts of the department with service providers include established levels

of funding for administrative infrastructure to support efficient and effective delivery of contracted services.

Section 154. Section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(1) It is the intent of the Legislature to provide a program whereby the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health may identify, designate, train, and promote employees with high levels of administrative and management potential in order to meet the need of the departments ~~department~~ for broad-based administrative and managerial knowledge and skills in key positions within the departments ~~department~~.

(2) The departments are ~~department is~~ authorized to establish a management fellows program in order to provide highly qualified career candidates for key administrative and managerial positions in the departments ~~department~~. Such program shall include, but is not limited to:

(a) The identification annually by the secretaries ~~secretary~~, the assistant secretaries, ~~Deputy Secretary for Administration, the Deputy Secretary for Human Services, the Deputy Secretary for Health,~~ and the district administrator in each district of one high-potential career service employee each, to be designated and appointed to serve as a full-time health and rehabilitative services management fellow for a period of 1 year.

(b) The design, development, implementation, and monitoring of a full-time, 1-year placement program based on a self-motivated enrichment plan for each respective fellow in various units of the departments ~~department~~.

(c) The participation of each management fellow in on-the-job management training and inservice administrative training project assignments, supplemented by periodic management workshops, seminars, and courses within and outside the departments ~~department~~.

(3) The departments ~~department~~ shall develop, implement, operate, and monitor the management fellows program provided by this act within existing resources, including the annual identification and allocation of resources necessary to support the training activities of each management fellow.

(4) Notwithstanding the provisions of chapter 110, the departments ~~department~~ may grant special pay increases to management fellows upon successful completion of the program.

(5) The departments ~~department~~ may adopt rules to implement this section.

Section 155. Subsection (3) of section 403.061, Florida Statutes, 1998 Supplement, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in

accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(3) Utilize the facilities and personnel of other state agencies, including the Department of Health ~~and Rehabilitative Services~~, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.

Section 156. Section 403.081, Florida Statutes, is amended to read:

403.081 Performance by other state agencies.—All state agencies, including the Department of Health ~~and Rehabilitative Services~~, shall be available to the department to perform, at its direction, the duties required of the department under this act.

Section 157. Subsections (1) and (3) of section 403.085, Florida Statutes, are amended to read:

403.085 Sanitary sewage disposal units; advanced and secondary waste treatment; industrial waste, ocean outfall, inland outfall, or disposal well waste treatment.—

(1) Neither the Department of Health ~~and Rehabilitative Services~~ nor any other state agency, county, special district, or municipality shall approve construction of any ocean outfall or disposal well for sanitary sewage disposal which does not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the department.

(3) Neither the Department of Health ~~and Rehabilitative Services~~ nor any other state agency, county, special district, or municipality shall approve construction of any ocean outfall, inland outfall, or disposal well for the discharge of industrial waste of any kind which does not provide for secondary waste treatment or such other treatment as is deemed necessary and ordered by the department.

Section 158. Paragraph (a) of subsection (1) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)(a) Neither the Department of Health ~~and Rehabilitative Services~~ nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage disposal which do not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the department.

Section 159. Subsection (1) of section 403.088, Florida Statutes, is amended to read:

403.088 Water pollution operation permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health ~~and Rehabilitative Services~~, in the case of insect control, or the department, in the case of aquatic weed or algae control. The department is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, and safety, as well as environmental factors. Approved programs must provide that only chemicals approved for the particular use by the United States Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, part I of chapter 487.

Section 160. Subsection (37) of section 403.703, Florida Statutes, is amended to read:

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(37) "Biomedical waste" means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health ~~and Rehabilitative Services~~ represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 470.

Section 161. Subsection (3) of section 403.7841, Florida Statutes, is amended to read:

403.7841 Application for certification.—

(3) Within 7 days after filing the application with the department, the applicant shall provide two copies of the application as filed to each of the following: the Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the Game and Fresh Water Fish Commission, the Department of Health ~~and Rehabilitative Services~~, the Department of Agriculture and Consumer Services, and the local governmental entities which have jurisdiction.

Section 162. Subsection (1) of section 403.786, Florida Statutes, is amended to read:

403.786 Report and studies.—

(1) The Department of Community Affairs, the water management district which has jurisdiction over the area wherein the proposed project is to be located, the Department of Transportation, the Game and Fresh Water Fish Commission, the Department of Health ~~and Rehabilitative Services~~, the Department of Agriculture and Consumer Services, and each local government which has jurisdiction shall each submit a report of matters within their jurisdiction to the department within 90 days after their receipt of the application. Any other agency may submit comments relating to matters within its jurisdiction to the department within 90 days after the filing of the application with the Division of Administrative Hearings.

Section 163. Paragraph (g) of subsection (2) of section 403.813, Florida Statutes, 1998 Supplement, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health ~~and Rehabilitative Services~~, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then-existing spoil sites or dikes may be used, upon notification to the department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.

Section 164. Section 403.851, Florida Statutes, is amended to read:

403.851 Declaration of policy; intent.—It is the policy of the state that the citizens of Florida shall be assured of the availability of safe drinking water. Recognizing that this policy encompasses both environmental and public health aspects, it is the intent of the Legislature to provide a water supply program operated jointly by the department, in a lead-agency role of primary responsibility for the program, and by the Department of Health

~~and Rehabilitative Services~~ and its units, including county health departments, in a supportive role with specific duties and responsibilities of its own. Without any relinquishment of Florida's sovereign powers and responsibilities to provide for the public health, public safety, and public welfare of the people of Florida, the Legislature intends:

(1) To give effect to Pub. L. No. 93-523 promulgated under the commerce clause of the United States Constitution, to the extent that interstate commerce is directly affected.

(2) To encourage cooperation between federal, state, and local agencies, not only in their enforcement role, but also in their service and assistance roles to city and county elected bodies.

(3) To provide for safe drinking water at all times throughout the state, with due regard for economic factors and efficiency in government.

Section 165. Paragraph (b) of subsection (12) of section 403.852, Florida Statutes, is amended to read:

403.852 Definitions; ss. 403.850-403.864.—As used in ss. 403.850-403.864:

(12) "Primary drinking water regulation" means a rule which:

(b) Specifies contaminants which, in the judgment of the department, after consultation with the Department of Health ~~and Rehabilitative Services~~, may have an adverse effect on the health of the public;

Section 166. Section 403.855, Florida Statutes, is amended to read:

403.855 Imminent hazards.—In coordination with the Department of Health ~~and Rehabilitative Services~~, the department, upon receipt of information that a contaminant which is present in, or is likely to enter, public or private water supplies may present an imminent and substantial danger to the public health, may take such actions as it may deem necessary in order to protect the public health. Department actions shall include, but are not limited to:

(1) Adopting emergency rules pursuant to s. 120.54(4).

(2) Issuing such corrective orders as may be necessary to protect the health of persons who are or may be users of such supplies, including travelers. An order issued by the department under this section shall become effective upon service of such order on the alleged violator, notwithstanding the provisions of s. 403.860(3).

(3) Establishing a program designed to prevent contamination or to minimize the danger of contamination to potable water supplies.

(4) Contracting for clinical tests on samples of the affected population if the department determines there is a real and immediate danger to the public health.

(5) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

Section 167. Section 403.856, Florida Statutes, is amended to read:

403.856 Plan for emergency provision of water.—The department shall adopt an adequate plan, after consultation with the Department of Health ~~and Rehabilitative Services~~, for the provision of safe drinking water under emergency circumstances. When, in the judgment of the department, emergency circumstances exist in the state with respect to a need for safe drinking water, it may issue such rule or order as it may deem necessary in order to provide such water where it would not otherwise be available.

Section 168. Section 403.858, Florida Statutes, is amended to read:

403.858 Inspections.—Any duly authorized representative of the department or of the Department of Health ~~and Rehabilitative Services~~ may enter, take water samples from, and inspect any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a public water system is located or is being constructed or installed, at any reasonable time, for the purpose of ascertaining the state of compliance with the law or with rules or orders of the department.

Section 169. Subsection (4) of section 403.859, Florida Statutes, is amended to read:

403.859 Prohibited acts.—The following acts and the causing thereof are prohibited and are violations of this act:

(4) Failure by a supplier of water to allow any duly authorized representative of the department or of the Department of Health ~~and Rehabilitative Services~~ to conduct inspections pursuant to s. 403.858.

Section 170. Subsections (11) and (15) of section 403.861, Florida Statutes, 1998 Supplement, are amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(11) Establish and maintain laboratories for radiological, microbiological, and chemical analyses of water samples from public water systems, if the department determines that an additional laboratory capability beyond that provided by the Department of Health ~~and Rehabilitative Services~~ is necessary.

(15) Establish and collect fees for conducting state laboratory analyses as may be necessary, to be collected and used by either the department or the Department of Health ~~and Rehabilitative Services~~ in conducting its public water supply laboratory functions.

Section 171. Subsections (1), (2), (3), (4), (5), and (6) of section 403.862, Florida Statutes, are amended to read:

403.862 Department of Health ~~and Rehabilitative Services~~; public water supply duties and responsibilities; coordinated budget requests with department.—

(1) Recognizing that supervision and control of county health departments of the Department of Health ~~and Rehabilitative Services~~ is retained by the secretary of that agency, and that public health aspects of the state public water supply program require joint participation in the program by the Department of Health ~~and Rehabilitative Services~~ and its units and the department, the Department of Health ~~and Rehabilitative Services~~ shall:

(a) Establish and maintain laboratories for the conducting of radiological, microbiological, and chemical analyses of water samples from public water systems, which are submitted to such laboratories for analysis. Copies of the reports of such analyses and quarterly summary reports shall be submitted to the appropriate department district or subdistrict office.

(b) Require each county health department to:

1. Collect such water samples for analysis as may be required by the terms of this act, from public water systems within its jurisdiction. The duty to collect such samples may be shared with the appropriate department district or subdistrict office and shall be coordinated by field personnel involved.

2. Submit the collected water samples to the appropriate laboratory for analysis.

3. Maintain reports of analyses for its own records.

4. Conduct complaint investigation of public water systems to determine compliance with federal, state, and local standards and permit compliance.

5. Notify the appropriate department district or subdistrict office of potential violations of federal, state, and local standards and permit conditions by public water systems and assist the department in enforcement actions with respect to such violations to the maximum extent practicable.

6. Review and evaluate laboratory analyses of water samples from private water systems.

(c) Require those county health departments designated by the Department of Health ~~and Rehabilitative Services~~ and approved by the department as having qualified sanitary engineering staffs and available legal resources, in addition to the duties prescribed in paragraph (b), to:

1. Review, evaluate, and approve or disapprove each application for the construction, modification, or expansion of a public water system to determine compliance with federal, state, and local requirements. A copy of the completed permit application and a report of the final action taken by the county health department shall be forwarded to the appropriate department district office.

2. Review, evaluate, and approve or disapprove applications for the expansion of distribution systems. Written notification of action taken on such applications shall be forwarded to the appropriate department district or subdistrict office.

3. Maintain inventory, operational, and bacteriological records and carry out monitoring, surveillance, and sanitary surveys of public water systems to ensure compliance with federal, state, and local regulations.

4. Participate in educational and training programs relating to drinking water and public water systems.

5. Enforce the provisions of this part and rules adopted under this part.

(d) Require those county health departments designated by the Department of Health ~~and Rehabilitative Services~~ as having the capability of performing bacteriological analyses, in addition to the duties prescribed in paragraph (b), to:

1. Perform bacteriological analyses of water samples submitted for analysis.

2. Submit copies of the reports of such analyses to the appropriate department district or subdistrict office.

(e) Make available to the central and branch laboratories funds sufficient, to the maximum extent possible, to carry out the public water supply functions and responsibilities required of such laboratories as provided in this section.

(f) Have general supervision and control over all private water systems and all public water systems not otherwise covered or included in this part. This shall include the authority to adopt and enforce rules to protect the health, safety, or welfare of persons being served by all private water systems and all public water systems not otherwise covered by this part.

(g) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.

(h) Upon request, consult with and advise any county or municipal authority as to water supply activities.

(2) Funds appropriated to support activities of county health departments of the Department of Health ~~and Rehabilitative Services~~ pursuant to this act shall be deposited to the County Health Department Trust Fund and used exclusively for the purposes of this act.

(3) The Department of Health ~~and Rehabilitative Services~~ and the department shall coordinate their respective budget requests to ensure that sufficient funding is provided to the Department of Health ~~and Rehabilitative Services~~ in order that it may carry out its public water supply functions and responsibilities as provided in this section. In the event the Department of Health ~~and Rehabilitative Services~~ lacks sufficient funds in any fiscal

year to the extent that it is unable adequately to carry out its public water supply duties, an interagency agreement may be entered into between the two departments in order to remedy administratively, either through the transfer of funds or of services, the lack of sufficient public water supply funds within the Department of Health ~~and Rehabilitative Services~~.

(4) If the department determines that a county health department or other unit of the Department of Health ~~and Rehabilitative Services~~ is not performing its public water supply responsibilities satisfactorily, the secretary of the department shall certify such determination in writing to the Secretary of Health ~~and Rehabilitative Services~~. The Secretary of Health ~~and Rehabilitative Services~~ shall evaluate the determination of the department and shall inform the secretary of the department of his or her evaluation. Upon concurrence, the Secretary of Health ~~and Rehabilitative Services~~ shall take immediate corrective action.

(5) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the Secretary of Health ~~and Rehabilitative Services~~ relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

(6) No county health department may be designated and approved unless it can carry out all functions of the drinking water program. Each year, the department, in conjunction with the Department of Health ~~and Rehabilitative Services~~, shall review approved county health departments to determine continued qualification for approved status. To receive and maintain approved status, a county health department shall meet the following criteria and other reasonable and necessary requirements established by the department for its district offices:

(a) The staff shall be under the direction of a qualified individual who is a registered professional engineer in Florida pursuant to chapter 471.

(b) The county health department shall have sufficient legal resources to carry out the requirements of this part.

Section 172. Section 403.8635, Florida Statutes, is amended to read:

403.8635 State drinking water sample laboratory certification program.—

(1) In addition to certifying laboratories pursuant to s. 403.863, the Department of Health ~~and Rehabilitative Services~~ is authorized to establish a periodic certification and approval program for laboratories that perform analyses of drinking water samples, which program will assure the acceptable quality, reliability, and validity of all testing results.

(2) The Department of Health ~~and Rehabilitative Services~~ has the responsibility for the operation and implementation of laboratory certification pursuant to this section, except that, upon completion of the evaluation and review of an application for laboratory certification, the evaluation shall be forwarded, along with recommendations, to the department for review and comment prior to final approval or disapproval.

(3) The Department of Health ~~and Rehabilitative Services~~ is authorized to charge and collect fees for the evaluation and certification of laboratories pursuant to this part. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health ~~and Rehabilitative Services~~ in the administration and operation of this program. All fees shall be deposited in a trust fund administered by the Department of Health ~~and Rehabilitative Services~~ to be used for the sole purpose of this section.

Section 173. Section 403.864, Florida Statutes, is amended to read:

403.864 Public water supply accounting program.—

(1) It is the intent of the Legislature to require a yearly accounting of funds, overhead, personnel, and property used by the department and the Department of Health ~~and Rehabilitative Services~~ and its units, including each of the county health departments, in conducting their respective responsibilities for the state public water supply program. Such accounting shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department and the Department of Health ~~and Rehabilitative Services~~ no later than February 1 of each year.

(2) In furtherance of this intent, the Department of Health ~~and Rehabilitative Services~~, the department, and the Auditor General shall jointly develop an accounting program for use by the department and the Department of Health ~~and Rehabilitative Services~~ and its units, including the county health departments, to determine the funds, overhead, personnel, and property used by each of the departments in conducting its respective public water supply functions and responsibilities for each fiscal year. The accounting program shall provide information sufficient to satisfy state auditing and federal grant and aid reporting requirements and shall include provisions requiring the Department of Health ~~and Rehabilitative Services~~ to:

(a) Segregate, from an accounting standpoint, funds distributed to county health departments for public water supply functions from other county health department trust funds.

(b) Segregate, from an accounting standpoint, funds distributed to the central and branch laboratories of the Department of Health ~~and Rehabilitative Services~~ for public water supply functions from other laboratory funds.

(c) Require each county health department, the central and each branch laboratory of the Department of Health ~~and Rehabilitative Services~~, and any other entity of the Department of Health ~~and Rehabilitative Services~~ involved in and carrying out public water supply functions to account to the Department of Health ~~and Rehabilitative Services~~ on a semiannual basis for the funds received, from whatever source, and used for public water supply functions.

(d) Require each county health department, the central and each branch laboratory of the Department of Health ~~and Rehabilitative Services~~, and any

other entity of the Department of Health ~~and Rehabilitative Services~~ involved in carrying out public water supply functions either wholly or partially with funds, either federal or state, received from the department through an interagency agreement or other means to account to the department on a semiannual basis for such funds received and used for public water supply functions.

Section 174. Paragraph (c) of subsection (1) of section 406.02, Florida Statutes, is amended to read:

406.02 Medical Examiners Commission; membership; terms; duties; staff.—

(1) There is created the Medical Examiners Commission within the Department of Law Enforcement. The commission shall consist of nine persons appointed or selected as follows:

(c) One member shall be the Secretary of Health ~~Deputy Assistant Secretary for Health of the Department of Health and Rehabilitative Services~~ or her or his designated representative.

Section 175. Paragraph (b) of subsection (2) of section 408.033, Florida Statutes, is amended to read:

408.033 Local and state health planning.—

(2) FUNDING.—

(b)1. A hospital licensed under chapter 395, a nursing home licensed under chapter 400, and an assisted living facility licensed under chapter 400 shall be assessed an annual fee based on number of beds.

2. All other facilities and organizations listed in paragraph (a) shall each be assessed an annual fee of $150.

3. Facilities operated by the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, or the Department of Corrections and any hospital which meets the definition of rural hospital pursuant to s. 395.602 are exempt from the assessment required in this subsection.

Section 176. Paragraphs (c), (d), and (g) of subsection (3) of section 408.05, Florida Statutes, 1998 Supplement, are amended to read:

408.05 State Center for Health Statistics.—

(3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to produce comparable and uniform health information and statistics, the agency shall perform the following functions:

(c) Review the statistical activities of the Department of Health ~~and Rehabilitative Services~~ to assure that they are consistent with the comprehensive health information system.

(d) Develop written agreements with local, state, and federal agencies for the sharing of health-care-related data or using the facilities and services of such agencies. State agencies, local health councils, and other agencies under contract with the Department of Health ~~and Rehabilitative Services~~ shall assist the center in obtaining, compiling, and transferring health-care-related data maintained by state and local agencies. Written agreements must specify the types, methods, and periodicity of data exchanges and specify the types of data that will be transferred to the center.

(g) Establish minimum health-care-related data sets which are necessary on a continuing basis to fulfill the collection requirements of the center and which shall be used by state agencies in collecting and compiling health-care-related data. The agency shall periodically review ongoing health care data collections of the Department of Health ~~and Rehabilitative Services~~ and other state agencies to determine if the collections are being conducted in accordance with the established minimum sets of data.

Section 177. Paragraph (a) of subsection (4) of section 408.061, Florida Statutes, 1998 Supplement, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidentiality of patient records; immunity.—

(4)(a) Within 120 days after the end of its fiscal year, each health care facility shall file with the agency, on forms adopted by the agency and based on the uniform system of financial reporting, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports which are certified to be complete and accurate by the provider. However, hospitals' actual financial experience shall be their audited actual experience. Nursing homes that do not participate in the Medicare or Medicaid programs shall also submit audited actual experience. Every nursing home shall submit to the agency, in a format designated by the agency, a statistical profile of the nursing home residents. The agency, in conjunction with the Department of Elderly Affairs and the Department of Health ~~and Rehabilitative Services~~, shall review these statistical profiles and develop recommendations for the types of residents who might more appropriately be placed in their homes or other noninstitutional settings. The agency shall include its findings in the final Florida Health Plan which must be submitted to the Legislature by December 31, 1993. Included in the findings shall be outcome data and cost differential data as part of patient profiles.

Section 178. Subsection (4) of section 408.20, Florida Statutes, 1998 Supplement, is amended to read:

408.20 Assessments; Health Care Trust Fund.—

(4) Hospitals operated by the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, or the Department of Corrections are exempt from the assessments required under this section.

Section 179. Section 408.301, Florida Statutes, is amended to read:

408.301 Legislative findings.—The Legislature has found that access to quality, affordable, health care for all Floridians is an important goal for the state. The Legislature has charged the Agency for Health Care Administration with the responsibility of developing the Florida Health Plan for assuring access to health care for all Floridians. At the same time, the Legislature recognizes that there are Floridians with special health care and social needs which require particular attention. The people served by the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health are examples of citizens with special needs. The Legislature further recognizes that the Medicaid program is an intricate part of the service delivery system for the special needs citizens served by or through the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health. The Agency for Health Care Administration is not a service provider and does not develop or direct programs for the special needs citizens served by or through the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health. Therefore, it is the intent of the Legislature that the Agency for Health Care Administration work closely with the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health in developing plans for assuring access to all Floridians in order to assure that the needs of special citizens are met.

Section 180. Section 408.302, Florida Statutes, is amended to read:

408.302 Interagency agreement.—

(1) The Agency for Health Care Administration shall enter into an interagency agreement with the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health to assure coordination and cooperation in serving special needs citizens. The agreement shall include the requirement that the secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the secretary of the Department of Health approve, prior to adoption, any rule developed by the Agency for Health Care Administration where such rule has a direct impact on the mission of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health, their programs~~, its program~~, or their budgets ~~its budget~~.

(2) For rules which indirectly impact on the mission of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health, their~~, its~~ programs, or their budgets ~~its budget~~, the concurrence of the secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the secretary of the Department of Health on the rule is required.

(3) For all other rules developed by the Agency for Health Care Administration, coordination with the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health is encouraged.

(4) The interagency agreement shall also include any other provisions necessary to ensure a continued cooperative working relationship between

the Agency for Health Care Administration and the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health as each strives to meet the needs of the citizens of Florida.

Section 181. Paragraph (c) of subsection (4) of section 409.166, Florida Statutes, is amended to read:

409.166 Special needs children; subsidized adoption program.—

(4) ELIGIBILITY FOR SERVICES.—

(c) A child who is handicapped at the time of adoption shall be eligible for services of the Division of Children's Medical Services ~~program~~ if the child was eligible for such services prior to the adoption.

Section 182. Paragraph (a) of subsection (1) of section 409.352, Florida Statutes, is amended to read:

409.352 Licensing requirements for physicians, osteopathic physicians, and chiropractic physicians employed by the department.—

(1) It is the intent of the Legislature that physicians providing services in state institutions meet the professional standards of their respective licensing boards and that such institutions make every reasonable effort to assure that all physicians employed are licensed, or will become licensed, in this state. When state-licensed physicians cannot be obtained in sufficient numbers to provide quality services, the licensing requirements in chapters 458, 459, and 460 to the contrary notwithstanding, persons employed as physicians, osteopathic physicians, or chiropractic physicians in a state institution, except those under the control of the Department of Corrections on June 28, 1977, may be exempted from licensure in accordance with the following provisions:

(a) No more than 10 percent of such persons shall be exempted from licensure during their continued employment in a state institution. Those persons who shall be so exempted shall be selected by the secretary of the Department of Health ~~and Rehabilitative Services~~. In making the selection, the secretary shall submit his or her recommendations to the appropriate licensing board for a determination by the board, without written examination, of whether or not the person recommended meets the professional standards required of such person in the performance of his or her duties or functions. The criteria to be used by the respective board in making its determination shall include, but not be limited to, the person's professional educational background, formal specialty training, and professional experience within the 10 years immediately preceding employment by the state institution.

Section 183. Subsections (15) and (18) of section 409.901, Florida Statutes, are amended to read:

409.901 Definitions.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(15) "Medicaid program" means the program authorized under Title XIX of the federal Social Security Act which provides for payments for medical items or services, or both, on behalf of any person who is determined by the Department of Children and Family ~~Health and Rehabilitative~~ Services to be eligible on the date of service for Medicaid assistance.

(18) "Medicaid recipient" or "recipient" means an individual whom the Department of Children and Family ~~Health and Rehabilitative~~ Services determines is eligible, pursuant to federal and state law, to receive medical assistance and related services for which the agency may make payments under the Medicaid program. For the purposes of determining third-party liability, the term includes an individual formerly determined to be eligible for Medicaid, an individual who has received medical assistance under the Medicaid program, or an individual on whose behalf Medicaid has become obligated.

Section 184. Subsections (4), (5), (6), (7), (8), (10), (11), (12), (13), (14), (16), (17), (18), (19), (20), and (21) of section 409.910, Florida Statutes, 1998 Supplement, are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(4) After the agency ~~department~~ has provided medical assistance under the Medicaid program, it shall seek recovery of reimbursement from third-party benefits to the limit of legal liability and for the full amount of third-party benefits, but not in excess of the amount of medical assistance paid by Medicaid, as to:

(a) Claims for which the agency ~~department~~ has a waiver pursuant to federal law; or

(b) Situations in which the agency ~~department~~ learns of the existence of a liable third party or in which third-party benefits are discovered or become available after medical assistance has been provided by Medicaid.

(5) An applicant, recipient, or legal representative shall inform the agency ~~department~~ of any rights the applicant or recipient has to third-party benefits and shall inform the agency ~~department~~ of the name and address of any person that is or may be liable to provide third-party benefits. When the agency ~~department~~ provides, pays for, or becomes liable for medical services provided by a hospital, the recipient receiving such medical services or his or her legal representative shall also provide the information as to third-party benefits, as defined in this section, to the hospital, which shall provide notice thereof to the agency ~~department~~ in a manner specified by the agency ~~department~~.

(6) When the agency ~~department~~ provides, pays for, or becomes liable for medical care under the Medicaid program, it has the following rights, as to which the agency ~~department~~ may assert independent principles of law, which shall nevertheless be construed together to provide the greatest recovery from third-party benefits:

(a) The agency ~~department~~ is automatically subrogated to any rights that an applicant, recipient, or legal representative has to any third-party benefit for the full amount of medical assistance provided by Medicaid. Recovery pursuant to the subrogation rights created hereby shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, but is to provide full recovery by the agency ~~department~~ from any and all third-party benefits. Equities of a recipient, his or her legal representative, a recipient's creditors, or health care providers shall not defeat, reduce, or prorate recovery by the agency ~~department~~ as to its subrogation rights granted under this paragraph.

(b) By applying for or accepting medical assistance, an applicant, recipient, or legal representative automatically assigns to the agency ~~department~~ any right, title, and interest such person has to any third-party benefit, excluding any Medicare benefit to the extent required to be excluded by federal law.

1. The assignment granted under this paragraph is absolute, and vests legal and equitable title to any such right in the agency ~~department~~, but not in excess of the amount of medical assistance provided by the agency ~~department~~.

2. The agency ~~department~~ is a bona fide assignee for value in the assigned right, title, or interest, and takes vested legal and equitable title free and clear of latent equities in a third person. Equities of a recipient, the recipient's legal representative, his or her creditors, or health care providers shall not defeat or reduce recovery by the agency ~~department~~ as to the assignment granted under this paragraph.

3. By accepting medical assistance, the recipient grants to the agency ~~department~~ the limited power of attorney to act in his or her name, place, and stead to perform specific acts with regard to third-party benefits, the recipient's assent being deemed to have been given, including:

a. Endorsing any draft, check, money order, or other negotiable instrument representing third-party benefits that are received on behalf of the recipient as a third-party benefit.

b. Compromising claims to the extent of the rights assigned, provided that the recipient is not otherwise represented by an attorney as to the claim.

(c) The agency ~~department~~ is entitled to, and has, an automatic lien for the full amount of medical assistance provided by Medicaid to or on behalf of the recipient for medical care furnished as a result of any covered injury or illness for which a third party is or may be liable, upon the collateral, as defined in s. 409.901.

1. The lien attaches automatically when a recipient first receives treatment for which the agency ~~department~~ may be obligated to provide medical assistance under the Medicaid program. The lien is perfected automatically at the time of attachment.

2. The agency ~~department~~ is authorized to file a verified claim of lien. The claim of lien shall be signed by an authorized employee of the agency ~~department~~, and shall be verified as to the employee's knowledge and belief. The claim of lien may be filed and recorded with the clerk of the circuit court in the recipient's last known county of residence or in any county deemed appropriate by the agency ~~department~~. The claim of lien, to the extent known by the agency ~~department~~, shall contain:

a. The name and last known address of the person to whom medical care was furnished.

b. The date of injury.

c. The period for which medical assistance was provided.

d. The amount of medical assistance provided or paid, or for which Medicaid is otherwise liable.

e. The names and addresses of all persons claimed by the recipient to be liable for the covered injuries or illness.

3. The filing of the claim of lien pursuant to this section shall be notice thereof to all persons.

4. If the claim of lien is filed within 1 year after the later of the date when the last item of medical care relative to a specific covered injury or illness was paid, or the date of discovery by the agency ~~department~~ of the liability of any third party, or the date of discovery of a cause of action against a third party brought by a recipient or his or her legal representative, record notice shall relate back to the time of attachment of the lien.

5. If the claim of lien is filed after 1 year after the later of the events specified in subparagraph 4., notice shall be effective as of the date of filing.

6. Only one claim of lien need be filed to provide notice as set forth in this paragraph and shall provide sufficient notice as to any additional or after-paid amount of medical assistance provided by Medicaid for any specific covered injury or illness. The agency ~~department~~ may, in its discretion, file additional, amended, or substitute claims of lien at any time after the initial filing, until the agency ~~department~~ has been repaid the full amount of medical assistance provided by Medicaid or otherwise has released the liable parties and recipient.

7. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement shall be valid or effectual as against a lien created under this paragraph, unless the agency ~~department~~ joins in the release or satisfaction or executes a release of the lien. An acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of a lien created under this paragraph shall prima facie constitute an impairment of the lien, and the agency ~~department~~ is entitled to recover damages on account of such impairment. In an action on account of impairment of a lien, the agency

~~department~~ may recover from the person accepting the release or satisfaction or making the settlement the full amount of medical assistance provided by Medicaid. Nothing in this section shall be construed as creating a lien or other obligation on the part of an insurer which in good faith has paid a claim pursuant to its contract without knowledge or actual notice that the agency ~~department~~ has provided medical assistance for the recipient related to a particular covered injury or illness. However, notice or knowledge that an insured is, or has been a Medicaid recipient within 1 year from the date of service for which a claim is being paid creates a duty to inquire on the part of the insurer as to any injury or illness for which the insurer intends or is otherwise required to pay benefits.

8. The lack of a properly filed claim of lien shall not affect the agency's ~~department's~~ assignment or subrogation rights provided in this subsection, nor shall it affect the existence of the lien, but only the effective date of notice as provided in subparagraph 5.

9. The lien created by this paragraph is a first lien and superior to the liens and charges of any provider, and shall exist for a period of 7 years, if recorded, after the date of recording; and shall exist for a period of 7 years after the date of attachment, if not recorded. If recorded, the lien may be extended for one additional period of 7 years by rerecording the claim of lien within the 90-day period preceding the expiration of the lien.

10. The clerk of the circuit court for each county in the state shall endorse on a claim of lien filed under this paragraph the date and hour of filing and shall record the claim of lien in the official records of the county as for other records received for filing. The clerk shall receive as his or her fee for filing and recording any claim of lien or release of lien under this paragraph the total sum of $2. Any fee required to be paid by the agency ~~department~~ shall not be required to be paid in advance of filing and recording, but may be billed to the agency ~~department~~ after filing and recording of the claim of lien or release of lien.

11. After satisfaction of any lien recorded under this paragraph, the agency ~~department~~ shall, within 60 days after satisfaction, either file with the appropriate clerk of the circuit court or mail to any appropriate party, or counsel representing such party, if represented, a satisfaction of lien in a form acceptable for filing in Florida.

(7) The agency ~~department~~ shall recover the full amount of all medical assistance provided by Medicaid on behalf of the recipient to the full extent of third-party benefits.

(a) Recovery of such benefits shall be collected directly from:

1. Any third party;

2. The recipient or legal representative, if he or she has received third-party benefits;

3. The provider of a recipient's medical services if third-party benefits have been recovered by the provider; notwithstanding any provision of this

section, to the contrary, however, no provider shall be required to refund or pay to the agency ~~department~~ any amount in excess of the actual third-party benefits received by the provider from a third-party payor for medical services provided to the recipient; or

4. Any person who has received the third-party benefits.

(b) Upon receipt of any recovery or other collection pursuant to this section, the agency ~~department~~ shall distribute the amount collected as follows:

1. To itself, an amount equal to the state Medicaid expenditures for the recipient plus any incentive payment made in accordance with paragraph (14)(a).

2. To the Federal Government, the federal share of the state Medicaid expenditures minus any incentive payment made in accordance with paragraph (14)(a) and federal law, and minus any other amount permitted by federal law to be deducted.

3. To the recipient, after deducting any known amounts owed to the agency ~~department~~ for any related medical assistance or to health care providers, any remaining amount. This amount shall be treated as income or resources in determining eligibility for Medicaid.

(8) The agency ~~department~~ shall require an applicant or recipient, or the legal representative thereof, to cooperate in the recovery by the agency ~~department~~ of third-party benefits of a recipient and in establishing paternity and support of a recipient child born out of wedlock. As a minimal standard of cooperation, the recipient or person able to legally assign a recipient's rights shall:

(a) Appear at an office designated by the agency ~~department~~ to provide relevant information or evidence.

(b) Appear as a witness at a court or other proceeding.

(c) Provide information, or attest to lack of information, under penalty of perjury.

(d) Pay to the agency ~~department~~ any third-party benefit received.

(e) Take any additional steps to assist in establishing paternity or securing third-party benefits, or both.

(f) Paragraphs (a)-(e) notwithstanding, the agency ~~department~~ shall have the discretion to waive, in writing, the requirement of cooperation for good cause shown and as required by federal law.

(10) An applicant or recipient shall be deemed to have provided to the agency ~~department~~ the authority to obtain and release medical information and other records with respect to such medical care, for the sole purpose of obtaining reimbursement for medical assistance provided by Medicaid.

(11) The agency ~~department~~ may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name in one or more of the following capacities: individually, as subrogee of the recipient, as assignee of the recipient, or as lienholder of the collateral.

(a) If either the recipient, or his or her legal representative, or the agency ~~department~~ brings an action against a third party, the recipient, or the recipient's legal representative, or the agency ~~department~~, or their attorneys, shall, within 30 days after filing the action, provide to the other written notice, by personal delivery or registered mail, of the action, the name of the court in which the case is brought, the case number of such action, and a copy of the pleadings. If an action is brought by either the agency ~~department~~, or the recipient or the recipient's legal representative, the other may, at any time before trial on the merits, become a party to, or shall consolidate his or her action with the other if brought independently. Unless waived by the other, the recipient, or his or her legal representative, or the agency ~~department~~ shall provide notice to the other of the intent to dismiss at least 21 days prior to voluntary dismissal of an action against a third party. Notice to the agency ~~department~~ shall be sent to an address set forth by rule. Notice to the recipient or his or her legal representative, if represented by an attorney, shall be sent to the attorney, and, if not represented, then to the last known address of the recipient or his or her legal representative.

(b) An action by the agency ~~department~~ to recover damages in tort under this subsection, which action is derivative of the rights of the recipient or his or her legal representative, shall not constitute a waiver of sovereign immunity pursuant to s. 768.14.

(c) In the event of judgment, award, or settlement in a claim or action against a third party, the court shall order the segregation of an amount sufficient to repay the agency's ~~department's~~ expenditures for medical assistance, plus any other amounts permitted under this section, and shall order such amounts paid directly to the agency ~~department~~.

(d) No judgment, award, or settlement in any action by a recipient or his or her legal representative to recover damages for injuries or other third-party benefits, when the agency ~~department~~ has an interest, shall be satisfied without first giving the agency ~~department~~ notice and a reasonable opportunity to file and satisfy its lien, and satisfy its assignment and subrogation rights or proceed with any action as permitted in this section.

(e) Except as otherwise provided in this section, notwithstanding any other provision of law, the entire amount of any settlement of the recipient's action or claim involving third-party benefits, with or without suit, is subject to the agency's ~~department's~~ claims for reimbursement of the amount of medical assistance provided and any lien pursuant thereto.

(f) Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party which results in a judgment, award,

or settlement from a third party, the amount recovered shall be distributed as follows:

1. After attorney's fees and taxable costs as defined by the Florida Rules of Civil Procedure, one-half of the remaining recovery shall be paid to the agency ~~department~~ up to the total amount of medical assistance provided by Medicaid.

2. The remaining amount of the recovery shall be paid to the recipient.

3. For purposes of calculating the agency's ~~department's~~ recovery of medical assistance benefits paid, the fee for services of an attorney retained by the recipient or his or her legal representative shall be calculated at 25 percent of the judgment, award, or settlement.

4. Notwithstanding any provision of this section to the contrary, the agency ~~department~~ shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid. For purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty.

(g) In the event that the recipient, his or her legal representative, or the recipient's estate brings an action against a third party, notice of institution of legal proceedings, notice of settlement, and all other notices required by this section or by rule shall be given to the agency ~~department~~, in Tallahassee, in a manner set forth by rule. All such notices shall be given by the attorney retained to assert the recipient's or legal representative's claim, or, if no attorney is retained, by the recipient, the recipient's legal representative, or his or her estate.

(h) Except as otherwise provided in this section, actions to enforce the rights of the agency ~~department~~ under this section shall be commenced within 5 years after the date a cause of action accrues, with the period running from the later of the date of discovery by the agency ~~department~~ of a case filed by a recipient or his or her legal representative, or of discovery of any judgment, award, or settlement contemplated in this section, or of discovery of facts giving rise to a cause of action under this section. Nothing in this paragraph affects or prevents a proceeding to enforce a lien during the existence of the lien as set forth in subparagraph (6)(c)9.

(i) Upon the death of a recipient, and within the time prescribed by ss. 733.702 and 733.710, the agency ~~department~~, in addition to any other available remedy, may file a claim against the estate of the recipient for the total amount of medical assistance provided by Medicaid for the benefit of the recipient. Claims so filed shall take priority as class 3 claims as provided by s. 733.707(1)(c). The filing of a claim pursuant to this paragraph shall neither reduce nor diminish the general claims of the agency ~~department~~ under s. 414.28, except that the agency ~~department~~ may not receive double recovery for the same expenditure. Claims under this paragraph shall be superior to those under s. 414.28. The death of the recipient shall neither extinguish

nor diminish any right of the agency ~~department~~ to recover third-party benefits from a third party or provider. Nothing in this paragraph affects or prevents a proceeding to enforce a lien created pursuant to this section or a proceeding to set aside a fraudulent conveyance as defined in subsection (16).

(12) No action taken by the agency ~~department~~ shall operate to deny the recipient's recovery of that portion of benefits not assigned or subrogated to the agency ~~department~~, or not secured by the agency's ~~department's~~ lien. The agency's ~~department's~~ rights of recovery created by this section, however, shall not be limited to some portion of recovery from a judgment, award, or settlement. Only the following benefits are not subject to the rights of the agency ~~department~~: benefits not related in any way to a covered injury or illness; proceeds of life insurance coverage on the recipient; proceeds of insurance coverage, such as coverage for property damage, which by its terms and provisions cannot be construed to cover personal injury, death, or a covered injury or illness; proceeds of disability coverage for lost income; and recovery in excess of the amount of medical benefits provided by Medicaid after repayment in full to the agency ~~department~~.

(13) No action of the recipient shall prejudice the rights of the agency ~~department~~ under this section. No settlement, agreement, consent decree, trust agreement, annuity contract, pledge, security arrangement, or any other device, hereafter collectively referred to in this subsection as a "settlement agreement," entered into or consented to by the recipient or his or her legal representative shall impair the agency's ~~department's~~ rights. However, in a structured settlement, no settlement agreement by the parties shall be effective or binding against the agency ~~department~~ for benefits accrued without the express written consent of the agency ~~department~~ or an appropriate order of a court having personal jurisdiction over the agency ~~department~~.

(14) The agency ~~department~~ is authorized to enter into agreements to enforce or collect medical support and other third-party benefits.

(a) If a cooperative agreement is entered into with any agency, program, or subdivision of the state, or any agency, program, or legal entity of or operated by a subdivision of the state, or with any other state, the agency ~~department~~ is authorized to make an incentive payment of up to 15 percent of the amount actually collected and reimbursed to the agency ~~department~~, to the extent of medical assistance paid by Medicaid. Such incentive payment is to be deducted from the federal share of that amount, to the extent authorized by federal law. The agency ~~department~~ may pay such person an additional percentage of the amount actually collected and reimbursed to the agency ~~department~~ as a result of the efforts of the person, but no more than a maximum percentage established by the agency ~~department~~. In no case shall the percentage exceed the lesser of a percentage determined to be commercially reasonable or 15 percent, in addition to the 15-percent incentive payment, of the amount actually collected and reimbursed to the agency ~~department~~ as a result of the efforts of the person under contract.

(b) If an agreement to enforce or collect third-party benefits is entered into by the agency ~~department~~ with any person other than those described

in paragraph (a), including any attorney retained by the agency ~~department~~ who is not an employee or agent of any person named in paragraph (a), then the agency ~~department~~ may pay such person a percentage of the amount actually collected and reimbursed to the agency ~~department~~ as a result of the efforts of the person, to the extent of medical assistance paid by Medicaid. In no case shall the percentage exceed a maximum established by the agency ~~department~~, which shall not exceed the lesser of a percentage determined to be commercially reasonable or 30 percent of the amount actually collected and reimbursed to the agency ~~department~~ as a result of the efforts of the person under contract.

(c) An agreement pursuant to this subsection may permit reasonable litigation costs or expenses to be paid from the agency's ~~department's~~ recovery to a person under contract with the agency ~~department~~.

(d) Contingency fees and costs incurred in recovery pursuant to an agreement under this subsection may, for purposes of determining state and federal share, be deemed to be administrative expenses of the state. To the extent permitted by federal law, such administrative expenses shall be shared with, or fully paid by, the Federal Government.

(16) Any transfer or encumbrance of any right, title, or interest to which the agency ~~department~~ has a right pursuant to this section, with the intent, likelihood, or practical effect of defeating, hindering, or reducing recovery by the agency ~~department~~ for reimbursement of medical assistance provided by Medicaid, shall be deemed to be a fraudulent conveyance, and such transfer or encumbrance shall be void and of no effect against the claim of the agency ~~department~~, unless the transfer was for adequate consideration and the proceeds of the transfer are reimbursed in full to the agency ~~department~~, but not in excess of the amount of medical assistance provided by Medicaid.

(17) A recipient or his or her legal representative or any person representing, or acting as agent for, a recipient or the recipient's legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(d), or who has actual knowledge of the agency's ~~department's~~ rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the agency ~~department~~, within 60 days after receipt of settlement proceeds, the full amount of the third-party benefits, but not in excess of the total medical assistance provided by Medicaid, or to place the full amount of the third-party benefits in a trust account for the benefit of the agency ~~department~~ pending judicial or administrative determination of the agency's ~~department's~~ right thereto. Proof that any such person had notice or knowledge that the recipient had received medical assistance from Medicaid, and that third-party benefits or proceeds therefrom were in any way related to a covered illness or injury for which Medicaid had provided medical assistance, and that any such person knowingly obtained possession or control of, or used, third-party benefits or proceeds and failed either to pay the agency ~~department~~ the full amount required by this section or to hold the full amount of third-party benefits or proceeds in trust pending judicial or administrative determination, unless adequately explained, gives rise to an inference that such person knowingly

failed to credit the state or its agent for payments received from social security, insurance, or other sources, pursuant to s. 414.39(4)(b), and acted with the intent set forth in s. 812.014(1).

(a) In cases of suspected criminal violations or fraudulent activity, the agency ~~department~~ may take any civil action permitted at law or equity to recover the greatest possible amount, including, without limitation, treble damages under ss. 772.11 and 812.035(7).

(b) The agency ~~department~~ is authorized to investigate and to request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 414.39 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Attorney General, or to any state attorney. Pursuant to s. 409.913, the Attorney General has primary responsibility to investigate and control Medicaid fraud.

(c) In carrying out duties and responsibilities related to Medicaid fraud control, the agency ~~department~~ may subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(d) All information obtained and documents prepared pursuant to an investigation of a Medicaid recipient, the recipient's legal representative, or any other person relating to an allegation of recipient fraud or theft is confidential and exempt from s. 119.07(1):

1. Until such time as the agency ~~department~~ takes final agency action;

2. Until such time as the Department of Legal Affairs refers the case for criminal prosecution;

3. Until such time as an indictment or criminal information is filed by a state attorney in a criminal case; or

4. At all times if otherwise protected by law.

(18) In recovering any payments in accordance with this section, the agency ~~department~~ is authorized to make appropriate settlements.

(19) Notwithstanding any provision in this section to the contrary, the agency ~~department~~ shall not be required to seek reimbursement from a liable third party on claims for which the agency ~~department~~ determines that the amount it reasonably expects to recover will be less than the cost of recovery, or that recovery efforts will otherwise not be cost-effective.

(20) Entities providing health insurance as defined in s. 624.603, and health maintenance organizations and prepaid health clinics as defined in chapter 641, shall provide such records and information as are necessary to accomplish the purpose of this section, unless such requirement results in an unreasonable burden.

(a) The director ~~secretary~~ of the agency ~~department~~ and the Insurance Commissioner shall enter into a cooperative agreement for requesting and obtaining information necessary to effect the purpose and objective of this section.

1. The agency ~~department~~ shall request only that information necessary to determine whether health insurance as defined pursuant to s. 624.603, or those health services provided pursuant to chapter 641, could be, should be, or have been claimed and paid with respect to items of medical care and services furnished to any person eligible for services under this section.

2. All information obtained pursuant to subparagraph 1. is confidential and exempt from s. 119.07(1).

3. The cooperative agreement or rules adopted under this subsection may include financial arrangements to reimburse the reporting entities for reasonable costs or a portion thereof incurred in furnishing the requested information. Neither the cooperative agreement nor the rules shall require the automation of manual processes to provide the requested information.

(b) The agency ~~department~~ and the Department of Insurance jointly shall adopt rules for the development and administration of the cooperative agreement. The rules shall include the following:

1. A method for identifying those entities subject to furnishing information under the cooperative agreement.

2. A method for furnishing requested information.

3. Procedures for requesting exemption from the cooperative agreement based on an unreasonable burden to the reporting entity.

(21) The agency ~~department~~ is authorized to adopt rules to implement the provisions of this section and federal requirements.

Section 185. Section 409.911, Florida Statutes, is amended to read:

409.911 Disproportionate share program.—Subject to specific allocations established within the General Appropriations Act and any limitations established pursuant to chapter 216, the agency ~~department~~ shall distribute, pursuant to this section, moneys to hospitals providing a disproportionate share of Medicaid or charity care services by making quarterly Medicaid payments as required. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) Definitions.—As used in this section and s. 409.9112:

(a) "Adjusted patient days" means the sum of acute care patient days and intensive care patient days as reported to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues.

(b) "Actual audited data" or "actual audited experience" means data reported to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ which has been audited in accordance with generally accepted auditing standards by the agency ~~department~~ or representatives under contract with the agency ~~department~~.

(c) "Base Medicaid per diem" means the hospital's Medicaid per diem rate initially established by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ on January 1, prior to the beginning of each state fiscal year. The base Medicaid per diem rate shall not include any additional per diem increases received as a result of the disproportionate share distribution.

(d) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.

(e) "Charity care days" means the sum of the deductions from revenues for charity care minus 50 percent of restricted and unrestricted revenues provided to a hospital by local governments or tax districts, divided by gross revenues per adjusted patient day.

(f) "Disproportionate share percentage" means a rate of increase in the Medicaid per diem rate as calculated under this section.

(g) "Hospital" means a health care institution licensed as a hospital pursuant to chapter 395, but does not include ambulatory surgical centers.

(h) "Medicaid days" means the number of actual days attributable to Medicaid patients as determined by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~.

(2) The Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall utilize the following criteria to determine if a hospital qualifies for a disproportionate share payment:

(a) A hospital's total Medicaid days when combined with its total charity care days must equal or exceed 7 percent of its total adjusted patient days.

(b) A hospital's total charity care days weighted by a factor of 4.5, plus its total Medicaid days weighted by a factor of 1, shall be equal to or greater than 10 percent of its total adjusted patient days.

(c) Additionally, in accordance with the seventh federal Omnibus Budget Reconciliation Act, a hospital with a Medicaid inpatient utilization rate greater than one standard deviation above the statewide mean or a hospital with a low-income utilization rate of 25 percent or greater shall qualify for reimbursement.

(3) In computing the disproportionate share rate:

(a) Per diem increases earned from disproportionate share shall be applied to each hospital's base Medicaid per diem rate and shall be capped at 170 percent.

(b) The agency ~~department~~ shall use the most recent calendar year audited data available at the beginning of each state fiscal year for the calculation of disproportionate share payments under this section.

(c) If the total amount earned by all hospitals under this section exceeds the amount appropriated, each hospital's share shall be reduced on a pro rata basis so that the total dollars distributed from the trust fund do not exceed the total amount appropriated.

(d) The total amount calculated to be distributed under this section shall be made in quarterly payments subsequent to each quarter during the fiscal year.

(4) Hospitals that qualify for a disproportionate share payment solely under paragraph (2)(c) shall have their payment calculated in accordance with the following formulas:

$$TAA = TA \times (1/5.5)$$
$$DSHP = (HMD/TSMD) \times TAA$$

Where:

TAA = total amount available.

TA = total appropriation.

DSHP = disproportionate share hospital payment.

HMD = hospital Medicaid days.

TSMD = total state Medicaid days.

(5) The following formula shall be utilized by the agency ~~department~~ to determine the maximum disproportionate share rate to be used to increase the Medicaid per diem rate for hospitals that qualify pursuant to paragraphs (2)(a) and (b):

$$DSR = \left(\left(\frac{CCD}{APD}\right) \times 4.5\right) + \left(\frac{MD}{APD}\right)$$

Where:

APD = adjusted patient days.

CCD = charity care days.

DSR = disproportionate share rate.

MD = Medicaid days.

(6)(a) To calculate the total amount earned by all hospitals under this section, hospitals with a disproportionate share rate less than 50 percent shall divide their Medicaid days by four, and hospitals with a disproportionate share rate greater than or equal to 50 percent and with greater than

40,000 Medicaid days shall multiply their Medicaid days by 1.5, and the following formula shall be used by the agency ~~department~~ to calculate the total amount earned by all hospitals under this section:

TAE = BMPD x MD x DSP

Where:

TAE = total amount earned.

BMPD = base Medicaid per diem.

MD = Medicaid days.

DSP = disproportionate share percentage.

(b) In no case shall total payments to a hospital under this section, with the exception of state facilities, exceed the total amount of uncompensated charity care of the hospital, as determined by the agency ~~department~~ according to the most recent calendar year audited data available at the beginning of each state fiscal year.

(7) For fiscal year 1991-1992 and all years other than 1992-1993, the following criteria shall be used in determining the disproportionate share percentage:

(a) If the disproportionate share rate is less than 10 percent, the disproportionate share percentage is zero and there is no additional payment.

(b) If the disproportionate share rate is greater than or equal to 10 percent, but less than 20 percent, then the disproportionate share percentage is 2.1544347.

(c) If the disproportionate share rate is greater than or equal to 20 percent, but less than 30 percent, then the disproportionate share percentage is 4.6415888766.

(d) If the disproportionate share rate is greater than or equal to 30 percent, but less than 40 percent, then the disproportionate share percentage is 10.0000001388.

(e) If the disproportionate share rate is greater than or equal to 40 percent, but less than 50 percent, then the disproportionate share percentage is 21.544347299.

(f) If the disproportionate share rate is greater than or equal to 50 percent, but less than 60 percent, then the disproportionate share percentage is 46.41588941.

(g) If the disproportionate share rate is greater than or equal to 60 percent, then the disproportionate share percentage is 100.

(8) The following formula shall be used by the agency ~~department~~ to calculate the total amount earned by all hospitals under this section:

TAE = BMPD x MD x DSP

Where:

TAE = total amount earned.

BMPD = base Medicaid per diem.

MD = Medicaid days.

DSP = disproportionate share percentage.

(9) The agency ~~department~~ is authorized to receive funds from local governments and other local political subdivisions for the purpose of making payments, including federal matching funds, through the Medicaid disproportionate share program. Funds received from local governments for this purpose shall be separately accounted for and shall not be commingled with other state or local funds in any manner.

(10) Payments made by the agency ~~department~~ to hospitals eligible to participate in this program shall be made in accordance with federal rules and regulations.

(a) If the Federal Government prohibits, restricts, or changes in any manner the methods by which funds are distributed for this program, the agency ~~department~~ shall not distribute any additional funds and shall return all funds to the local government from which the funds were received, except as provided in paragraph (b).

(b) If the Federal Government imposes a restriction that still permits a partial or different distribution, the agency ~~department~~ may continue to disburse funds to hospitals participating in the disproportionate share program in a federally approved manner, provided:

1. Each local government which contributes to the disproportionate share program agrees to the new manner of distribution as shown by a written document signed by the governing authority of each local government; and

2. The Executive Office of the Governor, the Office of Planning and Budgeting, the House of Representatives, and the Senate are provided at least 7 days' prior notice of the proposed change in the distribution, and do not disapprove such change.

(c) No distribution shall be made under the alternative method specified in paragraph (b) unless all parties agree or unless all funds of those parties that disagree which are not yet disbursed have been returned to those parties.

(11) Notwithstanding the provisions of chapter 216, the Executive Office of the Governor is hereby authorized to establish sufficient trust fund authority to implement the disproportionate share program.

Section 186. Section 409.9112, Florida Statutes, is amended to read:

409.9112 Disproportionate share program for regional perinatal intensive care centers.—In addition to the payments made under s. 409.911, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall design and implement a system of making disproportionate share payments to those hospitals that participate in the regional perinatal intensive care center program established pursuant to chapter 383. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) The following formula shall be used by the agency ~~department~~ to calculate the total amount earned for hospitals that participate in the regional perinatal intensive care center program:

$$TAE = DSR \times BMPD \times MD$$

Where:

TAE = total amount earned by a regional perinatal intensive care center.

DSR = disproportionate share rate.

BMPD = base Medicaid per diem.

MD = Medicaid days.

(2) The total additional payment for hospitals that participate in the regional perinatal intensive care center program shall be calculated by the agency ~~department~~ as follows:

$$TAP = \left(\frac{TAE \times TA}{STAE}\right)$$

Where:

TAP = total additional payment for a regional perinatal intensive care center.

TAE = total amount earned by a regional perinatal intensive care center.

STAE = sum of total amount earned by each hospital that participates in the regional perinatal intensive care center program.

TA = total appropriation for the regional perinatal intensive care disproportionate share program.

(3) In order to receive payments under this section, a hospital must be participating in the regional perinatal intensive care center program pursuant to chapter 383 and must meet the following additional requirements:

(a) Agree to conform to all departmental and agency requirements to ensure high quality in the provision of services, including criteria adopted by departmental and agency rule concerning staffing ratios, medical records, standards of care, equipment, space, and such other standards and criteria as the department and agency deem ~~deems~~ appropriate as specified by rule.

(b) Agree to provide information to the department and agency, in a form and manner to be prescribed by rule of the department and agency, concerning the care provided to all patients in neonatal intensive care centers and high-risk maternity care.

(c) Agree to accept all patients for neonatal intensive care and high-risk maternity care, regardless of ability to pay, on a functional space-available basis.

(d) Agree to develop arrangements with other maternity and neonatal care providers in the hospital's region for the appropriate receipt and transfer of patients in need of specialized maternity and neonatal intensive care services.

(e) Agree to establish and provide a developmental evaluation and services program for certain high-risk neonates, as prescribed and defined by rule of the department.

(f) Agree to sponsor a program of continuing education in perinatal care for health care professionals within the region of the hospital, as specified by rule.

(g) Agree to provide backup and referral services to the department's county health departments and other low-income perinatal providers within the hospital's region, including the development of written agreements between these organizations and the hospital.

(h) Agree to arrange for transportation for high-risk obstetrical patients and neonates in need of transfer from the community to the hospital or from the hospital to another more appropriate facility.

(4) Hospitals which fail to comply with any of the conditions in subsection (3) or the applicable rules of the department and agency shall not receive any payments under this section until full compliance is achieved. A hospital which is not in compliance in two or more consecutive quarters shall not receive its share of the funds. Any forfeited funds shall be distributed by the remaining participating regional perinatal intensive care center program hospitals.

Section 187. Section 409.91151, Florida Statutes, 1998 Supplement, is amended to read:

409.91151 Expenditure of funds generated through mental health disproportionate share program.—Funding generated through the mental health disproportionate share program shall be expended in accordance with legislatively authorized appropriations. If such funding is not addressed in legislatively authorized appropriations, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall prepare a plan and submit a request for spending authority in accordance with the applicable provisions of chapter 216.

Section 188. Paragraph (b) of subsection (4), paragraph (a) of subsection (5), and subsection (26) of section 409.912, Florida Statutes, 1998 Supplement, are amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(4) The agency may contract with any public or private entity otherwise authorized by this section on a prepaid or fixed-sum basis for the provision of health care services to recipients.

(b) Entities that provide no prepaid health care services other than Medicaid services under contract with the agency ~~department~~ are exempt from the provisions of part I of chapter 641.

(5) The agency may contract on a prepaid or fixed-sum basis with any health insurer that:

(a) Pays for health care services provided to enrolled Medicaid recipients in exchange for a premium payment paid by the agency ~~department~~;

(26) Beginning July 1, 1996, the agency shall perform choice counseling, enrollments, and disenrollments for Medicaid recipients who are eligible for MediPass or managed care plans. Notwithstanding the prohibition contained in paragraph (18)(f), managed care plans may perform preenrollments of Medicaid recipients under the supervision of the agency or its agents. For the purposes of this section, "preenrollment" means the provision of marketing and educational materials to a Medicaid recipient and assistance in completing the application forms, but shall not include actual enrollment into a managed care plan. An application for enrollment shall not be deemed complete until the agency or its agent verifies that the recipient made an informed, voluntary choice. The agency, in cooperation with the Department of Children and Family ~~Health and Rehabilitative~~ Services, may test new marketing initiatives to inform Medicaid recipients about their managed care options at selected sites. The agency shall report to the Legislature on the effectiveness of such initiatives. The agency may contract with a third party to perform managed care plan and MediPass choice-counseling, enrollment, and disenrollment services for Medicaid recipients and is authorized to adopt rules to implement such services. Until October 1, 1996, or the receipt of necessary federal waivers, whichever is earlier, the agency shall adjust the capitation rate to cover any implementation, staff, or other costs associated with enrollment, disenrollment, and choice-counseling activities. Thereafter, the agency may adjust the capitation rate only to cover the costs of a third-party choice-counseling, enrollment, and disenrollment contract, and for agency supervision and management of the managed care plan choice-counseling, enrollment, and disenrollment contract.

Section 189. Subsection (1) of section 409.914, Florida Statutes, is amended to read:

409.914 Assistance for the uninsured.—

(1) The agency shall use the claims payment systems, utilization control systems, cost control systems, case management systems, and other systems and controls that it has developed for the management and control of the Medicaid program to assist other agencies and entities, if appropriate, in paying claims and performing other activities necessary for the conduct of programs of state government, or for working with other public and private agencies to solve problems of lack of insurance, underinsurance, or uninsurability. When conducting these services, the agency ~~department~~ shall ensure:

(a) That full payment is received for services provided.

(b) That costs of providing these services are clearly segregated from costs necessary for the conduct of the Medicaid program.

(c) That the program conducted serves the interests of the state in ensuring that effective and quality health care at a reasonable cost is provided to the citizens of the state.

Section 190. Subsection (4) of section 409.915, Florida Statutes, is amended to read:

409.915 County contributions to Medicaid.—Although the state is responsible for the full portion of the state share of the matching funds required for the Medicaid program, in order to acquire a certain portion of these funds, the state shall charge the counties for certain items of care and service as provided in this section.

(4) Each county shall pay into the General Revenue Fund, unallocated, its pro rata share of the total county participation based upon statements rendered by the agency ~~department~~ in consultation with the counties.

Section 191. Subsection (1) of section 409.916, Florida Statutes, is amended to read:

409.916 Grants and Donations Trust Fund.—

(1) The agency shall deposit any funds received from pharmaceutical manufacturers and all other funds received by the agency ~~department~~ from any other person as the result of a Medicaid cost containment strategy, in the nature of a rebate, grant, or other similar mechanism into the Grants and Donations Trust Fund.

Section 192. Section 409.919, Florida Statutes, is amended to read:

409.919 Rules.—The agency ~~department~~ shall adopt any rules necessary to comply with or administer ss. 409.901-409.920 and all rules necessary to comply with federal requirements.

Section 193. Subsection (1) of section 409.942, Florida Statutes, is amended to read:

409.942 Electronic benefit transfer program.—

(1) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall establish an electronic benefit transfer program for the dissemination of food stamp benefits and temporary assistance payments, including refugee cash assistance payments, asylum applicant payments, and child support disregard payments. If the Federal Government does not enact legislation or regulations providing for dissemination of supplemental security income by electronic benefit transfer, the state may include supplemental security income in the electronic benefit transfer program.

Section 194. Subsection (2) of section 410.0245, Florida Statutes, is amended to read:

410.0245 Study of service needs; report; multiyear plan.—

(2) Based on the findings of the study, the ~~Aging and~~ Adult Services Program ~~Office~~ of the Department of Children and Family ~~Health and Rehabilitative~~ Services shall develop a multiyear plan which shall provide for the needs of disabled adults in this state and shall provide strategies for statewide coordination of all services for disabled adults. The multiyear plan shall include an inventory of existing services and an analysis of costs associated with existing and projected services. The multiyear plan shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives every 3 years on or before March 1, beginning in 1992. On or before March 1 of each intervening year, the department shall submit an analysis of the status of the implementation of each element of the multiyear plan, any continued unmet need, and the relationship between that need and the department's budget request for that year.

Section 195. Section 410.502, Florida Statutes, is amended to read:

410.502 Housing and living arrangements; special needs of the elderly; services.—The Department of Elderly Affairs ~~Health and Rehabilitative Services~~ shall provide services related to housing and living arrangements which meet the special needs of the elderly. Such services shall include, but not be limited to:

(1) Providing counseling concerning housing problems and alternate living arrangements when appropriate to the individual's needs.

(2) Coordinating with the Department of Community Affairs to gather and maintain data on living arrangements which meet the special needs of the elderly and to disseminate such information to the public. Such information shall include types of facilities, cost of care, services provided, and possible sources of help in meeting the cost of care for indigent individuals.

(3) Promoting, through the Department of Elderly Affairs ~~Health and Rehabilitative Services~~ staff activities and area agencies on aging, the development of a variety of living arrangements through public and private aus-

pices to meet the various needs and desires of the elderly, including, but not limited to:

(a) Foster homes.

(b) Assisted living facilities.

(c) Homes for special services.

(d) Shared housing or other such group living arrangements for independent living.

(e) Continuing care facilities which offer all levels of care, including independent living units, personal care, home health care supports, and skilled nursing home care.

(f) Retirement communities for independent communal living, to be developed in conjunction with the Department of Community Affairs.

(g) Other innovative living arrangements.

Demonstration projects must be used advisedly to test the extent to which these and other innovative housing and living arrangements do meet the basic and special needs of the elderly.

Section 196. Section 411.224, Florida Statutes, is amended to read:

411.224 Family support planning process.—The Legislature establishes a family support planning process to be used by the Department of Children and Family ~~Health and Rehabilitative~~ Services as the service planning process for targeted individuals, children, and families under its purview.

(1) The Department of Education shall take all appropriate and necessary steps to encourage and facilitate the implementation of the family support planning process for individuals, children, and families within its purview.

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

(a) Children from birth to age 5 who are served by the clinic and programs of the Division of Children's Medical Services ~~Program Office~~ of the Department of Health ~~and Rehabilitative Services~~.

(b) Children participating in the developmental evaluation and intervention program of the Division of Children's Medical Services ~~Program Office~~ of the Department of Health ~~and Rehabilitative Services~~.

(c) Children from birth through age 5 who are served by the Developmental Services Program Office of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(d) Children from birth through age 5 who are served by the Alcohol, Drug Abuse, and Mental Health Program Office of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(e) Participants who are served by the Children's Early Investment Program established in s. 411.232.

(f) Healthy Start participants in need of ongoing service coordination.

(g) Children from birth through age 5 who are served by the voluntary family services, protective supervision, foster care, or adoption and related services programs of the Children and Families ~~Family Services~~ Program Office of the Department of Children and Family ~~Health and Rehabilitative~~ Services, and who are eligible for ongoing services from one or more other programs or agencies that participate in family support planning; however, children served by the voluntary family services program, where the planned length of intervention is 30 days or less, are excluded from this population.

(3) When individuals included in the target population are served by Head Start, local education agencies, or other prevention and early intervention programs, providers must be notified and efforts made to facilitate the concerned agency's participation in family support planning.

(4) Local education agencies are encouraged to use a family support planning process for children from birth through 5 years of age who are served by the prekindergarten program for children with disabilities, in lieu of the Individual Education Plan.

(5) There must be only a single-family support plan to address the problems of the various family members unless the family requests that an individual family support plan be developed for different members of that family. The family support plan must replace individual habilitation plans for children from birth through 5 years old who are served by the Developmental Services Program Office of the Department of Children and Family ~~Health and Rehabilitative~~ Services. To the extent possible, the family support plan must replace other case-planning forms used by the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(6) The family support plan at a minimum must include the following information:

(a) The family's statement of family concerns, priorities, and resources.

(b) Information related to the health, educational, economic and social needs, and overall development of the individual and the family.

(c) The outcomes that the plan is intended to achieve.

(d) Identification of the resources and services to achieve each outcome projected in the plan. These resources and services are to be provided based on availability and funding.

(7) A family support plan meeting must be held with the family to initially develop the family support plan and annually thereafter to update the plan as necessary. The family includes anyone who has an integral role in the life of the individual or child as identified by the individual or family.

The family support plan must be reviewed periodically during the year, at least at 6-month intervals, to modify and update the plan as needed. Such periodic reviews do not require a family support plan team meeting but may be accomplished through other means such as a case file review and telephone conference with the family.

(8) The initial family support plan must be developed within a 90-day period. If exceptional circumstances make it impossible to complete the evaluation activities and to hold the initial family support plan team meeting within a reasonable time period, these circumstances must be documented, and the individual or family must be notified of the reason for the delay. With the agreement of the family and the provider, services for which either the individual or the family is eligible may be initiated before the completion of the evaluation activities and the family support plan.

(9) The Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, and the Department of Education, to the extent that funds are available, must offer technical assistance to communities to facilitate the implementation of the family support plan.

(10) The Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Health must implement the family support planning process for all individuals, children, and their families in the target population no later than September 30, 1995.

(11) The Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, and the Department of Education shall adopt rules necessary to implement this act.

Section 197. Subsection (1) of section 411.242, Florida Statutes, is amended to read:

411.242 Florida Education Now and Babies Later (ENABL) program.—

(1) CREATION.—There is hereby created the Florida Education Now and Babies Later (ENABL) program for children and their families, with the goal of reducing the incidence of childhood pregnancies in this state by encouraging children to abstain from sexual activities. This program must provide a multifaceted, primary prevention, community health promotion approach to educating and supporting children in the decision to abstain from sexual involvement. The Department of Health ~~and Rehabilitative Services~~, in consultation with the Department of Education, Florida State University, and other appropriate agencies or associations, shall develop, implement, and administer the ENABL program.

Section 198. Section 411.243, Florida Statutes, is amended to read:

411.243 Teen Pregnancy Prevention Community Initiative.—Subject to the availability of funds, the Department of Health ~~and Rehabilitative Services~~ shall create a Teen Pregnancy Prevention Community Initiative. The purpose of this initiative is to create collaborative community partnerships to reduce teen pregnancy. Participating communities shall examine their needs and resources relative to teen pregnancy prevention and develop

plans which provide for a collaborative approach to how existing, enhanced, and new initiatives together will reduce teen pregnancy in a community. Community incentive grants shall provide funds for communities to implement plans which provide for a collaborative, comprehensive, outcome-focused approach to reducing teen pregnancy.

(1) The requirements of the community incentive grants are as follows:

(a) The goal required of all grants is to reduce the incidence of teen pregnancy. All grants must be designed and required to maintain the data to substantiate reducing the incidence of teen pregnancy in the targeted area in their community.

(b) The target population is teens through 19 years of age, including both males and females and mothers and fathers.

(c) Grants must target a specified geographic area or region, for which data can be maintained to substantiate the teen pregnancy rate.

(d) In order to receive funding, communities must demonstrate collaboration in the provision of existing and new teen pregnancy prevention initiatives. This collaboration shall include developing linkages to the health care, social services, and education systems.

(e) Plans must be developed for how a community will reduce the incidence of teen pregnancy in a specified geographic area or region. These plans must include:

1. Provision for collaboration between existing and new initiatives for a comprehensive, well-planned, outcome-focused approach. All organizations involved in teen pregnancy prevention in the community must be involved in the planning and implementation of the community incentive grant initiative.

2. Provision in the targeted area or region for all of the components identified below. These components may be addressed through a collaboration of existing initiatives, enhancements, or new initiatives. Community incentive grant funds must address current gaps in the comprehensive teen pregnancy prevention plan for communities.

a. Primary prevention components are:

(I) Prevention strategies targeting males.

(II) Role modeling and monitoring.

(III) Intervention strategies targeting abused or neglected children.

(IV) Human sexuality education.

(V) Sexual advances protection education.

(VI) Reproductive health care.

(VII) Intervention strategies targeting younger siblings of teen mothers.

(VIII) Community and public awareness.

(IX) Innovative programs to facilitate prosecutions under s. 794.011, s. 794.05, or s. 800.04.

b. Secondary prevention components are:

(I) Home visiting.

(II) Parent education, skill building, and supports.

(III) Care coordination and case management.

(IV) Career development.

(V) Goal setting and achievement.

Community plans must provide for initiatives which are culturally competent and relevant to the families' values.

(2) The state shall conduct an independent process and outcome evaluation of all the community incentive grant initiatives. The evaluation shall be conducted in three phases: The first phase shall focus on process, including implementation and operation, to be reported on after the first year of operation; the second phase shall be an interim evaluation of the outcome, to be completed after the third year of operation; the third phase shall be a final evaluation of process, outcome, and achievement of the overall goal of reducing the incidence of teen pregnancy, to be completed at the end of the fifth year of operation.

(3) The state shall provide technical assistance, training, and quality assurance to assist the initiative in achieving its goals.

Section 199. Paragraph (a) of subsection (1) and subsection (3) of section 413.031, Florida Statutes, are amended to read:

413.031 Products, purchase by state agencies and institutions.—

(1) DEFINITIONS.—When used in this section:

(a) "Accredited nonprofit workshop" means a Florida workshop which has been certified by either the Division of Blind Services, for workshops concerned with blind persons, or the Department of Children and Family ~~Health and Rehabilitative~~ Services, when other handicapped persons are concerned, and such "workshop" means a place where any article is manufactured or handwork is carried on and which is operated for the primary purpose of providing employment to severely handicapped individuals, including the blind, who cannot be readily absorbed in the competitive labor market.

(3) When convenience or emergency requires it, the Department of Children and Family ~~Health and Rehabilitative~~ Services may upon request of

the purchasing officer of any institution or agency relieve her or him from the obligation of this section.

Section 200. Subsection (2) of section 415.104, Florida Statutes, is amended to read:

415.104 Protective services investigations of cases of abuse, neglect, or exploitation of aged persons or disabled adults; transmittal of records to state attorney.—

(2) No later than 30 days after receiving the initial report, the designated ~~aging and~~ adult services staff of the department shall complete its investigation and classify the report as proposed confirmed or unfounded or close the report without classification and notify the guardian of the aged person or disabled adult, the aged person or disabled adult, and the alleged perpetrator. These findings must be reported to the department's central abuse registry and tracking system. For proposed confirmed reports, after receiving the final administrative order rendered in a hearing requested pursuant to s. 415.103(3)(d) or after the 30-day period during which an alleged perpetrator may request such a hearing has expired, the department shall classify the report of abuse, neglect, or exploitation as confirmed or unfounded and shall report its findings to the department's central abuse registry and tracking system, and must do so in accordance with the final order if a hearing was held.

Section 201. Subsection (8) of section 415.1113, Florida Statutes, 1998 Supplement, is amended to read:

415.1113 Administrative fines for false report of abuse, neglect, or exploitation of a disabled adult or an elderly person.—

(8) All amounts collected under this section must be deposited into the Operations and Maintenance Trust Fund within the ~~Aging and~~ Adult Services Program ~~Office~~ of the department.

Section 202. Subsections (2), (3), and (7) of section 420.621, Florida Statutes, are amended to read:

420.621 Definitions.—As used in ss. 420.621-420.627, the following terms shall have the following meanings, unless the context otherwise requires:

(2) "Department" means the Department of Children and Family ~~Health and Rehabilitative~~ Services.

(3) "District" means a service district of the Department of Children and Family ~~Health and Rehabilitative~~ Services, as set forth in s. 20.19.

(7) "Secretary" means the secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 203. Paragraph (d) of subsection (1) of section 421.10, Florida Statutes, is amended to read:

421.10 Rentals and tenant selection.—

(1) In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenants selection:

(d) The Department of Children and Family ~~Health and Rehabilitative~~ Services, pursuant to 45 C.F.R. s. 233.20(a)(3)(vii)(c), may not consider as income for participants in the WAGES Program assistance received by recipients from other agencies or organizations such as public housing authorities.

Section 204. Paragraph (b) of subsection (1) of section 427.012, Florida Statutes, is amended to read:

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of the following members:

(b) The secretary of the Department of Children and Family ~~Health and Rehabilitative~~ Services or the secretary's designee.

Section 205. Section 430.015, Florida Statutes, is amended to read:

430.015 Legislative findings.—The Legislature finds that it is a public necessity that identifying information contained in the records of elderly persons collected and held by the Department of Elderly Affairs, by volunteers, or by persons under contract with area agencies on aging be held confidential and exempt from public disclosure. Similar information held by the Department of Children and Family ~~Health and Rehabilitative~~ Services is confidential. If such information were not held confidential and exempt, elderly persons could fall prey to those seeking to capitalize on their weaknesses. Also, if their addresses were available, and their disabilities known, criminals could more readily attack these elderly citizens. Accordingly, it is necessary to protect the health, safety, and welfare of our elderly citizens, that identifying information regarding them be kept confidential.

Section 206. Subsection (3) of section 430.04, Florida Statutes, 1998 Supplement, is amended to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(3) Prepare and submit to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees a master plan for policies and programs in the state related to aging. The plan must identify and assess the needs of the elderly population in the areas of housing, employment, education and training, medical care, long-term care, preventive care, protective services, social services, mental health, transportation, and long-term care insurance, and

other areas considered appropriate by the department. The plan must assess the needs of particular subgroups of the population and evaluate the capacity of existing programs, both public and private and in state and local agencies, to respond effectively to identified needs. If the plan recommends the transfer of any program or service from the Department of Children and Family ~~Health and Rehabilitative~~ Services to another state department, the plan must also include recommendations that provide for an independent third-party mechanism, as currently exists in the human rights advocacy committees established in ss. 402.165 and 402.166, for protecting the constitutional and human rights of recipients of departmental services. The plan must include policy goals and program strategies designed to respond efficiently to current and projected needs. The plan must also include policy goals and program strategies to promote intergenerational relationships and activities. Public hearings and other appropriate processes shall be utilized by the department to solicit input for the development and updating of the master plan from parties including, but not limited to, the following:

(a) Elderly citizens and their families and caregivers.

(b) Local-level public and private service providers, advocacy organizations, and other organizations relating to the elderly.

(c) Local governments.

(d) All state agencies that provide services to the elderly.

(e) University centers on aging.

(f) Area agency on aging and community care for the elderly lead agencies.

Section 207. Subsection (3) of section 435.02, Florida Statutes, is amended to read:

435.02 Definitions.—For the purposes of this chapter:

(3) "Licensing agency" means any state or county agency which grants licenses or registration permitting the operation of an employer or is itself an employer. When there is no state licensing agency or the county licensing agency chooses not to conduct employment screening, "licensing agency" means the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 208. Paragraphs (b) and (c) of subsection (1) of section 435.05, Florida Statutes, are amended to read:

435.05 Requirements for covered employees.—Except as otherwise provided by law, the following requirements shall apply to covered employees:

(1)

(b) For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement within 5 working days after receiving it. When required, the employer must

at the same time submit sufficient information to the Department of Children and Family ~~Health and Rehabilitative~~ Services to complete a check of its records relating to the abuse, neglect, and exploitation of vulnerable adults. The Florida Department of Law Enforcement and the Department of Children and Family ~~Health and Rehabilitative~~ Services will conduct searches of their records and will respond to the employer agency. The employer will inform the employee whether screening has revealed any disqualifying information.

(c) For level 2 screening, the employer or licensing agency must submit the information necessary for screening to the Florida Department of Law Enforcement within 5 working days after receiving it. When required, the employer or licensing agency must also submit sufficient information to the Department of Children and Family ~~Health and Rehabilitative~~ Services to complete a check of its records. The Florida Department of Law Enforcement will conduct a search of its criminal and juvenile records and will request that the Federal Bureau of Investigation conduct a search of its records for each employee for whom the request is made. The Florida Department of Law Enforcement and the Department of Children and Family ~~Health and Rehabilitative~~ Services will respond to the employer or licensing agency, and the employer or licensing agency will inform the employee whether screening has revealed disqualifying information.

Section 209. Section 435.08, Florida Statutes, is amended to read:

435.08 Payment for processing of fingerprints, state criminal records checks, and abuse hotline checks.—Either the employer or the employee is responsible for paying the costs of screening. Payment shall be submitted to the Florida Department of Law Enforcement with the request for screening. When a search of the central abuse hotline is required, payment shall be submitted by separate check to the Department of Children and Family ~~Health and Rehabilitative~~ Services with the request for screening.

Section 210. Paragraph (f) of subsection (1) of section 440.151, Florida Statutes, is amended to read:

440.151 Occupational diseases.—

(1)

(f) No compensation shall be payable for disability or death resulting from tuberculosis arising out of and in the course of employment by the Department ~~Division~~ of Health ~~of the Department of Health and Rehabilitative Services~~ at a state tuberculosis hospital, or aggravated by such employment, when the employee had suffered from said disease at any time prior to the commencement of such employment.

Section 211. Section 442.005, Florida Statutes, is amended to read:

442.005 Division to make study of occupational diseases, etc.—The division shall make a continuous study of occupational diseases and the ways and means for their control and prevention and shall make and enforce necessary regulations for such control. For this purpose, the division is

authorized to cooperate with employers, employees, and carriers and with the Department of Health ~~and Rehabilitative Services~~.

Section 212. Subsection (25) of section 443.036, Florida Statutes, 1998 Supplement, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(25) HOSPITAL.—"Hospital" means an institution which has been licensed, certified, or approved by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ as a hospital.

Section 213. Subsection (3) of section 446.205, Florida Statutes, is amended to read:

446.205 Job Training Partnership Act family dropout prevention program.—

(3) Local school boards and district Department of Children and Family ~~Health and Rehabilitative~~ Services' offices shall coordinate with the local private industry council in the development and implementation of a dropout prevention program. Moneys may be allocated to this program from the funds received by each local private industry council.

Section 214. Subsection (3) of section 446.23, Florida Statutes, is amended to read:

446.23 Obligations of a mentor.—It shall be the duty of each mentor, pursuant to a written agreement with the youth participant, the contracting entity, and the local service delivery area, to:

(3) Identify and support needed social, health care, and transportation services for the youth participant through the appropriate local program offices of the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Health, the local vocational rehabilitation agency, or other appropriate agency.

Section 215. Subsection (2) of section 446.25, Florida Statutes, is amended to read:

446.25 Implementation.—

(2) Primary responsibility for the development and coordination of the program shall rest with the Department of Labor and Employment Security, which shall promulgate rules to establish program guidelines. The service delivery areas shall coordinate services such as basic skills training, medical and social services, and transportation for the disadvantaged with the Department of Education, State Board of Community Colleges, Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Commission for the Transportation Disadvantaged of the Department of Transportation, and other agencies as needed.

Section 216. Subsections (2), (3), (6), and (10) of section 446.603, Florida Statutes, are amended to read:

446.603 Untried Worker Placement and Employment Incentive Act.—

(2) For purposes of this section, the term "untried worker" means a person who is a hard-to-place participant in the welfare-to-work programs of the Department of Labor and Employment Security or the Department of Children and Family ~~Health and Rehabilitative~~ Services because they have limitations associated with the long-term receipt of welfare and difficulty in sustaining employment.

(3) The Department of Labor and Employment Security and the Department of Children and Family ~~Health and Rehabilitative~~ Services, working with the Enterprise Florida Jobs and Education Partnership, shall develop five Untried Worker Placement and Employment Incentive pilot projects in at least five different counties.

(6) The Department of Labor and Employment Security and the Department of Children and Family ~~Health and Rehabilitative~~ Services, working with the Enterprise Florida Jobs and Education Partnership, shall develop an incentive schedule that costs the state less per placement than the state's 12-month expenditure on a welfare recipient.

(10) The Department of Labor and Employment Security and the Department of Children and Family ~~Health and Rehabilitative~~ Services, working with the Enterprise Florida Jobs and Education Partnership, may offer to any employer that chooses to employ untried workers such incentives and benefits that are available and provided in law, as long as the long-term, cost savings can be quantified with each such additional inducement.

Section 217. Subsection (1) of section 446.604, Florida Statutes, is amended to read:

446.604 One-Stop Career Centers.—

(1) The Department of Management Services shall coordinate among the agencies a plan for a One-Stop Career Center Electronic Network made up of One-Stop Career Centers that are operated by the Department of Labor and Employment Security, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Education, and other authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support such electronic network for service delivery that includes the Florida Communities Network.

Section 218. Paragraphs (b) and (h) of subsection (1) and subsection (2) of section 450.191, Florida Statutes, are amended to read:

450.191 Executive Office of the Governor; powers and duties.—

(1) The Executive Office of the Governor is authorized and directed to:

(b) Cooperate with the Department of Health ~~and Rehabilitative Services~~ in establishing minimum standards of preventive and curative health and of housing and sanitation in migrant labor camps and in making surveys to determine the adequacy of preventive and curative health services available to occupants of migrant labor camps;

(h) Cooperate with the Department of Children and Family ~~Health and Rehabilitative~~ Services in coordinating all public assistance programs as they may apply to migrant laborers;

(2) The office shall arrange, through the Department of Health ~~and Rehabilitative Services~~, for the provision of the supplementary services set forth in paragraph (1)(b) to the extent of available appropriations. Such services may be provided through the use of one or more traveling dispensaries, or by contract with physicians, dentists, hospitals, or clinics, or in such manner as may be recommended by the Department of Health ~~and Rehabilitative Services~~.

Section 219. Subsection (2) of section 450.211, Florida Statutes, is amended to read:

450.211 Advisory committee; membership.—The Legislative Commission on Migrant Labor is authorized and directed to establish an advisory committee, which shall contain the following membership:

(2) One member representing the Department of Health ~~and Rehabilitative Services~~;

Section 220. Subsection (1) of section 455.674, Florida Statutes, is amended to read:

455.674 Practitioner disclosure of confidential information; immunity from civil or criminal liability.—

(1) A practitioner regulated through the Division of Medical Quality Assurance of the department shall not be civilly or criminally liable for the disclosure of otherwise confidential information to a sexual partner or a needle-sharing partner under the following circumstances:

(a) If a patient of the practitioner who has tested positive for human immunodeficiency virus discloses to the practitioner the identity of a sexual partner or a needle-sharing partner;

(b) The practitioner recommends the patient notify the sexual partner or the needle-sharing partner of the positive test and refrain from engaging in sexual or drug activity in a manner likely to transmit the virus and the patient refuses, and the practitioner informs the patient of his or her intent to inform the sexual partner or needle-sharing partner; and

(c) If pursuant to a perceived civil duty or the ethical guidelines of the profession, the practitioner reasonably and in good faith advises the sexual partner or the needle-sharing partner of the patient of the positive test and facts concerning the transmission of the virus.

However, any notification of a sexual partner or a needle-sharing partner pursuant to this section shall be done in accordance with protocols developed pursuant to rule of the Department of Health ~~and Rehabilitative Services~~.

Section 221. Paragraph (b) of subsection (1) of section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed $300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(g) and (5).

(1) Such certificate shall:

(b) Be issued and renewable biennially if the secretary of the Department of Health ~~and Rehabilitative Services~~ and the chair of the department of psychiatry at one of the public medical schools or the chair of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

Section 222. Subsection (7) of section 458.331, Florida Statutes, 1998 Supplement, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(7) Upon the department's receipt from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 395.0197 of the name of a physician whose conduct may constitute grounds for disciplinary action by the department, the department shall investigate the occurrences upon which the report was based and determine if action by the department against the physician is warranted.

Section 223. Subsection (7) of section 459.015, Florida Statutes, 1998 Supplement, is amended to read:

459.015 Grounds for disciplinary action by the board.—

(7) Upon the department's receipt from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 395.0197 of the name of an osteopathic physician whose conduct may constitute grounds for disciplinary action by the department, the department shall investigate the occurrences upon which the report was based and determine if action by the department against the osteopathic physician is warranted.

Section 224. Paragraph (b) of subsection (5) of section 461.013, Florida Statutes, 1998 Supplement, is amended to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

(5)

(b) Upon the department's receipt from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 395.0197 of the name of the podiatric physician whose conduct may constitute grounds for disciplinary action by the department, the department shall investigate the occurrences upon which the report was based and determine if action by the department against the podiatric physician is warranted.

Section 225. Paragraph (b) of subsection (2) and subsection (4) of section 466.023, Florida Statutes, are amended to read:

466.023 Dental hygienists; scope and area of practice.—

(2) Dental hygienists may perform their duties:

(b) In public health programs and institutions of the Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, and Department of Juvenile Justice under the general supervision of a licensed dentist; or

(4) The board by rule may limit the number of dental hygienists or dental assistants to be supervised by a dentist if they perform expanded duties requiring direct or indirect supervision pursuant to the provisions of this chapter. The purpose of the limitation shall be to protect the health and safety of patients and to ensure that procedures which require more than general supervision be adequately supervised. However, the Department of Children and Family ~~Health and Rehabilitative~~ Services, Department of Health, Department of Juvenile Justice, and public institutions approved by the board shall not be so limited as to the number of dental hygienists or dental assistants working under the supervision of a licensed dentist.

Section 226. Subsection (6) of section 467.009, Florida Statutes, 1998 Supplement, is amended to read:

467.009 Midwifery programs; education and training requirements.—

(6) The training required under this section shall include training in either hospitals or alternative birth settings, or both, with particular emphasis on learning the ability to differentiate between low-risk pregnancies and high-risk pregnancies. A hospital or birthing center receiving public funds shall be required to provide student midwives access to observe labor, delivery, and postpartal procedures, provided the woman in labor has given informed consent. The Department of Health ~~and Rehabilitative Services~~ shall assist in facilitating access to hospital training for approved midwifery programs.

Section 227. Paragraph (a) of subsection (2) of section 467.0125, Florida Statutes, is amended to read:

467.0125 Licensure by endorsement.—

(2) The department may issue a temporary certificate to practice in areas of critical need to any midwife who is qualifying for licensure by endorsement under subsection (1), with the following restrictions:

(a) The Department of Health ~~and Rehabilitative Services~~ shall determine the areas of critical need, and the midwife so certified shall practice only in those specific areas, under the auspices of a physician licensed pursuant to chapter 458 or chapter 459, a certified nurse midwife licensed pursuant to chapter 464, or a midwife licensed under this chapter, who has a minimum of 3 years' professional experience. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

Section 228. Subsection (8) of section 468.1685, Florida Statutes, 1998 Supplement, is amended to read:

468.1685 Powers and duties of board and department.—It is the function and duty of the board, together with the department, to:

(8) Set up procedures by rule for advising and acting together with the Department of Health ~~and Rehabilitative Services~~ and other boards of other health professions in matters affecting procedures and methods for effectively enforcing the purpose of this part and the administration of chapter 400.

Section 229. Paragraph (a) of subsection (5) of section 470.021, Florida Statutes, is amended to read:

470.021 Direct disposal establishment; standards and location; registration.—

(5)(a) Each direct disposal establishment shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department, the Department of Health ~~and Rehabilitative Services~~, and local government inspectors and by their agents. The board shall adopt rules which establish such inspection requirements.

Section 230. Subsection (2) and paragraph (a) of subsection (7) of section 470.025, Florida Statutes, are amended to read:

470.025 Cinerator facility; licensure.—

(2) Application for licensure of cinerator facilities shall be on a form furnished and prescribed by the department and shall be accompanied by a nonrefundable license fee of up to $300 as set by board rule. No license may be issued unless the cinerator facility has been inspected and approved as meeting all requirements as set forth by the department, the Department of Health ~~and Rehabilitative Services~~, the Department of Environmental Protection, or any local ordinance regulating the same. The board shall establish by rule standards for cinerator facilities, including, but not limited to, requirements for refrigeration and storage of dead human bodies, use of forms and contracts, and record retention.

(7)(a) Each cinerator facility shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department, the Department of Environmental Protection, the Department of Health ~~and Rehabilitative Services~~, and local government in-

spectors and by their agents. The board shall adopt rules which establish such inspection requirements.

Section 231. Paragraph (e) of subsection (1) of section 470.0301, Florida Statutes, 1998 Supplement, is amended to read:

470.0301 Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the board shall adopt rules to provide for the registration of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(1) REMOVAL SERVICES AND REFRIGERATION SERVICES.—

(e) Every registrant under this section shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department or any of its designated representatives or agents, or local or Department of Health ~~and Rehabilitative Services~~ inspectors. The board shall by rule establish requirements for inspection of removal services and refrigeration services.

Section 232. Paragraph (b) of subsection (1) of section 487.0615, Florida Statutes, is amended to read:

487.0615 Pesticide Review Council.—

(1)

(b) The council shall consist of 11 scientific members as follows: a scientific representative from the Department of Agriculture and Consumer Services, a scientific representative from the Department of Environmental Protection, a scientific representative from the Department of Health ~~and Rehabilitative Services~~, and a scientific representative from the Game and Fresh Water Fish Commission, each to be appointed by the respective agency; the dean of research of the Institute of Food and Agricultural Sciences of the University of Florida; and six members to be appointed by the Governor. The six members to be appointed by the Governor must be a pesticide industry representative, a representative of an environmental group, a hydrologist, a toxicologist, a scientific representative from one of the five water management districts rotated among the five districts, and a grower representative from a list of three persons nominated by the statewide grower associations. Each member shall be appointed for a term of 4 years and shall serve until a successor is appointed. A vacancy shall be filled for the remainder of the unexpired term.

Section 233. Paragraph (c) of subsection (15) and subsection (16) of section 489.503, Florida Statutes, 1998 Supplement, are amended to read:

489.503 Exemptions.—This part does not apply to:

(15) The provision, installation, testing, routine maintenance, factory-servicing, or monitoring of a personal emergency response system, as defined in s. 489.505, by an authorized person who:

(c) Performs services for the Department of Children and Family ~~Health and Rehabilitative~~ Services under chapter 410; or

(16) The monitoring of a personal emergency response system, as defined in s. 489.505, by a charitable, not-for-profit corporation acting in accordance with a contractual agreement with the Agency for Health Care Administration or one of its licensed health care facilities, the Department of Elderly Affairs, or the Department of Children and Family ~~Health and Rehabilitative~~ Services, providing that the organization does not perform any other service requiring certification or registration under this part. Nothing in this subsection shall be construed to provide any of the agencies mentioned in this subsection the authority to develop rules, criteria, or policy pursuant to this subsection.

Section 234. Subsection (1) of section 489.551, Florida Statutes, 1998 Supplement, is amended to read:

489.551 Definitions.—As used in this part:

(1) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 235. Subsection (9) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in ss. 499.001-499.081.—As used in ss. 499.001-499.081, the term:

(9) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 236. Section 499.004, Florida Statutes, is amended to read:

499.004 Administration and enforcement by department.—The Department of Health ~~and Rehabilitative Services~~ shall administer and enforce ss. 499.001-499.081 to prevent fraud, adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics.

Section 237. Subsections (1), (3), and (4) of section 499.02, Florida Statutes, are amended to read:

499.02 Florida Drug Technical Review Panel; purpose; membership; meetings; records; expenses.—

(1) The Florida Drug Technical Review Panel, hereinafter referred to as the "technical panel," is established within the department and shall consist of five members appointed by the Secretary of Health ~~and Rehabilitative Services~~. The technical panel shall provide assistance to the department and make recommendations on applications for investigational drugs not involved in interstate commerce.

(3) A vacancy in membership occurring before the expiration of a term shall be filled by a member appointed by the Secretary of Health ~~and Rehabilitative Services~~ for the remainder of that term.

(4) As the terms of members naturally expire, the Secretary of Health ~~and Rehabilitative Services~~ shall appoint successors for terms of 4 years each. Members of the technical panel may be reappointed.

Section 238. Subsection (1) of section 499.022, Florida Statutes, is amended to read:

499.022 Technical review; approvals and denials.—

(1) The technical panel shall review each investigational drug application and, based on the information provided by the applicant under s. 499.018, shall recommend approval or denial to the Secretary of Health ~~and Rehabilitative Services~~.

Section 239. Subsection (3) of section 499.039, Florida Statutes, is amended to read:

499.039 Sale, distribution, or transfer of harmful chemical substances; penalties; authority for enforcement.—It is unlawful for a person to sell, deliver, or give to a person under the age of 18 years any compound, liquid, or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, ethylene glycol monomethyl ether acetate, cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites (butyl nitrite), or any similar substance for the purpose of inducing by breathing, inhaling, or ingesting a condition of intoxication or which is intended to distort or disturb the auditory, visual, or other physical or mental processes.

(3) The Department of Health ~~and Rehabilitative Services~~ shall adopt rules to implement this section.

Section 240. Subsections (1) and (2) of section 499.051, Florida Statutes, are amended to read:

499.051 Inspections and investigations.—

(1) The agents of the Department of Health ~~and Rehabilitative Services~~ and of the Department of Law Enforcement, after they present proper identification, may inspect, monitor, and investigate any establishment permitted pursuant to ss. 499.001-499.081 during business hours for the purpose of enforcing ss. 499.001-499.081, chapters 465, 501, and 893, and the rules of the department that protect the public health, safety, and welfare.

(2) In addition to the authority set forth in subsection (1), the department and any duly designated officer or employee of the department may enter and inspect any other establishment for the purpose of determining compliance with ss. 499.001-499.081 and rules adopted under those sections regarding any drug, device, or cosmetic product. The authority to enter and inspect does not extend to the practice of the profession of pharmacy, as defined in chapter 465 and the rules adopted under that chapter, in a pharmacy permitted under chapter 465. The Department of Business and Professional Regulation shall conduct routine inspections of retail pharmacy wholesalers at the time of the regular pharmacy permit inspection and shall

send the inspection report regarding drug wholesale activity to the Department of Health ~~and Rehabilitative Services~~.

Section 241. Subsection (2) of section 499.601, Florida Statutes, is amended to read:

499.601 Legislative intent; construction.—

(2) The provisions of this part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authority of the Department of Health ~~and Rehabilitative Services~~ under any other law of this state; except that, with respect to the regulation of ether as herein provided, in instances in which the provisions of this part may conflict with any other such law, the provisions of this part shall control.

Section 242. Subsection (2) of section 499.61, Florida Statutes, is amended to read:

499.61 Definitions.—As used in this part:

(2) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 243. Paragraph (b) of subsection (5) of section 500.12, Florida Statutes, is amended to read:

500.12 Food permits; building permits.—

(5) It is the intent of the Legislature to eliminate duplication of regulatory inspections of food. Regulatory and permitting authority over any food establishment is preempted to the department, except as provided in chapters 370 and 372.

(b) Food service establishments, as defined in s. 381.0072, that have ancillary, prepackaged retail food sales shall be regulated by the Department of Health ~~and Rehabilitative Services~~.

Section 244. Paragraph (b) of subsection (3) of section 501.001, Florida Statutes, is amended to read:

501.001 Florida Anti-Tampering Act.—

(3)

(b) In addition to any other agency which has authority to investigate and prosecute violations of this section, the Department of Health ~~and Rehabilitative Services~~, under chapter 499, shall initiate actions necessary to safeguard the public welfare by identifying and removing suspect drugs, devices, or cosmetics from consumer channels if drug, device, or cosmetic tampering is identified, alleged, or suspected.

Section 245. Paragraph (b) of subsection (4) of section 509.013, Florida Statutes, is amended to read:

509.013 Definitions.—As used in this chapter, the term:

(4)

(b) The following are excluded from the definition in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;

2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health ~~and Rehabilitative Services~~; under ss. 381.008-381.00895; and

6. Any establishment inspected by the Department of Health ~~and Rehabilitative Services~~ and regulated by chapter 513.

Section 246. Paragraphs (a) and (d) of subsection (2) of section 509.032, Florida Statutes, 1998 Supplement, are amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has responsibility and jurisdiction for all inspections required by this chapter. The division has responsibility for quality assurance. Each licensed establishment shall be inspected at least biannually and at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall establish a system to determine inspection frequency. Public lodging units classified as resort condominiums or resort dwellings are not subject to this requirement, but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies disabled adults or elderly persons who appear to be victims of neglect, as defined in s. 415.102, or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health ~~and Rehabilitative~~

~~Services~~, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan which improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II or part III of chapter 400.

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections, cooperating and coordinating with the Department of Health ~~and Rehabilitative Services~~ in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division.

Section 247. Subsection (4) of section 509.251, Florida Statutes, is amended to read:

509.251 License fees.—

(4) The actual costs associated with each epidemiological investigation conducted by the Department of Health ~~and Rehabilitative Services~~ in public food service establishments licensed pursuant to this chapter shall be accounted for and submitted to the division annually. The division shall journal transfer the total of all such amounts from the Hotel and Restaurant Trust Fund to the Department of Health ~~and Rehabilitative Services~~ annually; however, the total amount of such transfer may not exceed an amount equal to 5 percent of the annual public food service establishment licensure fees received by the division.

Section 248. Paragraph (b) of subsection (1) of section 509.291, Florida Statutes, is amended to read:

509.291 Advisory council.—

(1) There is created an 18-member advisory council.

(b) The division, the Department of Health ~~and Rehabilitative Services~~, the Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors shall each designate one representative to serve as a voting member of the council, and one member appointed by the secretary must be appointed to represent nontransient public lodging establishments. In addition, one hospitality administration educator from an institution of higher education affiliated with the Hospitality Education Program pursuant to s. 509.302(2) shall serve for a term of 2 years as a voting member of the council. This single representative shall be designated on a rotating basis by the institution or institutions of higher education affiliated with this program pursuant to s. 509.302(2).

Section 249. Subsection (1) of section 513.01, Florida Statutes, is amended to read:

513.01 Definitions.—As used in this chapter, the term:

(1) "Department" means the Department of Health ~~and Rehabilitative Services~~ and includes its representative county health departments.

Section 250. Paragraph (a) of subsection (4) of section 561.121, Florida Statutes, is amended to read:

561.121 Deposit of revenue.—

(4) State funds collected pursuant to s. 561.501 shall be paid into the State Treasury and credited to the following accounts:

(a) Nine and eight-tenths of the surcharge on the sale of alcoholic beverages for consumption on premises shall be transferred to the Children and Adolescents Substance Abuse Trust Fund, which shall remain with the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents.

Section 251. Subsection (2) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(2) All applications for alcoholic beverage licenses for consumption on the premises shall be accompanied by a certificate of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation or the Department of Agriculture and Consumer Services or the Department of Health ~~and Rehabilitative Services~~ or the county health department that the place of business wherein the business is to be conducted meets all of the sanitary requirements of the state.

Section 252. Subsection (5) of section 561.19, Florida Statutes, is amended to read:

561.19 License issuance upon approval of division.—

(5) A fee of $10,750 shall be collected from each person, firm, or corporation that is issued a new liquor license subject to the limitation imposed in s. 561.20(1) as provided in this section. This initial license fee shall not be imposed on any license renewal and shall be in addition to the license fees imposed by s. 565.02. The revenues collected from the initial license fee imposed by this subsection shall be deposited in the Department of Children and Family ~~Health and Rehabilitative~~ Services' Operations and Maintenance Trust Fund to be used only for alcohol and drug abuse education, treatment, and prevention programs.

Section 253. Paragraph (d) of subsection (1) of section 561.29, Florida Statutes, is amended to read:

561.29 Revocation and suspension of license; power to subpoena.—

(1) The division is given full power and authority to revoke or suspend the license of any person holding a license under the Beverage Law, when it is determined or found by the division upon sufficient cause appearing of:

(d) Maintaining licensed premises that are unsanitary or are not approved as sanitary by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, the Department of Agriculture and Consumer Services, the county board of health, or the Department of Health ~~and Rehabilitative Services~~, whichever has jurisdiction thereof.

Section 254. Paragraph (b) of subsection (1) of section 570.42, Florida Statutes, is amended to read:

570.42 Dairy Industry Technical Council.—

(1) COMPOSITION.—The Dairy Industry Technical Council is hereby created in the department and shall be composed of seven members as follows:

(b) An employee of the Department of Health ~~and Rehabilitative Services~~.

Section 255. Paragraph (b) of subsection (3) and paragraph (a) of subsection (6) of section 576.045, Florida Statutes, are amended to read:

576.045 Nitrate; findings and intent; fees; purpose; best-management practices; waiver of liability; compliance; rules; report; exclusions; expiration.—

(3) PURPOSE.—The funds collected pursuant to subsection (2) must be used by the department for the sole purpose of:

(b) Approving, adopting, publishing, and distributing best-management practices. In the process of approving and adopting best-management practices, the department shall consult with the Department of Environmental Protection, the Department of Health ~~and Rehabilitative Services~~, the water management districts, environmental groups, the fertilizer industry, and representatives from the affected farming groups.

This subsection must be implemented through a memorandum of understanding between the department and the Department of Environmental Protection to be adopted by October 1, 1994.

(6) RULEMAKING.—

(a) The department, in consultation with the Department of Environmental Protection, the Department of Health ~~and Rehabilitative Services~~, the water management districts, environmental groups, the fertilizer industry, and representatives from the affected farming groups, shall adopt rules to:

1. Specify the requirements of best-management practices to be implemented by property owners and leaseholders.

2. Establish procedures for property owners and leaseholders to submit the notice of intent to comply with best-management practices.

3. Establish schedules for implementation of best-management practices, and of interim measures that can be taken prior to adoption of best-management practices.

4. Establish a system to assure the implementation of best-management practices, including recordkeeping requirements.

Section 256. Section 585.15, Florida Statutes, is amended to read:

585.15 Dangerous transmissible disease or pest a public nuisance.—The department may declare by rule that a certain pest or disease of animals is a public nuisance. When a pest or disease is thus determined to be dangerous, transmissible, or threatening to an agricultural interest of the state, it shall be known as a "reportable disease." Each reportable disease shall be included by rule on the department's dangerous transmissible disease list. When necessary because of the possible impact of an animal disease on public health, the department may consult with the Department of Health ~~and Rehabilitative Services~~ regarding an animal disease that is transmissible to humans.

Section 257. Subsection (3) of section 585.21, Florida Statutes, is amended to read:

585.21 Sale of biological products.—

(3) Any biological product for animals which is used or proposed to be used in a field test in this state must be approved for such use by the department. Before issuing approval, the department shall consult with the Game and Fresh Water Fish Commission if wildlife are involved and the Department of Health ~~and Rehabilitative Services~~ if the disease may affect humans.

Section 258. Paragraph (c) of subsection (9) of section 624.424, Florida Statutes, 1998 Supplement, is amended to read:

624.424 Annual statement and other information.—

(9)

(c) Any information provided by an insurer under this subsection does not violate any right of confidentiality or contract that the insurer may have with covered persons. The insurer is immune from any liability that it may otherwise incur through its release of such information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~.

Section 259. Paragraph (c) of subsection (4) of section 627.429, Florida Statutes, is amended to read:

627.429 Medical tests for human immunodeficiency virus infection and acquired immune deficiency syndrome for insurance purposes.—

(4) USE OF MEDICAL TESTS FOR UNDERWRITING.—

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant or, in the absence of such designation, by the Department of Health ~~and Rehabilitative Services~~. Notification must include all of the following:

1. Face-to-face posttest counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others.

2. The availability in the person's geographic area of any appropriate health care services, including mental health care, and appropriate social and support services.

3. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus.

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 3.

Section 260. Subsection (2) of section 627.6418, Florida Statutes, is amended to read:

627.6418 Coverage for mammograms.—

(2) Except as provided in paragraph (1)(b), for mammograms done more frequently than every 2 years for women 40 years of age or older but younger than 50 years of age, the coverage required by subsection (1) applies, with or without a physician prescription, if the insured obtains a mammogram in an office, facility, or health testing service that uses radiological equipment registered with the Department of Health ~~and Rehabilitative Services~~ for breast cancer screening. The coverage is subject to the deductible and coinsurance provisions applicable to outpatient visits, and is also subject to all other terms and conditions applicable to other benefits. This section does not affect any requirements or prohibitions relating to who may perform, analyze, or interpret a mammogram or the persons to whom the results of a mammogram may be furnished or released.

Section 261. Subsection (2) of section 627.6613, Florida Statutes, is amended to read:

627.6613 Coverage for mammograms.—

(2) Except as provided in paragraph (1)(b), for mammograms done more frequently than every 2 years for women 40 years of age or older but younger than 50 years of age, the coverage required by subsection (1) applies, with or without a physician prescription, if the insured obtains a mammogram

in an office, facility, or health testing service that uses radiological equipment registered with the Department of Health ~~and Rehabilitative Services~~ for breast cancer screening. The coverage is subject to the deductible and coinsurance provisions applicable to outpatient visits, and is also subject to all other terms and conditions applicable to other benefits. This section does not affect any requirements or prohibitions relating to who may perform, analyze, or interpret a mammogram or the persons to whom the results of a mammogram may be furnished or released.

Section 262. Subsection (4) of section 627.736, Florida Statutes, 1998 Supplement, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.7405.

(b) Personal injury protection insurance benefits paid pursuant to this section shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per year.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state, but within the United States of America or its territories or possessions or Canada, by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself or herself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a self-propelled vehicle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself or herself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405; or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person, the maximum payable shall be as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

(f) Medical payments insurance, if available in a policy of motor vehicle insurance, shall pay the portion of any claim for personal injury protection medical benefits which is otherwise covered but is not payable due to the coinsurance provision of paragraph (1)(a), regardless of whether the full amount of personal injury protection coverage has been exhausted. The benefits shall not be payable for the amount of any deductible which has been selected.

(g) It is a violation of the insurance code for an insurer to fail to timely provide benefits as required by this section with such frequency as to constitute a general business practice.

Section 263. Section 636.052, Florida Statutes, is amended to read:

636.052 Civil remedy.—In any civil action brought to enforce the terms and conditions of a prepaid limited health service organization contract, the prevailing party is entitled to recover reasonable attorney's fees and court

costs. This section does not authorize a civil action against the department, its employees, or the commissioner or against the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, its employees, or the director ~~secretary~~ of that agency ~~department~~.

Section 264. Subsection (1) of section 641.22, Florida Statutes, is amended to read:

641.22 Issuance of certificate of authority.—The department shall issue a certificate of authority to any entity filing a completed application in conformity with s. 641.21, upon payment of the prescribed fees and upon the department's being satisfied that:

(1) As a condition precedent to the issuance of any certificate, the entity has obtained a health care provider certificate from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to part III of this chapter.

Section 265. Subsection (1) of section 641.23, Florida Statutes, is amended to read:

641.23 Revocation or cancellation of certificate of authority; suspension of enrollment of new subscribers; terms of suspension.—

(1) The maintenance of a valid and current health care provider certificate issued pursuant to part III of this chapter is a condition of the maintenance of a valid and current certificate of authority issued by the department to operate a health maintenance organization. Denial or revocation of a health care provider certificate shall be deemed to be an automatic and immediate cancellation of a health maintenance organization's certificate of authority. At the discretion of the Department of Insurance, nonrenewal of a health care provider certificate may be deemed to be an automatic and immediate cancellation of a health maintenance organization's certificate of authority if the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ notifies the Department of Insurance, in writing, that the health care provider certificate will not be renewed.

Section 266. Section 641.261, Florida Statutes, is amended to read:

641.261 Other reporting requirements.—

(1) Each authorized health maintenance organization shall provide records and information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910(22) for the sole purpose of identifying potential coverage for claims filed with the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a health maintenance organization under this section to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the health maintenance

organization may have with covered persons. The health maintenance organization is immune from any liability that it may otherwise incur through its release of information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ under this section.

Section 267. Paragraph (c) of subsection (4) of section 641.3007, Florida Statutes, is amended to read:

641.3007 Human immunodeficiency virus infection and acquired immune deficiency syndrome for contract purposes.—

(4) UTILIZATION OF MEDICAL TESTS.—

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant or, in the absence of such designation, by the Department of Health ~~and Rehabilitative Services~~. Such notification must include:

1. Face-to-face posttest counseling on the meaning of the test results; the possible need for additional testing; and the need to eliminate behavior which might spread the disease to others;

2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

3. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus; and

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 3.

Section 268. Subsection (1) and paragraph (f) of subsection (2) of section 641.405, Florida Statutes, are amended to read:

641.405 Application for certificate of authority to operate prepaid health clinic.—

(1) No person may operate a prepaid health clinic without first obtaining a certificate of authority from the department. The department shall not issue a certificate of authority to any applicant which does not possess a valid Health Care Provider Certificate issued by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~.

(2) Each application for a certificate of authority shall be on such form as the department prescribes, and such application shall be accompanied by:

(f) A copy of the applicant's Health Care Provider Certificate from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, issued pursuant to part III of this chapter.

Section 269. Subsection (1) of section 641.406, Florida Statutes, is amended to read:

641.406 Issuance of certificate of authority.—The department shall issue a certificate of authority for a prepaid health clinic to any applicant filing a properly completed application in conformity with s. 641.405, upon payment of the prescribed fees and upon the department's being satisfied that:

(1) As a condition precedent to the issuance of any certificate, the applicant has obtained a Health Care Provider Certificate from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to part III of this chapter.

Section 270. Section 641.411, Florida Statutes, is amended to read:

641.411 Other reporting requirements.—

(1) Each prepaid health clinic shall provide records and information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910(22) for the sole purpose of identifying potential coverage for claims filed with the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a prepaid health clinic under this section to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the prepaid health clinic may have with covered persons. The prepaid health clinic is immune from any liability that it may otherwise incur through its release of information to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ under this section.

Section 271. Paragraph (a) of subsection (2) of section 641.412, Florida Statutes, is amended to read:

641.412 Fees.—

(2) The fees charged under this section shall be distributed as follows:

(a) One-third of the total amount of fees shall be distributed to the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~; and

Section 272. Subsection (2) of section 641.443, Florida Statutes, is amended to read:

641.443 Temporary restraining orders.—

(2) The department and the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ are each vested with the power to seek a temporary restraining order on their behalf or on behalf of a subscriber or subscribers of a prepaid health clinic that is being operated

in violation of any provision of this part or any rule promulgated under this part, or any other applicable law or rule.

Section 273. Section 641.454, Florida Statutes, is amended to read:

641.454 Civil action to enforce prepaid health clinic contract; attorney's fees; court costs.—In any civil action brought to enforce the terms and conditions of a prepaid health clinic contract, the prevailing party is entitled to recover reasonable attorney's fees and court costs. This section shall not be construed to authorize a civil action against the department, its employees, or the Insurance Commissioner and Treasurer or against the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, the employees of the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, or the Director of Health Care Administration ~~Secretary of Health and Rehabilitative Services~~.

Section 274. Section 641.455, Florida Statutes, is amended to read:

641.455 Disposition of moneys collected under this part.—Fees, administrative penalties, examination expenses, and other sums collected by the department under this part shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund; however, fees, examination expenses, and other sums collected by, or allocated to, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ under this part shall be deposited to the credit of the General Revenue Fund.

Section 275. Paragraph (a) of subsection (2) of section 651.021, Florida Statutes, is amended to read:

651.021 Certificate of authority required.—

(2)(a) Before commencement of construction or marketing for any expansion of a certificated facility equivalent to the addition of at least 20 percent of existing units, written approval must be obtained from the department. This provision does not apply to construction for which a certificate of need from the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ is required.

Section 276. Section 651.117, Florida Statutes, is amended to read:

651.117 Duties of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for Health Care Administration.—Whenever an order of liquidation has been entered against a provider, the receiver shall notify the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for Health Care Administration by sending to the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for Health Care Administration by certified mail a copy of the order of liquidation. Upon receipt of any such order or when requested by the receiver as being in the best interest of the residents of a facility, in addition to any other duty of the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for Health Care Administration with respect to residents of a facility, the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for

Health Care Administration shall evaluate the status of the residents of the facility to determine whether they are eligible for assistance or for programs administered by the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Agency for Health Care Administration, shall develop a plan of relocation with respect to residents requesting assistance regarding relocation, and shall counsel the residents regarding such eligibility and such relocation.

Section 277. Section 713.77, Florida Statutes, is amended to read:

713.77 Liens of owners, operators, or keepers of mobile home or recreational vehicle parks; ejection of occupants.—A lien prior in dignity to all others except a lien for unpaid purchase price shall exist in favor of the owner, operator, or keeper of a mobile home park or recreational vehicle park for rent owing by, and for money or other property advanced to, any occupant thereof upon the goods, chattels, or other personal property of such occupant. Upon the nonpayment of such sums in accordance with the rules of such park, or for failure to observe any provision of this part or the rules and regulations prescribed by the Department of Health ~~and Rehabilitative Services~~, the owner, operator, or keeper thereof may instantly eject such occupant therefrom. A lien created in favor of an owner or operator of a mobile home park or recreational vehicle park may be enforced in the same manner as is now or may hereafter be provided by law for the enforcement of liens in favor of keepers of hotels and boardinghouses. Nothing in this section, however, shall prevent an owner or operator of a mobile home park or recreational vehicle park from enforcing any claim for rent under and in the manner provided by landlord and tenant acts of this state.

Section 278. Subsection (2) of section 741.01, Florida Statutes, 1998 Supplement, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(2) The fee charged for each marriage license issued in the state shall be increased by the sum of $30. This fee shall be collected upon receipt of the application for the issuance of a marriage license. The Executive Office of the Governor shall establish a Domestic Violence Trust Fund for the purpose of collecting and disbursing funds generated from the increase in the marriage license fee. Such funds which are generated shall be directed to the Department of Children and Family ~~Health and Rehabilitative~~ Services for the specific purpose of funding domestic violence centers, and the funds shall be appropriated in a "grants-in-aid" category to the Department of Children and Family ~~Health and Rehabilitative~~ Services for the purpose of funding domestic violence centers.

Section 279. Paragraph (a) of subsection (1) of section 741.29, Florida Statutes, is amended to read:

741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.—

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Family ~~Health and Rehabilitative~~ Services; and

Section 280. Subsection (2) of section 741.32, Florida Statutes, is amended to read:

741.32 Certification of batterers' intervention programs.—

(2) There is hereby established in the Department of Corrections an Office for Certification and Monitoring of Batterers' Intervention Programs. The department may certify and monitor both programs and personnel providing direct services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the Department of Children and Family ~~Health and Rehabilitative~~ Services, and those who volunteer to attend such programs. The purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence. The certification and monitoring shall be funded by user fees as provided in s. 945.76.

Section 281. Section 742.08, Florida Statutes, is amended to read:

742.08 Default of support payments.—Upon default in payment of any moneys ordered by the court to be paid, the court may enter a judgment for the amount in default, plus interest, administrative costs, filing fees, and other expenses incurred by the clerk of the circuit court which shall be a lien upon all property of the defendant both real and personal. Costs and fees shall be assessed only after the court makes a determination of the nonprevailing party's ability to pay such costs and fees. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees. The Department of Revenue ~~Health and Rehabilitative Services~~ shall not be considered a party for purposes of this section; however, fees may be assessed against the department pursuant to s. 57.105(1). Willful failure to

comply with an order of the court shall be deemed a contempt of the court entering the order and shall be punished as such. The court may require bond of the defendant for the faithful performance of his or her obligation under the order of the court in such amount and upon such conditions as the court shall direct.

Section 282. Subsections (3) and (4) of section 742.107, Florida Statutes, are amended to read:

742.107 Determining paternity of child with mother under 16 years of age when impregnated.—

(3) Whenever the information provided by a mother who was impregnated while under 16 years of age indicates that the alleged father of the child was 21 years of age or older at the time of conception of the child, the Department of Revenue or the Department of Children and Family ~~Health and Rehabilitative~~ Services shall advise the applicant or recipient of public assistance that she is required to cooperate with law enforcement officials in the prosecution of the alleged father.

(4) When the information provided by the applicant or recipient who was impregnated while under age 16 indicates that such person is the victim of child abuse as provided in s. 827.04(4), the Department of Revenue or the Department of Children and Family ~~Health and Rehabilitative~~ Services shall notify the county sheriff's office or other appropriate agency or official and provide information needed to protect the child's health or welfare.

Section 283. Subsection (12) of section 744.474, Florida Statutes, is amended to read:

744.474 Reasons for removal of guardian.—A guardian may be removed for any of the following reasons, and the removal shall be in addition to any other penalties prescribed by law:

(12) A confirmed report pursuant to a protective investigation made by the Department of Children and Family ~~Health and Rehabilitative~~ Services, which has been uncontested or has been upheld, in accordance with s. 415.1075, that the guardian has abused, neglected, or exploited the ward.

Section 284. Subsection (3) of section 765.110, Florida Statutes, is amended to read:

765.110 Health care facilities and providers; discipline.—

(3) The Department of Health ~~and Rehabilitative Services~~ and the Agency for Health Care Administration shall adopt rules to implement the provisions of the section.

Section 285. Paragraphs (c) and (d) of subsection (2) of section 766.105, Florida Statutes, 1998 Supplement, are amended to read:

766.105 Florida Patient's Compensation Fund.—

(2) COVERAGE.—

(c) Any hospital that can meet one of the following provisions for demonstrating financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of or failure to render medical care or services and for bodily injury or property damage to the person or property of any patient arising out of the activities of the hospital in this state or arising out of the activities of covered individuals listed in paragraph (e) is not required to participate in the fund:

1. Post bond in an amount equivalent to $10,000 per claim for each hospital bed in such hospital, not to exceed a $2.5 million annual aggregate.

2. Establish an escrow account in an amount equivalent to $10,000 per claim for each hospital bed in such hospital, not to exceed a $2.5 million annual aggregate, to the satisfaction of the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~.

3. Obtain professional liability coverage in an amount equivalent to $10,000 or more per claim for each bed in such hospital from a private insurer, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357. However, no hospital may be required to obtain such coverage in an amount exceeding a $2.5 million annual aggregate.

(d)1. Any health care provider who participates in the fund and who does not meet the provisions of paragraph (b) shall not be covered by the fund.

2. Annually, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall require documentation by each hospital that such hospital is in compliance, and will remain in compliance, with the provisions of this section. The agency ~~department~~ shall review the documentation and then deliver the documentation to the board of governors. At least 60 days before the time a license will be issued or renewed, the agency ~~department~~ shall request from the board of governors a certification that each hospital is in compliance with the provisions of this section. The board of governors shall not be liable under the law for any erroneous certification. The agency ~~department~~ may not issue or renew the license of any hospital which has not been certified by the board of governors. The license of any hospital that fails to remain in compliance or fails to provide such documentation shall be revoked or suspended by the agency ~~department~~.

Section 286. Paragraph (b) of subsection (3) of section 766.1115, Florida Statutes, 1998 Supplement, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(3) DEFINITIONS.—As used in this section, the term:

(b) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 287. Subsections (2) and (5) of section 766.305, Florida Statutes, 1998 Supplement, are amended to read:

766.305 Filing of claims and responses; medical disciplinary review.—

(2) The claimant shall furnish the division with as many copies of the petition as required for service upon the association, any physician and hospital named in the petition, and the Division of Medical Quality Assurance, along with a $15 filing fee payable to the Division of Administrative Hearings. Upon receipt of the petition, the division shall immediately serve the association, by service upon the agent designated to accept service on behalf of the association, by registered or certified mail, and shall mail copies of the petition to any physician and hospital named in the petition, the Division of Medical Quality Assurance, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~, and the medical advisory review panel provided for in s. 766.308.

(5) Upon receipt of such petition, the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ shall investigate the claim, and if it determines that the injury resulted from, or was aggravated by, a breach of duty on the part of a hospital in violation of chapter 395, it shall take any such action consistent with its disciplinary authority as may be appropriate.

Section 288. Paragraph (c) of subsection (9) of section 766.314, Florida Statutes, 1998 Supplement, is amended to read:

766.314 Assessments; plan of operation.—

(9)

(c) In the event the total of all current estimates equals 80 percent of the funds on hand and the funds that will become available to the association within the next 12 months from all sources described in subsections (4) and (5) and paragraph (7)(a), the association shall not accept any new claims without express authority from the Legislature. Nothing herein shall preclude the association from accepting any claim if the injury occurred 18 months or more prior to the effective date of this suspension. Within 30 days of the effective date of this suspension, the association shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, the Department of Insurance, the Agency for Health Care Administration, the Department of Health ~~and Rehabilitative Services~~, and the Department of Business and Professional Regulation of this suspension.

Section 289. Paragraph (b) of subsection (9) and paragraph (c) of subsection (10) of section 768.28, Florida Statutes, 1998 Supplement, are amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(9)

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115, any member of the Florida Health Services Corps, as defined in s. 381.0302, who provides uncompensated care to medically indigent persons referred by the Department of Health ~~and Rehabilitative Services~~, and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

(10)

(c) For purposes of this section, regional poison control centers created in accordance with s. 395.1027 and coordinated and supervised under the Division of Children's Medical Services ~~Program Office~~ of the Department of Health ~~and Rehabilitative Services~~, or any of their employees or agents, shall be considered agents of the State of Florida, Department of Health ~~and Rehabilitative Services~~. Any contracts with poison control centers must provide, to the extent permitted by law, for the indemnification of the state by the agency for any liabilities incurred up to the limits set out in this chapter.

Section 290. Paragraph (b) of subsection (2) of section 768.76, Florida Statutes, is amended to read:

768.76 Collateral sources of indemnity.—

(2) For purposes of this section:

(b) Notwithstanding any other provision of this section, benefits received under Medicare, or any other federal program providing for a Federal Government lien on or right of reimbursement from the plaintiff's recovery, the Workers' Compensation Law, the Medicaid program of Title XIX of the Social Security Act or from any medical services program administered by the Department of Health ~~and Rehabilitative Services~~ shall not be considered a collateral source.

Section 291. Subsections (1) and (2) of section 775.0877, Florida Statutes, are amended to read:

775.0877 Criminal transmission of HIV; procedures; penalties.—

(1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another:

(a) Section 794.011, relating to sexual battery,

(b) Section 826.04, relating to incest,

(c) Section 800.04(1), (2), and (3), relating to lewd, lascivious, or indecent assault or act upon any person less than 16 years of age,

(d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d), relating to assault,

(e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b), relating to aggravated assault,

(f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c), relating to battery,

(g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a), relating to aggravated battery,

(h) Section 827.03(1), relating to child abuse,

(i) Section 827.03(2), relating to aggravated child abuse,

(j) Section 825.102(1), relating to abuse of an elderly person or disabled adult,

(k) Section 825.102(2), relating to aggravated abuse of an elderly person or disabled adult,

(l) Section 827.071, relating to sexual performance by person less than 18 years of age,

(m) Sections 796.03, 796.07, and 796.08, relating to prostitution, or

(n) Section 381.0041(11)(b), relating to donation of blood, plasma, organs, skin, or other human tissue,

the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health ~~and Rehabilitative Services~~ in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(3)(i)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense.

(2) The results of the HIV test must be disclosed under the direction of the Department of Health ~~and Rehabilitative Services~~, to the offender who has been convicted of or pled nolo contendere or guilty to an offense specified in subsection (1), the public health agency of the county in which the conviction occurred and, if different, the county of residence of the offender, and, upon request pursuant to s. 960.003, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor.

Section 292. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 775.16, Florida Statutes, are amended to read:

775.16 Drug offenses; additional penalties.—In addition to any other penalty provided by law, a person who has been convicted of sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance under

chapter 893, if such offense is a felony, or who has been convicted of an offense under the laws of any state or country which, if committed in this state, would constitute the felony of selling or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, is:

(1) Disqualified from applying for employment by any agency of the state, unless:

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanctions. The person under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved by the Department of Children and Family ~~Health and Rehabilitative~~ Services, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections.

(2) Disqualified from applying for a license, permit, or certificate required by any agency of the state to practice, pursue, or engage in any occupation, trade, vocation, profession, or business, unless:

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these subparagraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing, permitting, or certifying agency, which may refuse to reissue or reinstate such license, permit, or certification. The licensee, permittee, or certificateholder under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Parole Commission, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections; or

The provisions of this section do not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with the provisions of s. 213.05.

Section 293. Section 784.081, Florida Statutes, is amended to read:

784.081 Assault or battery on specified officials or employees; reclassification of offenses.—Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any elected official or employee of: a school district; a private school; the Florida School for the Deaf and the Blind; a university developmental research school; a state university or any other entity of the state system of public education, as defined in s. 228.041; or an employee or protective investigator of the Department of Children and Family ~~Health and Rehabilitative~~ Services, when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

(1) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(2) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(3) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(4) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Section 294. Subsection (3) of section 790.157, Florida Statutes, is amended to read:

790.157 Presumption of impairment; testing methods.—

(3) A chemical analysis of a person's blood to determine its alcoholic content or a chemical or physical analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved by the Florida Department of Law Enforcement ~~Health and Rehabilitative Services~~ and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in an individual case shall not render the test

or test results invalid. The Florida Department of Law Enforcement ~~Health and Rehabilitative Services~~ may approve satisfactory techniques or methods, ascertain the qualification and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

Section 295. Section 790.256, Florida Statutes, is amended to read:

790.256 Public service announcements.—The Department of Health ~~and Rehabilitative Services~~ shall prepare public service announcements for dissemination to parents throughout the state, of the provisions of chapter 93-416, Laws of Florida.

Section 296. Subsections (1), (2), and (3) of section 796.08, Florida Statutes, are amended to read:

796.08 Screening for HIV and sexually transmissible diseases; providing penalties.—

(1)(a) For the purposes of this section, "sexually transmissible disease" means a bacterial, viral, fungal, or parasitic disease, determined by rule of the Department of Health ~~and Rehabilitative Services~~ to be sexually transmissible, a threat to the public health and welfare, and a disease for which a legitimate public interest is served by providing for regulation and treatment.

(b) In considering which diseases are designated as sexually transmissible diseases, the Department of Health ~~and Rehabilitative Services~~ shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, and human immunodeficiency virus infection for designation and shall consider the recommendations and classifications of the Centers for Disease Control and Prevention and other nationally recognized authorities. Not all diseases that are sexually transmissible need be designated for purposes of this section.

(2) A person arrested under s. 796.07 may request screening for a sexually transmissible disease under direction of the Department of Health ~~and Rehabilitative Services~~ and, if infected, shall submit to appropriate treatment and counseling. A person who requests screening for a sexually transmissible disease under this subsection must pay any costs associated with such screening.

(3) A person convicted under s. 796.07 of prostitution or procuring another to commit prostitution must undergo screening for a sexually transmissible disease, including, but not limited to, screening to detect exposure to the human immunodeficiency virus, under direction of the Department of Health ~~and Rehabilitative Services~~. If the person is infected, he or she must submit to treatment and counseling prior to release from probation, community control, or incarceration. Notwithstanding the provisions of s. 384.29, the results of tests conducted pursuant to this subsection shall be made available by the Department of Health ~~and Rehabilitative Services~~ to

the offender, medical personnel, appropriate state agencies, state attorneys, and courts of appropriate jurisdiction in need of such information in order to enforce the provisions of this chapter.

Section 297. Paragraph (a) of subsection (2) of section 817.505, Florida Statutes, 1998 Supplement, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(2) For the purposes of this section, the term:

(a) "Health care provider or health care facility" means any person or entity licensed, certified, or registered with the Agency for Health Care Administration; any person or entity that has contracted with the Agency for Health Care Administration to provide goods or services to Medicaid recipients as provided under s. 409.907; a county health department established under part I of chapter 154; any community service provider contracting with the Department of Children and Family ~~Health and Rehabilitative~~ Services to furnish alcohol, drug abuse, or mental health services under part IV of chapter 394; any substance abuse service provider licensed under chapter 397; or any federally supported primary care program such as a migrant or community health center authorized under ss. 329 and 330 of the United States Public Health Services Act.

Section 298. Paragraph (a) of subsection (3) of section 873.01, Florida Statutes, is amended to read:

873.01 Purchase or sale of human organs and tissue prohibited.—

(3)(a) The human organs and tissues subject to the provisions of this section are the eye, cornea, kidney, liver, heart, lung, pancreas, bone, and skin or any other organ or tissue adopted by rule by the Agency for Health Care Administration ~~Department of Health and Rehabilitative Services~~ for this purpose.

Section 299. Subsection (4) of section 877.111, Florida Statutes, is amended to read:

877.111 Inhalation, ingestion, possession, sale, purchase, or transfer of harmful chemical substances; penalties.—

(4) Any person who violates any of the provisions of this section may, in the discretion of the trial judge, be required to participate in a substance abuse services program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services pursuant to the provisions of chapter 397, provided the director of the program approves the placement of the defendant in the program. Such required participation may be imposed in addition to, or in lieu of, any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, and program participation shall not exceed the maximum length of sentence possible for the offense.

Section 300. Subsection (9) of section 893.02, Florida Statutes, 1998 Supplement, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(9) "Department" means the Department of Health ~~and Rehabilitative Services~~.

Section 301. Paragraph (f) of subsection (1) of section 893.04, Florida Statutes, is amended to read:

893.04 Pharmacist and practitioner.—

(1) A pharmacist, in good faith and in the course of professional practice only, may dispense controlled substances upon a written or oral prescription of a practitioner, under the following conditions:

(f) A prescription for a controlled substance listed in Schedule II may be dispensed only upon a written prescription of a practitioner, except that in an emergency situation, as defined by regulation of the Department of Health ~~and Rehabilitative Services~~, such controlled substance may be dispensed upon oral prescription. No prescription for a controlled substance listed in Schedule II may be refilled.

Section 302. Paragraph (a) of subsection (1) of section 893.11, Florida Statutes, is amended to read:

893.11 Suspension, revocation, and reinstatement of business and professional licenses.—Upon the conviction in any court of competent jurisdiction of any person holding a license, permit, or certificate issued by a state agency, for sale of, or trafficking in, a controlled substance or for conspiracy to sell, or traffic in, a controlled substance, if such offense is a felony, the clerk of said court shall send a certified copy of the judgment of conviction with the person's license number, permit number, or certificate number on the face of such certified copy to the agency head by whom the convicted defendant has received a license, permit, or certificate to practice his or her profession or to carry on his or her business. Such agency head shall suspend or revoke the license, permit, or certificate of the convicted defendant to practice his or her profession or to carry on his or her business. Upon a showing by any such convicted defendant whose license, permit, or certificate has been suspended or revoked pursuant to this section that his or her civil rights have been restored or upon a showing that the convicted defendant meets the following criteria, the agency head may reinstate or reactivate such license, permit, or certificate when:

(1) The person has complied with the conditions of paragraphs (a) and (b) which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these paragraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing, permitting, or certifying agency, which shall revoke the license, permit, or certification. The person under supervision may:

(a) Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program

which is approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services. The treatment and rehabilitation program shall be specified by:

1. The court, in the case of court-ordered supervisory sanctions;

2. The Parole Commission, in the case of parole, control release, or conditional release; or

3. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

This section does not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with s. 213.05.

Section 303. Paragraph (b) of subsection (1) of section 893.12, Florida Statutes, 1998 Supplement, is amended to read:

893.12 Contraband; seizure, forfeiture, sale.—

(1) All substances controlled by this chapter and all listed chemicals, which substances or chemicals are handled, delivered, possessed, or distributed contrary to any provisions of this chapter, and all such controlled substances or listed chemicals the lawful possession of which is not established or the title to which cannot be ascertained, are declared to be contraband, are subject to seizure and confiscation by any person whose duty it is to enforce the provisions of the chapter, and shall be disposed of as follows:

(b) Upon written application by the Department of Health ~~and Rehabilitative Services~~, the court by whom the forfeiture of such controlled substances or listed chemicals has been decreed may order the delivery of any of them to said department for distribution or destruction as hereinafter provided.

Section 304. Section 893.15, Florida Statutes, is amended to read:

893.15 Rehabilitation.—Any person who violates s. 893.13(6)(a) or (b) relating to possession may, in the discretion of the trial judge, be required to participate in a substance abuse services program approved or regulated by the Department of Children and Family ~~Health and Rehabilitative~~ Services pursuant to the provisions of chapter 397, provided the director of such program approves the placement of the defendant in such program. Such required participation shall be imposed in addition to any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, and program participation shall not exceed the maximum length of sentence possible for the offense.

Section 305. Subsection (1) and paragraph (b) of subsection (3) of section 893.165, Florida Statutes, are amended to read:

893.165 County alcohol and other drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive alcohol and other drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Children and Family ~~Health and Rehabilitative~~ Services are authorized to establish a County Alcohol and Other Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. 938.23 and disbursing assistance grants on an annual basis to such alcohol and other drug abuse treatment or education program.

(3)

(b) Assessments collected by clerks of circuit courts having more than one county in the circuit, for any county in the circuit which does not have a County Alcohol and Other Drug Abuse Trust Fund, shall be remitted to the Department of Children and Family ~~Health and Rehabilitative~~ Services, in accordance with administrative rules adopted, for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund for distribution pursuant to the guidelines and priorities developed by the department.

Section 306. Paragraphs (a), (d), and (e) of subsection (2) of section 895.09, Florida Statutes, 1998 Supplement, are amended to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(2)(a) Following satisfaction of all valid claims under subsection (1), 25 percent of the remainder of the funds obtained in the forfeiture proceedings pursuant to s. 895.05 shall be deposited as provided in paragraph (b) into the appropriate trust fund of the Department of Legal Affairs or state attorney's office which filed the civil forfeiture action; 25 percent shall be deposited as provided in paragraph (c) into the applicable law enforcement trust fund of the investigating law enforcement agency conducting the investigation which resulted in or significantly contributed to the forfeiture of the property; 25 percent shall be deposited as provided in paragraph (d) in the Substance Abuse Trust Fund of the Department of Children and Family ~~Health and Rehabilitative~~ Services; and the remaining 25 percent shall be deposited in the Forfeited Property Trust Fund of the Department of Environmental Protection. When a forfeiture action is filed by the Department of Legal Affairs or a state attorney, the court entering the judgment of forfeiture shall, taking into account the overall effort and contribution to the investigation and forfeiture action by the agencies that filed the action, make a pro rata apportionment among such agencies of the funds available for distribution to the agencies filing the action as provided in this section. If multiple investigating law enforcement agencies have contributed to the forfeiture of the property, the court which entered the judgment of forfeiture shall, taking into account the overall effort and contribution of the agencies to the investigation and forfeiture action, make a pro rata apportionment among such investigating law enforcement agencies of the funds available for distribution to the investigating agencies as provided in this section.

(d) The Department of Children and Family ~~Health and Rehabilitative~~ Services shall, in accordance with chapter 397, distribute funds obtained by it pursuant to paragraph (a) to public and private nonprofit organizations

licensed by the department to provide substance abuse treatment and rehabilitation centers or substance abuse prevention and youth orientation programs in the service district in which the final order of forfeiture is entered by the court.

(e) On a quarterly basis, any excess funds, including interest, over $1 million deposited in the Forfeited Property Trust Fund of the Department of Environmental Protection in accordance with paragraph (a) shall be deposited in the Substance Abuse Trust Fund of the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 307. Subsection (2) of section 938.23, Florida Statutes, is amended to read:

938.23 Assistance grants for alcohol and other drug abuse programs.—

(2) All assessments authorized by this section shall be collected by the clerk of court and remitted to the jurisdictional county as described in s. 893.165(2) for deposit into the County Alcohol and Other Drug Abuse Trust Fund or to the Department of Children and Family ~~Health and Rehabilitative~~ Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund pursuant to guidelines and priorities developed by the department. If a County Alcohol and Other Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Children and Family ~~Health and Rehabilitative~~ Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund.

Section 308. Subsection (5) of section 944.012, Florida Statutes, is amended to read:

944.012 Legislative intent.—The Legislature hereby finds and declares that:

(5) In order to make the correctional system an efficient and effective mechanism, the various agencies involved in the correctional process must coordinate their efforts. Where possible, interagency offices should be physically located within major institutions and should include representatives of the Florida State Employment Service, the vocational rehabilitation programs of the Department of Labor and Employment Security ~~Health and Rehabilitative Services~~, and the Parole Commission. Duplicative and unnecessary methods of evaluating offenders must be eliminated and areas of responsibility consolidated in order to more economically utilize present scarce resources.

Section 309. Subsection (5) of section 944.024, Florida Statutes, is amended to read:

944.024 Adult intake and evaluation.—The state system of adult intake and evaluation shall include:

(5) The performance of postsentence intake by the department. Any physical facility established by the department for the intake and evaluation

process prior to the offender's entry into the correctional system shall provide for specific office and work areas for the staff of the commission. The purpose of such a physical center shall be to combine in one place as many of the rehabilitation-related functions as possible, including pretrial and posttrial evaluation, parole and probation services, vocational rehabilitation services, family assistance services of the Department of Children and Family ~~Health and Rehabilitative~~ Services, and all other rehabilitative and correctional services dealing with the offender.

Section 310. Subsection (5) of section 944.17, Florida Statutes, 1998 Supplement, is amended to read:

944.17 Commitments and classification; transfers.—

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or chief correctional officer, or a designated representative, to the officer in charge of the reception process:

(a) The uniform commitment and judgment and sentence forms as described in subsection (4).

(b) The sheriff's certificate as described in s. 921.161.

(c) A certified copy of the indictment or information relating to the offense for which the person was convicted.

(d) A copy of the probable cause affidavit for each offense identified in the current indictment or information.

(e) A copy of the Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation of felony sentencing scoresheets.

(f) A copy of the restitution order or the reasons by the court for not requiring restitution pursuant to s. 775.089(1).

(g) The name and address of any victim, if available.

(h) A printout of a current criminal history record as provided through an FCIC/NCIC printer.

(i) Any available health assessments including medical, mental health, and dental, including laboratory or test findings; custody classification; disciplinary and adjustment; and substance abuse assessment and treatment information which may have been developed during the period of incarceration prior to the transfer of the person to the department's custody. Available information shall be transmitted on standard forms developed by the department.

In addition, the sheriff or other officer having such person in charge shall also deliver with the foregoing documents any available presentence investigation reports as described in s. 921.231 and any attached documents. After

a prisoner is admitted into the state correctional system, the department may request such additional records relating to the prisoner as it considers necessary from the clerk of the court, the Department of Children and Family ~~Health and Rehabilitative~~ Services, or any other state or county agency for the purpose of determining the prisoner's proper custody classification, gain-time eligibility, or eligibility for early release programs. An agency that receives such a request from the department must provide the information requested.

Section 311. Section 944.602, Florida Statutes, is amended to read:

944.602 Notification of Department of Children and Family ~~Health and Rehabilitative~~ Services before release of mentally retarded inmates.—Before the release by parole, release by reason of gain-time allowances provided for in s. 944.291, or expiration of sentence of any inmate who has been diagnosed as mentally retarded as defined in s. 393.063, the Department of Corrections shall notify the Department of Children and Family ~~Health and Rehabilitative~~ Services in order that sufficient time be allowed to notify the inmate or the inmate's representative, in writing, at least 7 days prior to the inmate's release, of available community services.

Section 312. Subsection (2) of section 944.706, Florida Statutes, is amended to read:

944.706 Basic release assistance.—

(2) The department is authorized to contract with the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Salvation Army, and other public or private organizations for the provision of basic support services for releasees. The department shall contract with the Department of Labor and Employment Security for the provision of releasee job placement.

Section 313. Subsection (2) of section 945.025, Florida Statutes, is amended to read:

945.025 Jurisdiction of department.—

(2) In establishing, operating, and utilizing these facilities, the department shall attempt, whenever possible, to avoid the placement of nondangerous offenders who have potential for rehabilitation with repeat offenders or dangerous offenders. Medical, mental, and psychological problems shall be diagnosed and treated whenever possible. The Department of Children and Family ~~Health and Rehabilitative~~ Services shall cooperate to ensure the delivery of services to persons under the custody or supervision of the department. When it is the intent of the department to transfer a mentally ill or retarded prisoner to the Department of Children and Family ~~Health and Rehabilitative~~ Services, an involuntary commitment hearing shall be held according to the provisions of chapter 393 or chapter 394.

Section 314. Paragraphs (a) and (b) of subsection (2) of section 945.10, Florida Statutes, 1998 Supplement, are amended to read:

945.10 Confidential information.—

(2) The records and information specified in paragraphs (1)(b)-(h) may be released as follows unless expressly prohibited by federal law:

(a) Information specified in paragraphs (1)(b), (d), and (f) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Children and Family ~~Health and Rehabilitative~~ Services, a private correctional facility or program that operates under a contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph need not be in writing.

(b) Information specified in paragraphs (1)(c), (e), and (h) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Children and Family ~~Health and Rehabilitative~~ Services, a private correctional facility or program that operates under contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

Records and information released under this subsection remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution when held by the receiving person or entity.

Section 315. Subsection (6) of section 945.12, Florida Statutes, is amended to read:

945.12 Transfers for rehabilitative treatment.—

(6) A prisoner who has been determined by the Department of Children and Family ~~Health and Rehabilitative~~ Services and the Department of Corrections to be amenable to rehabilitative treatment for sexual deviation, and who has voluntarily agreed to participate in such rehabilitative treatment, may be transferred to the Department of Children and Family ~~Health and Rehabilitative~~ Services provided appropriate bed space is available.

Section 316. Subsections (1) and (2) of section 945.35, Florida Statutes, are amended to read:

945.35 Requirement for education on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The Department of Corrections, in conjunction with the Department of Health ~~and Rehabilitative Services~~, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immune deficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The

education program shall be continuously updated to reflect the latest medical information available.

(2) The Department of Corrections, in conjunction with the Department of Health ~~and Rehabilitative Services~~, shall establish a mandatory education program on human immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change to be offered on an annual basis to all staff in correctional facilities, including new staff.

Section 317. Subsection (1) of section 945.41, Florida Statutes, is amended to read:

945.41 Legislative intent of ss. 945.40-945.49.—It is the intent of the Legislature that mentally ill inmates in the custody of the Department of Corrections receive evaluation and appropriate treatment for their mental illness through a continuum of services. It is further the intent of the Legislature that:

(1) Inmates in the custody of the department who have mental illnesses that require hospitalization and intensive psychiatric inpatient treatment or care receive appropriate treatment or care in Department of Corrections mental health treatment facilities designated for that purpose. The department shall contract with the Department of Children and Family ~~Health and Rehabilitative~~ Services for the provision of mental health services in any departmental mental health treatment facility. The Department of Corrections shall provide mental health services to inmates committed to it and may contract with any persons or agencies qualified to provide such services.

Section 318. Subsections (2) and (3) of section 945.47, Florida Statutes, are amended to read:

945.47 Discharge of inmate from mental health treatment.—

(2) An inmate who is involuntarily placed pursuant to s. 394.467 at the expiration of his or her sentence may be placed, by order of the court, in a facility designated by the Department of Children and Family ~~Health and Rehabilitative~~ Services as a secure, nonforensic, civil facility. Such a placement shall be conditioned upon a finding by the court of clear and convincing evidence that the inmate is manifestly dangerous to himself or herself or others. The need for such placement shall be reviewed by facility staff every 90 days. At any time that a patient is considered for transfer to a nonsecure, civil unit, the court which entered the order for involuntary placement shall be notified.

(3) At any time that an inmate who has received mental health treatment while in the custody of the department becomes eligible for release on parole, a complete record of the inmate's treatment shall be provided to the Parole Commission and to the Department of Children and Family ~~Health and Rehabilitative~~ Services. The record shall include, at least, the inmate's diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, and treatment plan and recommendations for aftercare services. In the event that the inmate is released on parole, the record shall be

provided to the parole officer who shall assist the inmate in applying for services from a professional or an agency in the community. The application for treatment and continuation of treatment by the inmate may be made a condition of parole, as provided in s. 947.19(1); and a failure to participate in prescribed treatment may be a basis for initiation of parole violation hearings.

Section 319. Subsection (2) of section 945.49, Florida Statutes, is amended to read:

945.49 Operation and administration.—

(2) RULES.—The department, in cooperation with the Mental Health Program Office of the Department of Children and Family ~~Health and Rehabilitative~~ Services, shall adopt rules necessary for administration of ss. 945.40-945.49 in accordance with chapter 120.

Section 320. Paragraph (b) of subsection (2) of section 947.13, Florida Statutes, is amended to read:

947.13 Powers and duties of commission.—

(2)

(b) The Department of Children and Family ~~Health and Rehabilitative~~ Services and all other state, county, and city agencies, sheriffs and their deputies, and all peace officers shall cooperate with the commission and the department and shall aid and assist them in the performance of their duties.

Section 321. Subsection (9) of section 947.146, Florida Statutes, 1998 Supplement, is amended to read:

947.146 Control Release Authority.—

(9) The authority shall examine such records as it deems necessary of the department, the Department of Children and Family ~~Health and Rehabilitative~~ Services, the Department of Law Enforcement, and any other such agency for the purpose of either establishing, modifying, or revoking a control release date. The victim impact statement shall be included in such records for examination. Such agencies shall provide the information requested by the authority for the purposes of fulfilling the requirements of this section.

Section 322. Section 947.185, Florida Statutes, is amended to read:

947.185 Application for mental retardation services as condition of parole.—The Parole Commission may require as a condition of parole that any inmate who has been diagnosed as mentally retarded as defined in s. 393.063 shall, upon release, apply for retardation services from the Department of Children and Family ~~Health and Rehabilitative~~ Services.

Section 323. Subsection (8) of section 948.01, Florida Statutes, 1998 Supplement, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(8) When the court, under any of the foregoing subsections, places a defendant on probation or into community control, it may specify that the defendant serve all or part of the probationary or community control period in a community residential or nonresidential facility under the jurisdiction of the Department of Corrections or the Department of Children and Family ~~Health and Rehabilitative~~ Services or any public or private entity providing such services, and it shall require the payment prescribed in s. 948.09.

Section 324. Section 949.02, Florida Statutes, is amended to read:

949.02 Youth parolees.—Nothing in chapters 947-949 shall be construed to change or modify the law respecting paroles as administered by the Department of Juvenile Justice ~~Health and Rehabilitative Services~~.

Section 325. Subsection (2) of section 951.27, Florida Statutes, is amended to read:

951.27 Blood tests of inmates.—

(2) Except as otherwise provided in this subsection, serologic blood test results obtained pursuant to subsection (1) are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such results may be provided to employees or officers of the sheriff or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know such information, and as provided in ss. 775.0877 and 960.003. In addition, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the results of any HIV test performed on an inmate who has been arrested for any sexual offense involving oral, anal, or vaginal penetration by, or union with, the sexual organ of another, shall be disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor. In such cases, the county or municipal detention facility shall furnish the test results to the Department of Health ~~and Rehabilitative Services~~, which is responsible for disclosing the results to public health agencies as provided in s. 775.0877 and to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, as provided in s. 960.003(3).

Section 326. Subsection (4) of section 958.12, Florida Statutes, is amended to read:

958.12 Participation in certain activities required.—

(4) Community partnerships shall be developed by the department to provide postrelease community resources. The department shall develop partnerships with entities which include, but are not limited to, the Department of Labor and Employment Security, the Department of Children and Family ~~Health and Rehabilitative~~ Services, community health agencies, and school systems.

Section 327. Subsection (2), paragraph (a) of subsection (3), and subsections (4) and (6) of section 960.003, Florida Statutes, are amended to read:

960.003 Human immunodeficiency virus testing for persons charged with or alleged by petition for delinquency to have committed certain offenses; disclosure of results to victims.—

(2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.—In any case in which a person has been charged by information or indictment with or alleged by petition for delinquency to have committed any offense enumerated in s. 775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo HIV testing. The testing shall be performed under the direction of the Department of Health ~~and Rehabilitative Services~~ in accordance with s. 381.004. The results of an HIV test performed on a defendant or juvenile offender pursuant to this subsection shall not be admissible in any criminal or juvenile proceeding arising out of the alleged offense.

(3) DISCLOSURE OF RESULTS.—

(a) The results of the test shall be disclosed, under the direction of the Department of Health ~~and Rehabilitative Services~~, to the person charged with or alleged by petition for delinquency to have committed or to the person convicted of or adjudicated delinquent for any offense enumerated in s. 775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, and, upon request, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, and to public health agencies pursuant to s. 775.0877. If the alleged offender is a juvenile, the test results shall also be disclosed to the parent or guardian. Otherwise, HIV test results obtained pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to any other person except as expressly authorized by law or court order.

(4) POSTCONVICTION TESTING.—If, for any reason, the testing requested under subsection (2) has not been undertaken, then upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order the offender to undergo HIV testing following conviction or delinquency adjudication. The testing shall be performed under the direction of the Department of Health ~~and Rehabilitative Services~~, and the results shall be disclosed in accordance with the provisions of subsection (3).

(6) TESTING DURING INCARCERATION, DETENTION, OR PLACEMENT; DISCLOSURE.—In any case in which a person convicted of or adjudicated delinquent for an offense described in subsection (2) has not been tested under subsection (2), but undergoes HIV testing during his or her incarceration, detention, or placement, the results of the initial HIV testing shall be disclosed in accordance with the provisions of subsection (3). Except as otherwise requested by the victim or the victim's legal guardian, or the

parent or guardian of the victim if the victim is a minor, if the initial test is conducted within the first year of the imprisonment, detention, or placement, the request for disclosure shall be considered a standing request for any subsequent HIV test results obtained within 1 year after the initial HIV test performed, and need not be repeated for each test administration. Where the inmate or juvenile offender has previously been tested pursuant to subsection (2) the request for disclosure under this subsection shall be considered a standing request for subsequent HIV results conducted within 1 year of the test performed pursuant to subsection (2). If the HIV testing is performed by an agency other than the Department of Health ~~and Rehabilitative Services~~, that agency shall be responsible for forwarding the test results to the Department of Health ~~and Rehabilitative Services~~ for disclosure in accordance with the provisions of subsection (3). This subsection shall not be limited to results of HIV tests administered subsequent to June 27, 1990, but shall also apply to the results of all HIV tests performed on inmates convicted of or juvenile offenders adjudicated delinquent for sex offenses as described in subsection (2) during their incarceration, detention, or placement prior to June 27, 1990.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 98-224, Laws of Florida, to make specific changes in terminology and any further changes as necessary to conform the Florida Statutes to the organizational changes of the former Department of Health and Rehabilitative Services effected by previous acts of the Legislature.

Approved by the Governor March 25, 1999.

Filed in Office Secretary of State March 25, 1999.