



The Journal OF THE House of Representatives

Number 18

Tuesday, March 12, 2002

The House was called to order by the Speaker at 10:00 a.m.

Prayer

The following prayer was offered by the Reverend Leroy Eldridge of Temple Baptist Church of Titusville, upon invitation of Rep. Ball:

Father, these men and women of this Chamber have come to Tallahassee to do the business of the state of Florida. They've left their homes and families. Some may miss seeing one of their kid's ball games, or miss seeing them perform in a production at school, or miss attending a PTA meeting. Tonight, they won't have the opportunity to tuck their children into bed. So we pray that while they're here that you will put a hedge about their families and keep them safe.

These elected officials have come to do the business of the state of Florida. There are many issues that will affect the lives of many people. Many of these issues are so complex that they will have to depend upon others who have more experience and knowledge than they have. There will be people who will be coming to these Representatives who will put pressure on them to vote the way they want them to. There will be committee meetings, and there are people that they must see, and it may seem like they can't get all that they need to do done. And so we come asking for Your help today.

These Representatives are going to need wisdom. You've said in Your word that if we lack wisdom, we are to ask, and so today we come asking. Solomon of old had decisions to make that were beyond him, and You gave him wisdom to make decisions that could only come from You. And so we pray that You'll give these people the wisdom that You gave to Solomon of old.

Sometimes, we become weary in well-doing, and we get tired, and we need added strength to get through the day, and so we pray that You'll give these men the strength that You gave to Solomon of old.

There are times many feel alone even though they're among so many, and temptations will come to compromise or to become unfaithful to their beliefs and convictions. And so we pray that You'll give them the courage to stand against the forces that if they give into these ways, will cause them to regret later. May they look to Jesus as He stood against Satan's temptation in the wilderness for encouragement.

There will be times that others are against them, but they must move forward. And so we pray that You give them the leadership ability You gave to Moses as he led the children of Israel through the wilderness.

And so we come now asking Your blessings upon these leaders, upon their lives, and upon their families as they serve the great state of Florida. For we ask these things in Your name.

Amen.

The following Members were recorded present:

Session Vote Sequence: 860

The Chair	Cusack	Holloway	Paul
Alexander	Davis	Jennings	Peterman
Allen	Detert	Johnson	Pickens
Andrews	Diaz-Balart	Jordan	Prieguez
Argenziano	Dockery	Joyner	Rich
Arza	Evers	Justice	Richardson
Attkisson	Farkas	Kallinger	Ritter
Atwater	Fasano	Kendrick	Romeo
Ausley	Fields	Kilmer	Ross
Baker	Fiorentino	Kosmas	Rubio
Ball	Flanagan	Kottkamp	Russell
Baxley	Frankel	Kravitz	Ryan
Bean	Gannon	Kyle	Seiler
Bendross-Mindingall	Garcia	Lee	Simmons
Bennett	Gardiner	Lerner	Siplin
Bense	Gelber	Littlefield	Slosberg
Benson	Gibson	Lynn	Smith
Berfield	Goodlette	Machek	Sobel
Bowen	Gottlieb	Mack	Sorensen
Brown	Green	Mahon	Spratt
Brunner	Greenstein	Mayfield	Stansel
Brutus	Haridopolos	Maygarden	Trovillion
Bucher	Harper	McGriff	Wallace
Bullard	Harrell	Meadows	Waters
Byrd	Harrington	Mealor	Weissman
Cantens	Hart	Melvin	Wiles
Carassas	Henriquez	Murman	Wilson
Clarke	Heyman	Needelman	Wishner
Crow	Hogan	Negron	

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Alexander Douglas Jess of Tallahassee, Krystan Kupiszewski of Collierville, Emily D. Loe of Lake Mary, Claire O'Conner Murphy of Naples, and Cameron Barkley of Cocoa Beach, pledged allegiance to the Flag. Alexander Douglas Jess served at the invitation of Rep. Seiler. Krystan Kupiszewski served at the invitation of the Speaker. Emily D. Loe served at the invitation of Rep. Mealor. Claire O'Conner Murphy served at the invitation of Rep. Goodlette. Cameron Barkley served at the invitation of the Speaker.

House Physician

The Speaker introduced Dr. Stephan Baker of Miami, who served in the Clinic today upon invitation of Rep. Gelber.

Correction of the *Journal*

The *Journal* of March 11 was corrected and approved as corrected.

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney
Speaker, House of Representatives

March 11, 2002

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits as Special Orders for Tuesday, March 12, 2002. Consideration of the House Bills on Special Orders shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the following bill(s):

HB 805—Kallinger
Human Cloning Prohibition
CS/CS/HB 617—Pickens
Florida State Boxing Commission
CS/HB 1163—Fiorentino
Rape Crisis Centers
CS/HB 155—Trovillion
Business & Professional Regulation
CS/HB 491—Goodlette
Civil Legal Assistance Act

II. Consideration of the following bills not to exceed 3 minutes for each bill for discussion and amendments. Total time shall not exceed one hour during this segment of the Special Order Calendar.

HB 703—Green
Florida Consumer-Directed Care Act
HB 1405—Farkas
Health Care Practitioners/Loans
HB 1935—Bilirakis
Controlled Substances
HB 881—Detert
Interstate Compact on Adoption
HB 1437—Gelber
Criminal Justice
CS/HB 1641—Evers
Law Enforcement
HB 613—Fiorentino
Pharmaceutical Education Requirement
HB 351—Benson
Controlled Substances/Carisoprodol
CS/HB 1563—Kravitz
Sentencing/Releasee Reoffender
CS/CS/HB 321—Brown
Prescription Drug Claim ID Cards
CS/HB 1447—Harrell
Assault on Certain Public Personnel
CS/HB 163—Paul
Sexual Offenses/Elderly or Disabled
CS/HB 1219—Bowen
Patient Safety Improvement Act
CS/HB 821—Bean
Substance Abuse & Mental Health
HB 1467—Waters
Shaken-Baby Syndrome
HB 1313—Detert
CFS Dept./Investigation Records
HB 1289—Wilson
HIV Testing of Inmates
HB 1177—Gottlieb
Direct-Support Organizations
CS/HB 483—Stansel
Inmate Welfare Trust Fund
CS/HB 1157—Diaz-Balart

Criminal Mischief
CS/CS/HB 871—Hogan
Immunizations/Schools
CS/HB 1559—Kravitz
Prisoner Defined/Corrections Code
HB 653—Wishner
Terrorism/Restitution/Prank or Hoax
HB 1423—Ryan
School Safety Zone/Loitering

III. Consideration of the following bill(s):

CS/HB 507—Fasano
Emergencies & Disasters/Response
CS/HB 137—Hogan
Persons in Position of Trust
CS/CS/HB 295—Littlefield
Persons With Disabilities
CS/HB 751—Murman
Community Mental Health Services
HB 525—Littlefield
Prostate Cancer Awareness Program
CS/HB 255—Carassas
Nursing Homes
CS/HB 755—Murman
Residential Group Care
CS/CS/HB 299—Littlefield
Domestic Violence
CS/HB 545—Andrews
Substance-abuse Services
CS/HB 415—Farkas
Project HOPE
CS/HB 1223—Bean
Women's Health & Safety Act
HB 591—Johnson
Public & Commercial Transportation
CS/CS/HB 817—Sobel
Newborn Infant Screening
CS/HB 143—Bowen
Career Offenders
CS/HB 1225—Arza
Motor Vehicle Racing Contests
CS/CS/HB 1057—Simmons
Driving & Boating Under Influence
CS/HB 1819—Kottkamp
Scanner's Law/Guide Dogs/Animals
HB 1821—Lynn
Children & Families

A quorum of the Council was present in person, and a majority of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

On motion by Rep. Byrd, the above report was adopted.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Special Orders

Special Order Calendar

HB 805—A bill to be entitled An act relating to human cloning; creating s. 877.27, F.S., the "Human Cloning Prohibition and Responsibility Act of 2002"; providing definitions; providing that it is unlawful to perform or attempt to perform human cloning, to participate or assist in an attempt to perform human cloning, or to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing for enforcement of the act; providing civil remedies; providing limitations on commencement of actions; amending ss. 95.11 and 775.15, F.S.;

providing periods of limitations on actions and prosecutions for violations of the act; providing an effective date.

—was taken up, having been read the third time and amended on March 1; now pending roll call.

Representative(s) Greenstein and Gelber offered the following:

(Amendment Bar Code: 805413)

Amendment 6 (with title amendment)—
Remove everything after the enacting clause
and insert:

Section 1. Section 877.269, Florida Statutes, is created to read:

877.269 Human Cloning Prohibition and Stem Cell Research Protection Act of 2002; legislative findings and intent.—

(1) *It is a finding of the Legislature that recent medical and technological advances have had tremendous benefit to patients, and society as a whole, and that biomedical research for the purpose of scientific investigation of disease or cure of a disease or illness should be preserved and protected and not be impeded by regulations involving the cloning of an entire human being.*

(2) *It is a finding of the Legislature that molecular biology involving human cells, genes, tissues, and organs has been used to meet medical needs globally for 20 years and has proved a powerful tool in the search for cures, leading to effective medicines to treat cystic fibrosis, diabetes, heart disease, stroke, hemophilia, and HIV/AIDS.*

(3) *It is the intent of the Legislature to prohibit the creation of a human being through division and implantation of a blastocyst, zygote, or embryo created through somatic cell nuclear transfer technology and to protect the citizens of this state from potential abuse deriving from cloning technologies. This prohibition is not intended to apply to the cloning of human cells, genes, tissues, or organs that would not result in the replication of an entire human being; nor is this prohibition intended to apply to in vitro fertilization, the administration of fertility-enhancing drugs, or other medical procedures used to assist a woman in becoming or remaining pregnant, so long as that procedure is not specifically intended to result in the gestation or birth of a child who is genetically identical to another conceptus, embryo, fetus, or human being, living or dead.*

Section 2. Section 877.27, Florida Statutes, is created to read:

877.27 Human Cloning Prohibition and Stem Cell Research Protection Act of 2002.—

(1) **SHORT TITLE.**—*Sections 877.269 and 877.27 may be cited as the “Human Cloning Prohibition and Stem Cell Research Protection Act of 2002.”*

(2) **DEFINITIONS.**—*As used in this section:*

(a) *“Human cloning” means asexual human reproduction accomplished by implanting or attempting to implant the product of nuclear transplantation into a woman’s uterus or a substitute for a woman’s uterus for the purpose of initiating or attempting to initiate a human pregnancy or to create genetically identical human beings by dividing a blastocyst, zygote, or embryo.*

(b) *“Asexual reproduction” means reproduction not initiated by the union of oocyte and sperm.*

(c) *“Somatic cell” means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.*

(d) *“Nuclear transplantation” means introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte from which the nucleus has been or will be removed or inactivated.*

(3) **CLONING OF HUMAN BEINGS PROHIBITED.**—*It is unlawful for any person or entity, public or private, to knowingly:*

(a) *Perform or attempt to perform human cloning.*

(b) *Participate or assist in an attempt to perform human cloning.*

(c) *Ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.*

(4) **PENALTIES.**—

(a) *Any person who violates any provision of subsection (3) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a minimum term of imprisonment of 10 years.*

(b) *Any person who violates any provision of subsection (3) and derives pecuniary gain from such violation shall be subject to a civil penalty of not less than \$1 million and not more than an amount equal to the amount of the gross pecuniary gain derived from the violation multiplied by two, if that amount is greater than \$1 million.*

(5) **CONSTRUCTION.**—*Nothing in this section shall be construed to restrict areas of biomedical, agricultural, and scientific research not specifically prohibited by this section, including using somatic cell nuclear transfer or other cloning technologies to clone molecules, DNA, cells, plants, and tissues.*

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove: the entire title

and insert: A bill to be entitled An act relating to human cloning; creating s. 877.269, F.S.; providing legislative findings and intent; creating s. 877.27, F.S., the “Human Cloning Prohibition and Stem Cell Research Protection Act of 2002”; providing definitions; providing that it is unlawful to perform or attempt to perform human cloning, to participate or assist in an attempt to perform human cloning, or to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; providing a penalty; providing civil penalties; providing construction with respect to scientific research; providing an effective date.

Rep. Greenstein moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption. The vote was:

Session Vote Sequence: 861

Yeas—68

Andrews	Fiorentino	Justice	Ritter
Argenziano	Frankel	Kendrick	Romeo
Barreiro	Gannon	Kosmas	Rubio
Bendross-Mindingall	Garcia	Kravitz	Russell
Bennett	Gelber	Lee	Ryan
Benson	Goodlette	Lerner	Seiler
Berfield	Gottlieb	Littlefield	Simmons
Brutus	Green	Lynn	Siplin
Bucher	Greenstein	Machek	Slosberg
Bullard	Harper	Mack	Smith
Cantens	Harrell	McGriff	Sobel
Crow	Hart	Meadows	Spratt
Cusack	Henriquez	Murman	Stansel
Detert	Heyman	Peterman	Weissman
Diaz-Balart	Holloway	Prieguez	Wiles
Farkas	Jennings	Rich	Wilson
Fields	Joyner	Richardson	Wishner

Nays—47

The Chair	Baxley	Byrd	Gardiner
Alexander	Bean	Carassas	Gibson
Allen	Bense	Davis	Haridopolos
Arza	Bilirakis	Dockery	Harrington
Atwater	Bowen	Evers	Hogan
Baker	Brown	Fasano	Johnson
Ball	Brummer	Flanagan	Jordan

Kallinger	Mahon	Needelman	Sorensen
Kilmer	Mayfield	Negron	Trovillion
Kottkamp	Maygarden	Paul	Wallace
Kyle	Mealor	Pickens	Waters
Lacasa	Melvin	Ross	

Votes after roll call:

Yeas—Ausley
Nays—Attkisson

REPRESENTATIVE BALL IN THE CHAIR

Representative(s) Gelber offered the following:

(Amendment Bar Code: 433771)

Amendment 7—On page 2, lines 13 & 15, after *cloning*

insert: *in Florida*

Rep. Gelber moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption. The vote was:

Session Vote Sequence: 862

Yeas—53

Argenziano	Gelber	Lee	Seiler
Ausley	Goodlette	Lerner	Simmons
Bendross-Mindingall	Gottlieb	Lynn	Siplin
Bennett	Greenstein	Machek	Slosberg
Betancourt	Harper	McGriff	Smith
Brutus	Harrell	Meadows	Sobel
Bucher	Henriquez	Peterman	Stansel
Bullard	Heyman	Pickens	Weissman
Carassas	Holloway	Prieguez	Wiles
Crow	Jennings	Rich	Wilson
Cusack	Joyner	Richardson	Wishner
Fields	Justice	Ritter	
Frankel	Kendrick	Romeo	
Gannon	Kosmas	Ryan	

Nays—60

Alexander	Brown	Gibson	Maygarden
Allen	Brummer	Green	Mealor
Andrews	Byrd	Haridopolos	Melvin
Arza	Cantens	Harrington	Murman
Attkisson	Davis	Hart	Needelman
Atwater	Detert	Hogan	Negron
Baker	Diaz-Balart	Johnson	Paul
Barreiro	Dockery	Jordan	Ross
Baxley	Evers	Kallinger	Rubio
Bean	Farkas	Kilmer	Russell
Bense	Feeney	Kottkamp	Sorensen
Benson	Fiorentino	Kravitz	Spratt
Berfield	Flanagan	Kyle	Trovillion
Bilirakis	Garcia	Mahon	Wallace
Bowen	Gardiner	Mayfield	Waters

Votes after roll call:

Yeas—Fasano

Representative(s) Kallinger offered the following:

(Amendment Bar Code: 843153)

Amendment 8—On page 2, lines 16 and 17,
remove: all of said lines

and insert:

(c) *Ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo; provided, however, this paragraph shall not prohibit the act of entering this state after having received any medical treatment, including impregnation with an*

embryo produced by human cloning, if such treatment was lawfully received in another jurisdiction.

Rep. Kallinger moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Lerner offered the following:

(Amendment Bar Code: 903785)

Amendment 9 (with title amendment)—On page 5, between lines 27 and 28,

insert: (j) *The Miami Research Project to Cure Paralysis and the Diabetes Research Institute at the University of Miami shall be exempt from both the criminal and civil penalties imposed in this section.*

And the title is amended as follows:

On page 1, line 15 after the semicolon,

insert: providing for exemptions;

Rep. Lerner moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption.

THE SPEAKER IN THE CHAIR

Rep. Wiles suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 863].

The question recurred on the passage of HB 805. The vote was:

Session Vote Sequence: 864

Yeas—70

The Chair	Brummer	Green	Mealor
Alexander	Byrd	Haridopolos	Melvin
Andrews	Cantens	Harper	Murman
Arza	Carassas	Harrell	Needelman
Attkisson	Crow	Hogan	Negron
Atwater	Davis	Johnson	Paul
Baker	Detert	Jordan	Pickens
Ball	Diaz-Balart	Kallinger	Ritter
Barreiro	Dockery	Kendrick	Ross
Baxley	Evers	Kilmer	Rubio
Bean	Farkas	Kottkamp	Simmons
Bennett	Fasano	Kravitz	Siplin
Bense	Fiorentino	Kyle	Spratt
Benson	Flanagan	Lacasa	Stansel
Berfield	Garcia	Lynn	Trovillion
Bilirakis	Gardiner	Mahon	Waters
Bowen	Gibson	Mayfield	
Brown	Goodlette	Maygarden	

Nays—42

Ausley	Gottlieb	Lerner	Russell
Bendross-Mindingall	Greenstein	Littlefield	Ryan
Betancourt	Hart	Machek	Seiler
Brutus	Henriquez	Mack	Slosberg
Bucher	Heyman	McGriff	Smith
Bullard	Holloway	Meadows	Sobel
Cusack	Jennings	Peterman	Weissman
Fields	Joyner	Prieguez	Wiles
Frankel	Justice	Rich	Wishner
Gannon	Kosmas	Richardson	
Gelber	Lee	Romeo	

Votes after roll call:

Yeas—Allen
Nays to Yeas—Henriquez

Explanation of Vote for Sequence Number 864

There is no disagreement that human cloning is ethically and morally an abomination. And there is unanimous agreement that human cloning must be banned, not only in Florida, but everywhere. That is why we voted in favor of an amendment earlier this week that would have unequivocally banned human cloning.

However, medical therapeutic cell research that offers the possibility of cures for deadly diseases like Parkinson's, Alzheimer's and Diabetes, should be permitted to continue. Medical therapeutic cell research increases the survival rates and overall quality of life for transplant patients, stroke victims and heart attack survivors.

Therefore in preparing legislation to ban human cloning, we need to make sure that we do not prevent medical researchers from continuing to find cures to diseases that affect the families that we serve. Just like we are confident that this medical research will ultimately provide cures for Parkinson's, Alzheimer's and Diabetes, we are certain that we can ban human cloning while at the same time, protecting this medical research.

Rep. Anne M. "Annie" Gannon
District 88

Rep. Joyce Cusack
District 26

Rep. Richard A. Machek
District 78

Rep. Dorothy Bendross-Mindingall
District 109

Rep. Cindy Lerner
District 119

Rep. Nan H. Rich
District 97

Rep. Terry L. Fields
District 14

Rep. Perry C. McGriff, Jr.
District 22

Rep. Frederica S. "Freddi" Wilson
District 104

Rep. Doug Wiles
District 20

Rep. Dan Gelber
District 106

Rep. Charlie Justice
District 53

Rep. Sara Romeo
District 60

Rep. Arthenia L. Joyner
District 59

Rep. Lois J. Frankel
District 85

Rep. Suzanne M. Kosmas
District 28

Rep. Ron L. Greenstein
District 95

Rep. Bob "Coach" Henriquez
District 58

Rep. Eleanor Sobel
District 100

Rep. Timothy M. "Tim" Ryan
District 99

Rep. Curtis Richardson
District 8

Rep. Annie Betancourt
District 116

Rep. Edward B. "Ed" Bullard
District 118

Rep. Roger B. Wishner
District 98

Rep. John P. "Jack" Seiler
District 92

Rep. Sally A. Heyman
District 105

Rep. Christopher L. "Chris" Smith
District 93

Rep. Matthew J. "Matt" Meadows
District 94

Rep. Edward L. "Ed" Jennings, Jr.
District 23

Rep. Kenneth Allan "Ken" Gottlieb
District 101

Rep. David D. Russell, Jr.
District 44

Rep. Frank Peterman, Jr.
District 55

Rep. Loranne Ausley
District 9

Rep. Irving L. "Irv" Slosberg
District 89

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

REPRESENTATIVE BALL IN THE CHAIR

CS/CS/HB 617 was taken up. On motion by Rep. Pickens, the rules were waived and CS for SB 1268 was substituted for CS/CS/HB 617. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1268—A bill to be entitled An act relating to the Florida State Boxing Commission; amending s. 548.002, F.S.; providing definitions; amending s. 548.003, F.S.; requiring one member of the Florida State Boxing Commission to be a licensed physician; providing additional duties and responsibilities of the commission; amending s. 548.006, F.S.; providing for provisional certification of competitiveness of mixed martial arts and kickboxing matches; amending s. 548.008, F.S.; providing that the prohibition of toughman and badman competitions shall not preclude mixed martial arts; creating s. 548.015, F.S.; authorizing the commission to require the posting of a bond or other form of security by concessionaires; amending s. 548.017, F.S.; conforming terminology; providing requirements for ringside physicians; requiring concessionaires to be licensed; amending s. 548.021, F.S.; providing a criminal penalty for attempting to obtain a license by means of fraudulent information; creating s. 548.024, F.S.; authorizing the commission to adopt rules providing for background investigations of applicants for licensure; providing for the submission of fingerprint cards; providing procedure for processing fingerprint cards; amending s. 548.028, F.S.; expanding provisions with respect to persons whom the commission may not license; amending s. 548.035, F.S.; requiring a minimum permit fee for mixed martial arts events; amending s. 548.041, F.S.; providing requirements and restrictions with respect to age, condition, and suspension of participants; providing for revocation of license under specified circumstances; amending s. 548.043, F.S.; clarifying provisions relating to weights and classes of participants; prescribing glove weights for mixed martial arts participants; providing requirements and procedure for the weighing of participants in a boxing match; amending s. 548.046, F.S.; revising provisions with respect to physicians' attendance at boxing matches; providing state insurance coverage and sovereign immunity protection for assigned physicians; authorizing blood tests of participants prior to a match; providing for cancellation of the match for a test showing the

presence of a communicable disease or for failure to present blood test results, if required; authorizing the commission to adopt rules relating to blood tests; requiring the provision of urine samples by participants under specified circumstances; providing for revocation of license for failure or refusal to provide a required urine sample; providing conditions with respect to forfeiture and redistribution of purse upon failure or refusal to provide a required urine sample; specifying authority of physicians at boxing matches; providing procedure in the event of injury of a referee; amending s. 548.049, F.S.; increasing the minimum coverage amount of required insurance for participants in boxing matches; requiring promoters to pay any deductible for such insurance policy; amending s. 548.05, F.S.; providing additional requirements with respect to contracts between managers and professionals; conforming terminology; amending s. 548.052, F.S.; conforming terminology; amending s. 548.057, F.S.; revising provisions relating to attendance of referees and judges at matches, the scoring of matches, and seconds at matches to provide for applicability of requirements with respect thereto to all matches; revising terminology; placing specified restrictions on judges of boxing matches; providing requirements with respect to number and location of judges; amending s. 548.06, F.S., relating to payments to the state; revising components which constitute gross receipts; providing requirements with respect to the sale or extension of rights to a telecast of a match held in the state; requiring a written report; requiring concessionaires to file specified written reports; providing requirements with respect to written reports; amending s. 548.061, F.S.; revising provisions relating to the required filing of reports regarding, and payment of tax from the sale of tickets for, closed circuit telecasts to provide applicability of such requirements to any match; amending s. 548.074, F.S.; providing that the department shall have the power to administer oaths, take depositions, make inspections, serve subpoenas, and compel the attendance of witnesses and other evidence; amending s. 548.075, F.S.; authorizing the commission to adopt rules to permit the issuance of citations; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1163—A bill to be entitled An act relating to sexual assault counselors; amending s. 90.5035, F.S.; providing a definition; providing for confidential communication between a sexual crime victim and a trained volunteer at a rape crisis center; expanding the privilege of refusal to disclose certain information to include communications between a victim and a trained volunteer; amending s. 794.024, F.S.; prohibiting disclosure of certain identifying information relating to sexual crime victims by public officers or employees; providing a penalty; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 155—A bill to be entitled An act relating to business regulation; amending s. 509.032, F.S.; providing for annual rather than biannual inspections of transient and nontransient apartments; revising notice and license requirements for temporary food service events; amending s. 509.251, F.S.; excluding certain fees from the maximum aggregate license fee for public food service establishments; amending s. 509.291, F.S.; providing for increased coordination and consultation among the Secretary of Business and Professional Regulation, the Division of Hotels and Restaurants, and the advisory council; amending s. 509.302, F.S.; increasing the annual fee collected for the purpose of funding the Hospitality Education Program; amending s. 399.01, F.S.; revising and removing definitions; requiring that elevator service maintenance contracts be made available to the Department of Business and Professional Regulation upon request for oversight purposes; revising qualifications for an elevator certificate of competency; amending s. 399.02, F.S.; providing that each elevator owner is responsible for inspections and correction of code deficiencies; eliminating a requirement that the department review service maintenance contracts and determine whether they ensure safe operation; amending s. 399.03, F.S.; revising requirements relating to the design, installation, and alteration of conveyances; providing additional requirements for issuance of elevator permits; revising

reporting requirements; providing requirements for temporary operation inspections; amending s. 399.049, F.S.; revising grounds for suspension or revocation of certification or registration; amending s. 399.061, F.S.; eliminating the requirement that annual inspections be conducted through third-party inspection services; revising reporting requirements relating to service maintenance contracts; revising requirements relating to the correction of violations; amending s. 399.07, F.S.; extending the period of validity of certificates of operation from 1 to 2 years; revising fee provisions to conform; amending s. 399.105, F.S.; providing administrative fines for violations relating to reporting, operating a sealed elevator, and complying with correction orders; eliminating a restriction on the issuance of an administrative fine relating to commencing installation without a construction permit; amending s. 399.106, F.S.; correcting a reference; amending s. 399.125, F.S.; eliminating the requirement to report elevator incidents; amending s. 399.13, F.S.; allowing municipalities or counties that assume elevator inspection duties to hire private inspectors to conduct inspections; amending s. 509.072, F.S.; requiring the department to separately account for the funds collected for the inspection of elevators in the Hotel and Restaurant Trust Fund; providing an effective date.

—was read the second time by title.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 830587)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (2) and paragraph (c) of subsection (3) of section 509.032, Florida Statutes, 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, *except for transient and nontransient apartments, which shall be inspected at least annually, and shall be inspected 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 vulnerable adults 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, 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.

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days prior to the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service ~~vendors~~ ~~vendor owners~~ ~~and operators~~ participating in the ~~each~~ event, *the number of individual food service facilities each vendor will operate at the event, and the identification number of each food*

service vendor's current license as a ~~number of all public food service establishments participating in each event~~ ~~establishments participating in each event~~. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors, including the food-recovery brochure developed under s. 570.0725.

3.a. A public food service establishment or other food service vendor must obtain *one of the following classes of a license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.*

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events of 3 days or less in duration.

Section 2. Subsection (1) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(1) Any person performing required inspections of licensed public food service establishments for the division or its agent must:

(a) Be standardized by a food service evaluation officer certified by the federal Food and Drug Administration;

(b) Pass *an approved* ~~the~~ food protection practices test as prescribed by s. 509.039; and

(c) Pass a written examination to demonstrate knowledge of the laws and rules which regulate public food service establishments.

Section 3. Section 509.039, Florida Statutes, is amended to read:

509.039 Food service manager certification.—It is the duty of the division to adopt, by rule, food safety protection standards for the training and certification of all food service managers who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. *The standards adopted by the division shall be consistent with the Standards for Accreditation of Food Protection Manager Certification Programs adopted by the Conference for Food Protection.* These standards are to be adopted by the division to ensure that, upon successfully passing a test *approved by the Conference for Food Protection*, a manager of a food service establishment shall have demonstrated a knowledge of basic food protection practices. *The division may contract with an organization offering a training and certification program that complies with division standards and results in a certification recognized by the Conference for Food Protection.* ~~These standards shall also provide for a certification program which authorizes private or public agencies to conduct an approved test and certify all test the results of those tests to the division. Other organizations offering programs that meet the same requirements may also conduct approved tests and shall certify all test results to the division. The division may charge the organization it contracts with a fee of not more than \$5 per certified test to cover the administrative costs of the division for the food services manager training and certification program. The fee for the test shall not exceed \$50.~~ All managers employed by a food service establishment must have passed *an approved* ~~this~~ test and received a certificate attesting thereto. Managers have a period of 90 days after employment to pass the required test. The ranking of food service establishments is also preempted to the state; provided, however, that any local ordinances establishing a ranking system in existence prior to October 1, 1988, may remain in effect.

Section 4. Subsections (1) and (2) of section 509.251, Florida Statutes, are amended to read:

509.251 License fees.—

(1) The division shall adopt, by rule, a schedule of fees to be paid by each public lodging establishment as a prerequisite to issuance or renewal of a license. Such fees shall be based on the number of rental units in the establishment. *The aggregate fee per establishment charged any public lodging establishment but shall not exceed \$1,000; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap.* Resort condominium units within separate buildings or at separate locations but managed by one licensed agent may be combined in a single license application, and the division shall charge a license fee as if all units in the application are in a single licensed establishment. Resort dwelling units may be licensed in the same manner as condominium units. The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months prior to the next such renewal period and one-half of the fee if application is made 6 months or less prior to such period. The fee schedule shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302, which are payable in full for each application regardless of when the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division within 30 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law. A license renewal filed with the division more than 30 but not more than 60 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$100, in addition to the renewal fee and any other fees required by law.

(2) The division shall adopt, by rule, a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. The fee schedule shall prescribe a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service establishment may not exceed \$400; *however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap.* The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months prior to the next such renewal period and one-half of the fee if application is made 6 months or less prior to such period. The fee schedule shall include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302, which are payable in full for each application regardless of when the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division within 30 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law. A license renewal filed with the division more than 30 but not more than 60 days after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$100, in addition to the renewal fee and any other fees required by law.

Section 5. Subsection (2) of section 509.291, Florida Statutes, is amended, and subsections (5) and (6) are added to said section, to read:

509.291 Advisory council.—

(2) The purpose of the advisory council is to promote better relations, understanding, and cooperation between such industries and the division; to suggest means of better protecting the health, welfare, and safety of persons using the services offered by such industries; to give the division the benefit of its knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division; ~~and~~ to promote and coordinate the development of programs to educate and train personnel for such industries; *and to perform such other duties as prescribed by law.*

(5) *The secretary and the division shall periodically review with the advisory council the division's budget and financial status for the purpose of maintaining the financial stability of the division. The council shall make recommendations, when it deems appropriate, to the secretary and the division to ensure that adequate funding levels from fees, penalties, and other costs assessed by the division and paid by the industries it regulates are maintained.*

(6) *The division shall provide to the advisory council each year an annual internal audit of the financial records of the Hospitality Education Program for the purpose of permitting the advisory council to determine compliance with the provisions of s. 509.072(2).*

Section 6. Subsection (3) of section 509.302, Florida Statutes, is amended to read:

509.302 Director of education, personnel, employment duties, compensation.—

(3) All public lodging establishments and all public food service establishments licensed under this chapter shall pay an annual fee of no more than \$10 ~~\$6~~ which shall be included in the annual license fee and which shall be used for the sole purpose of funding the Hospitality Education Program.

Section 7. Section 399.01, Florida Statutes, is amended to read:

399.01 Definitions.—As used in this chapter, the term:

(1) "Alteration" means any change or addition to the vertical conveyance other than maintenance, repair, or replacement.

~~(2) "Certificate of competency" means a document issued by the division which evidences the competency of a person to construct, install, inspect, maintain, or repair any vertical conveyance.~~

~~(2)(3)~~ "Certificate of operation" means a document issued by the department which indicates that the conveyance has had the required safety inspection and tests and that fees have been paid as provided in this chapter.

~~(3)(4)~~ "Conveyance" means an elevator, dumbwaiter, escalator, moving sidewalk, platform lift, ~~or~~ ~~and~~ stairway chairlift.

~~(4)(5)~~ "Department" means the Department of Business and Professional Regulation.

~~(5)(6)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

~~(6)(7)~~ "Elevator" means one of the following mechanical devices:

(a) A hoisting and lowering mechanism, equipped with a car and platform that moves in guide rails and serves two or more landings to transport material or passengers or both.

(b) An escalator, which is a power-driven, inclined continuous stairway used for raising or lowering passengers.

(c) A dumbwaiter, which is a hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two or more landings.

(d) A moving walk, which is a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(e) An inclined stairway chairlift, which is a device used to transport physically handicapped persons over architectural barriers.

(f) An inclined or vertical wheelchair lift, which is a device used to transport wheelchair handicapped persons over architectural barriers.

~~(8) "Escalator" means an installation defined as an escalator in the Florida Building Code.~~

~~(7)(9)~~ "Existing installation" means an installation defined as an "installation, existing" in the Florida Building Code.

~~(8)(10)~~ "Elevator Safety Technical Advisory Committee" means the committee appointed by the secretary of the Department of Business and Professional Regulation.

~~(9)(11)~~ "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling which is occupied by members of a single-family unit.

~~(10)(12)~~ "Service maintenance contract" means a contract that provides for routine examination, lubrication, cleaning, adjustment, replacement of parts, and performance of applicable code-required safety tests such as on a traction elevator and annual relief pressure test on a hydraulic elevator and any other service, repair, and maintenance sufficient to ensure the safe operation of the elevator. *A service maintenance contract shall be made available upon request of the department for purposes of oversight and monitoring.*

~~(11)(13)~~ "Temporarily dormant conveyance" means a conveyance whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position. The car is parked, and the hoistway doors are in the closed and latched position. A wire seal is installed on the mainline disconnect switch by a ~~certified certificate of competency~~ *certified* elevator inspector. This conveyance ~~installation~~ may not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporarily dormant status by a ~~certified certificate of competency~~ *certified* elevator inspector. The temporarily dormant status is renewable on an annual basis and may not exceed a 5-year period. The inspector shall file a report with the ~~department chief elevator inspector~~ *department chief* describing the current conditions. The wire seal and padlock may not be removed for any purpose without permission from the ~~department elevator inspector~~ *department*.

~~(12)(14)~~ "Temporary operation *inspection permit*" means ~~an inspection performed by a certified elevator inspector, the successful passage of a document issued by the department~~ *an inspection performed by a certified elevator inspector, the successful passage of a document issued by the department* which permits the temporary use of a noncompliant vertical conveyance as provided by rule.

~~(13)(15)~~ "Registered elevator company" means an entity registered with and authorized by the division employing persons to construct, install, inspect, maintain, or repair any vertical conveyance. Each registered elevator company must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by ~~rule~~ *the division*.

~~(14)(16)~~ "Certified elevator inspector" is a natural person registered with and authorized by the division to construct, install, inspect, maintain, or repair any vertical conveyance, after having properly acquired the qualified elevator inspector credential *as prescribed by the American Society of Mechanical Engineers. Each certified elevator inspector must annually register with the division and provide from the National Association of Elevator Safety Authorities. Such person shall remain so authorized by the division only upon providing annual proof of completion of 8 hours of continuing education, proof that and the qualified elevator inspector credential remains in good standing, and proof of with the National Association of Elevator Safety Authorities. A licensed mechanical engineer whose license is in good standing may be authorized as a certified elevator inspector by the division. Each certified elevator inspector must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.*

(15)(17) “Certified elevator technician” means a natural person authorized by the division to construct, install, maintain, or repair any vertical conveyance, after having been issued an elevator certificate of competency by the division. Each certified elevator technician must annually register with the division and ~~be covered by~~ maintain general liability insurance coverage in the minimum amounts set by the division.

(16)(18) “Elevator helper” means a natural person performing work under the direct supervision of *an elevator certificate of competency holder* ~~a certified elevator inspector or an elevator technician~~ to construct, install, maintain, or repair any vertical conveyance.

(17)(19) “Elevator certificate of competency” means a credential issued by the division to any individual natural person successfully completing an examination as prescribed by rule and paying a *nonrefundable* fee of \$50. Such credential shall be valid for and expire at the end of 1 year, and may be renewed by the division when the division receives proof of the elevator certificate of competency holder’s completion of 8 hours of continuing education *from a provider approved by the department* and a *nonrefundable* renewal fee of \$50. *The department shall adopt by rule criteria for providing approval and procedures for continuing education reporting.*

(a) *An elevator certificate of competency may be issued only if the applicant meets the following requirements:*

1. *Four years’ work experience in the construction, maintenance, service, and repair of conveyances covered by this chapter. This experience shall be verified by current or previously registered elevator companies as required by the division.*

2. *One of the following:*

a. *Proof of completion and successful passage of a written examination administered by the division or a provider approved by the division under standards it adopted by rule.*

b. *Proof of completion of an apprenticeship program for elevator mechanics which has standards substantially equivalent to those found in a national training program for elevator mechanics and is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship authority.*

c. *Proof of licensure or certification by a state or local jurisdiction in the United States having standards substantially equal to or more stringent than those of this chapter.*

(b) *A licensed mechanical engineer whose license is in good standing may be granted an elevator certificate of competency.*

All other building transportation terms are defined in the current Florida Building Code.

Section 8. Subsections (1) and (5) of section 399.02, Florida Statutes, are amended to read:

399.02 General requirements.—

(1) The Elevator Safety Technical Advisory Committee shall develop and submit to the Director of Hotels and Restaurants *proposed* ~~regarding~~ revisions to the elevator safety code so that it is the same as or similar to the latest editions ~~versions~~ of ASME A17.1, ASME A17.3, and ASME A18.1.

(5)(a) The construction permitholder is responsible for the correction of violations and deficiencies until the elevator has been inspected and a certificate of operation has been issued by the department. The construction permitholder is responsible for all tests of new and altered equipment until the elevator has been inspected and a certificate of operation has been issued by the department.

(b) The elevator owner is responsible for the safe operation, and proper maintenance, *and inspection and correction of code deficiencies* of the elevator after ~~it has been inspected and~~ a certificate of operation has been issued by the department. The responsibilities of the elevator owner may be assigned by lease.

~~(e) The elevator owner shall report to the department 60 days before the expiration of the certificate of operation whether there exists a service maintenance contract, with whom the contract exists, and the details concerning the provisions and implementation of the contract which the department requires. The department shall keep the names of companies with whom the contract exists confidential pursuant to the public records exemption provided in s. 119.14(4)(b)3. This annual contract report must be made on forms supplied by the department. The elevator owner must report any material change in the service maintenance contract no fewer than 30 days before the effective date of the change. The department shall determine whether the provisions of the service maintenance contract and its implementation ensure the safe operation of the elevator.~~

Section 9. Section 399.03, Florida Statutes, is amended to read:

399.03 Design, installation, and alteration of conveyances.—

(1) A conveyance covered by this chapter may not be erected, constructed, installed, or altered within buildings or structures *until unless* a permit has been obtained from the department ~~before the work is commenced~~. *Permits must be applied for by a registered elevator company and may only be granted upon receipt and approval of an application to be made on a form prescribed by the department, accompanied by proper fees and a sworn statement from an agent of the registered elevator company that the plans meet all applicable elevator safety and building codes. Permits may be granted only to registered elevator companies in good standing.* When any material alteration is made, the ~~alteration device~~ must conform to applicable requirements of the Florida Building Code *and the provisions of this chapter for the alteration. A permit required hereunder may not be issued except to a person, firm, or corporation holding a current elevator contractor’s license issued under this chapter.* A copy of the permit *and plans* must be kept at the construction site at all times while the work is in progress *and until a certificate of operation is issued.*

(2) The department shall provide by rule for permit application requirements and permit fees.

(3) Permits may be revoked for the following reasons:

(a) There are any false statements or misrepresentations as to the material facts in the application, plans, or specifications on which the permit was based.

(b) The permit was issued in error and not in accordance with the code or rules.

(c) The work detailed under the permit is not being performed in accordance with the provisions of the application, plans, or specifications or with the code or conditions of the permit.

(d) The construction permitholder to whom the permit was issued fails or refuses to comply with a stop-work order.

(4) A permit expires if:

(a) The work authorized by the permit is not commenced within 6 months after the date of issuance, or within a shorter period of time as the department may specify at the time the permit is issued.

(b) The work is suspended or abandoned for a period of 60 days, or such shorter period of time as the department may specify at the time the permit is issued, after the work has been started. For good cause, the department may allow a discretionary extension for the foregoing period.

(5) All new conveyance installations must be performed by a *registered elevator company person to whom a license to install or service a conveyance has been issued.* ~~Subsequent to installation, the licensed person, firm, or company must certify compliance with the applicable sections of this chapter and the Florida Building Code.~~ Before any vertical conveyance is used, except those in a private residence, it must be inspected by a *certified elevator licensed* inspector not employed, ~~or associated, or having a conflict of interest~~ with the elevator construction permitholder *or elevator owner* and certified as meeting the

safety provisions of the Florida Building Code, including the performance of all required safety tests. The certified elevator inspector shall provide the original copy of the inspection report to the department within 5 days after the inspection. A certificate of operation may not be issued until the permitholder provides an affidavit signed by the construction supervisor attesting that the supervisor directly supervised the construction or installation of the elevator. ~~Upon successful inspection, the owner or lessee must apply to the department for a certificate of operation from the department. A fee as prescribed in this chapter must be paid for the certificate of operation. It is the responsibility of the licensed elevator construction permitholder to complete and submit a first time registration for a new installation. Vertical conveyances, including stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences are not required to obtain a certificate of operation under this chapter.~~

(6) ~~A certificate of operation expires July 31 of each year and must be renewed prior to continued use of the conveyance. A certificate of operation must be clearly displayed on or in each conveyance or in the machine room for use by and for the benefit of inspectors and code enforcement personnel. Certificates of operation may only be renewed for vertical conveyances having a current satisfactory inspection.~~

(6)(7) ~~At the department's request, and to facilitate oversight and monitoring, the permitholder shall notify the department of the scheduled final inspection date and time for purposes of acquiring a certificate of inspection, in writing, at least 7 days before completion of the work and shall, in the presence of a licensed elevator inspector not associated with or employed by the installing company or contractor, subject the newly installed, relocated, or altered portions of the elevator to tests required to show that the elevator meets the applicable provisions of the Florida Building Code.~~

(7)(8) ~~Each elevator shall comply with the edition of the Florida Building Code or Elevator Safety Code that was in effect at the time of receipt of application for the construction permit for the elevator.~~

(8)(9) ~~Each alteration to, or relocation of, an elevator shall comply with the edition of the Florida Building Code or Elevator Safety Code that was in effect at the time of receipt of the application for the construction permit for the alteration or relocation.~~

(9)(10) ~~When any change is made in the classification of an elevator, the elevator shall comply with all of the requirements of the version of the Florida Building Code or Elevator Safety Code that were in effect at the time of receipt of the application for the construction permit for the change in classification.~~

(10)(a) ~~The temporary use of an elevator during installation or alteration is authorized for a period of 30 days after the completion of a satisfactory temporary operation inspection. An additional 30-day period of temporary use is authorized from the date of completion of each additional satisfactory temporary operation inspection. A satisfactory temporary operation inspection must satisfy the following criteria: the elevator is tested under contract load; the hoistway is fully enclosed; the hoistway doors and interlocks are installed; the car is completely enclosed, including door or gate and top; all electrical safety devices are installed and properly functioning; and terminal stopping equipment is in place for a safe runby and proper clearance. When a car is provided with a temporary enclosure, the operating means must be by constant pressure push-button or lever-type switch. The car may not exceed the minimum safe operating speed of the elevator, and the governor tripping speed must be set in accordance with the operating speed of the elevator.~~

(b) ~~Temporary use is authorized only when a satisfactory temporary operation inspection report, completed within the last 30 days by a certified elevator operator, and a notice prescribed by the department, bearing a statement that the elevator has not been finally approved by a certified elevator inspector, are conspicuously posted in the elevator.~~

Section 10. Section 399.049, Florida Statutes, is amended to read:

399.049 ~~Disciplinary action Certificate of competency.—~~

(1) ~~SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE OF COMPETENCY.—~~The department may suspend or

revoke an elevator inspector certification, an elevator company registration, an elevator ~~license or~~ certificate of competency, or an elevator certificate of operation issued under this chapter or impose an administrative penalty of up to \$1,000 per violation upon any registered elevator company licensee or certificateholder who commits any one or more of the following violations:

(a) Any false statement as to a material matter in an the application for registration, certification, or any permit or certificate issued under this chapter.

(b) Fraud, misrepresentation, or bribery in the practice of the profession securing a license or certificate of competency.

(c) Failure by a certified elevator inspector to provide to notify the department and the certificate of operation holder with a copy of the inspection report within 5 days after the date of any inspection performed after the initial certificate of operation is issued of a conveyance covered by this chapter that is not in compliance with the provisions of the elevator safety code incorporated into the Florida Building Code.

(d) Violation of any provision of this chapter.

(2) ~~DISCIPLINARY ACTION.—~~Any disciplinary action taken under this chapter must comply with chapter 120 and any rules adopted thereunder.

Section 11. Section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; service maintenance contracts; correction of deficiencies.—

(1)(a) All elevators or other conveyances subject to this chapter must be annually inspected by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division, pursuant to s. 399.13. If the elevator or other conveyance is maintained pursuant to a service maintenance contract continuously in force, it shall be inspected at least once every 2 years by a certified elevator inspector who is not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter, serves only two adjacent floors, and is covered by a service maintenance contract, an inspection is not required so long as the service contract remains in effect. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule.

(b) A statement verifying the existence and performance of each service maintenance contract must be filed at least annually with the division and as prescribed by rule. Cancellation of a service maintenance contract must be reported to the division as prescribed by rule. The division may inspect an elevator whenever necessary to ensure its safe operation or when a third-party inspection service is not available for a routine inspection.

(2) The division may employ state elevator inspectors to inspect an elevator whenever necessary to ensure its safe operation. The division may also employ state elevator inspectors to conduct any the inspections as required by this chapter subsection (1) and may charge a an inspection fee for each inspection in an amount sufficient to cover the costs of that inspection, as provided by rule, when a private certified elevator inspector is not available. Each state elevator inspector shall be properly qualified as a certified elevator inspector hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter or the Florida Building Code, the division may issue an order to the elevator owner requiring correction of the violation and reinspection of the elevator evidencing the correction.

Section 12. Section 399.07, Florida Statutes, is amended to read:

399.07 Certificates of operation; ~~temporary operation permits; fees.—~~

~~(1)(a) A certificate of operation may not be issued until the elevator company supervisor signs an affidavit stating that the elevator company supervisor directly supervised construction or installation of the elevator.~~

~~(1)(b) The certificate of operation is valid for a period not to exceed 2 years and shall expire at the end of the period of 1 year unless sooner suspended or revoked. The department may adopt rules establishing a procedure for certificate renewal. Certificates of operation may be renewed only for vertical conveyances having a current satisfactory inspection. The owner of an elevator operating with an expired certificate of operation is in violation of this chapter. Certificate of operation renewal applications received by the department after the date of expiration of the last current certificate must be accompanied by a late fee of \$50 in addition to the renewal fee and any other fees required by law. The department shall adopt by rule a fee schedule for the renewal of certificates of operation. The fees must be deposited into the Hotel and Restaurant Trust Fund. The department shall by rule adopt a fee schedule for the renewal of certificates of operation. The renewal period commences on August 1 of each year.~~

~~(2)(e) The certificate of operation must be posted in a conspicuous location on the elevator and must be framed with a transparent cover.~~

~~(d) The department shall charge an annual fee for issuance of a certificate of operation in an amount to be set by rule. However, a renewal application for a certificate of operation filed with the department after expiration date of the certificate must be accompanied by a delinquency fee of \$50 in addition to the annual renewal fee and any other fees required by law. The fees must be deposited into the Hotel and Restaurant Trust Fund.~~

~~(2)(a) The department may issue a temporary operation permit authorizing the temporary use of an elevator during installation or alteration to an elevator company or general contractor acting as a general agent of an elevator company. A temporary operation permit may not be issued until the elevator has been inspected by a state elevator inspector and tested under contract load; the hoistway is fully enclosed; the hoistway doors and interlocks are installed; the car is completely enclosed, including door or gate and top; all electrical safety devices are installed and properly functioning; and terminal stopping equipment is in place for a safe runby and proper clearance. When a car is provided with a temporary enclosure, the operating means must be by constant pressure push button or lever type switch. The car may not exceed the minimum safe operating speed of the elevator, and the governor tripping speed must be set in accordance with the operating speed of the elevator.~~

~~(b) A temporary operation permit must be issued for a period not to exceed 30 days. The permit may be renewed at the discretion of the department.~~

~~(e) When a temporary operation permit is issued, the permit, together with a notice bearing a statement that the elevator has not been finally approved by a state elevator inspector, must be conspicuously posted in the elevator.~~

~~(d) The department shall charge a fee, set by rule in an amount not greater than \$100, for each temporary operation permit. The fee must be deposited in the Hotel and Restaurant Trust Fund.~~

(3) The certificate of operation shall contain the text of s. 823.12, relating to the prohibition against smoking in elevators.

(4) In addition to subsection (3), the designation "NO SMOKING" along with the international symbol for no smoking shall be conspicuously displayed within the interior of the elevator in the plain view of the public.

(5) Except for as authorized by a temporary use authorized by this chapter operation permit, the operation or use of any newly installed,

relocated, or altered elevator is prohibited until the elevator has passed the tests and inspections required by this chapter and a certificate of operation has been issued.

(6) The department may suspend any certificate of operation if it finds that the elevator is not in compliance with this chapter or of rules adopted under this chapter. The suspension remains in effect until the department receives satisfactory results of an inspection performed by a certified elevator inspector indicating ~~determines, by inspection,~~ that the elevator has been brought into compliance.

Section 13. Section 399.105, Florida Statutes, is amended to read:

399.105 Administrative fines.—

(1) Any person who fails to comply with the reporting requirements of this chapter s. ~~399.02~~ or with the reasonable requests of the department to determine whether the provisions of a service maintenance contract and its implementation ensure ~~assure~~ safe elevator operation is subject to an administrative fine not greater than \$1,000 in addition to any other penalty provided by law.

(2) Any person who commences the operation, installation, relocation, or alteration of any elevator for which a permit or certificate is required by this chapter without having obtained from the department the permit or certificate is subject to an administrative fine not greater than \$1,000 in addition to any other penalty provided by law. ~~No fine may be imposed under this subsection for commencing installation without a construction permit if such permit is issued within 60 days after the actual commencement of installation.~~

(3) An elevator owner who continues to operate an elevator after notice to discontinue its use ~~or after it has been sealed by the department~~ is subject to an administrative fine not greater than \$1,000 for each day the elevator has been operated after the service of the notice ~~or sealing by the department~~, in addition to any other penalty provided by law.

(4) An elevator owner who fails to comply with an order to correct issued under s. 399.061(4) within ~~30~~ 60 days after its issuance is subject, in addition to any other penalty provided by law, to an administrative fine ~~set by the department~~ in an amount not to exceed \$1,000.

(5) All administrative fines collected shall be deposited into the Hotel and Restaurant Trust Fund.

Section 14. Subsection (2) of section 399.106, Florida Statutes, is amended to read:

399.106 Elevator Safety Technical Advisory Committee.—

(2) The committee members shall serve staggered terms of 4 years to be set by rule without salary, but may receive from the state expenses for per diem and travel. The ~~committee commission~~ shall appoint one of the members to serve as chair.

Section 15. Section 399.125, Florida Statutes, is amended to read:

399.125 Reporting of elevator accidents ~~or incidents~~; penalties.— Within 5 working days after any accident ~~or incident~~ occurring in or upon any elevator, the certificate of operation holder shall report the accident ~~or incident~~ to the division on a form prescribed by the division. Failure to timely file this report is a violation of this chapter and will subject the certificate of operation holder to an administrative fine, to be imposed by the division, in an amount not to exceed \$1,000.

Section 16. Section 399.13, Florida Statutes, is amended to read:

399.13 Delegation of authority to municipalities or counties.—

(1) The department may enter into contracts with municipalities or counties under which such municipalities or counties will issue construction permits, ~~temporary operation permits~~, and certificates of operation; will provide for inspection of elevators, *including temporary operation inspections*; and will enforce the applicable provisions of the Florida Building Code, as required by this chapter. *The municipality or county may choose to require inspections to be performed by its own inspectors or by private certified elevator inspectors.* Each such

agreement shall include a provision that the municipality or county shall maintain for inspection by the department copies of all applications for permits issued, a copy of each inspection report issued, and proper records showing the number of certificates of operation issued; shall include a provision that each required inspection be conducted by *a certified elevator inspector* ~~the holder of a certificate of competency issued by the department~~; and may include such other provisions as the department deems necessary.

(2) The department may make inspections of elevators in such municipality or county for the purpose of determining that the provisions of this chapter are being met and may cancel the contract with any municipality or county which the department finds has failed to comply with such contract or the provisions of this chapter. The amendments to chapter 399 by this act shall apply only to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990.

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

remove everything before the enacting clause

and insert: A bill to be entitled An act relating to business regulation; amending s. 509.032, F.S.; providing for annual rather than biannual inspections of transient and nontransient apartments; revising notice and license requirements for temporary food service events; amending s. 509.036, F.S.; conforming a reference; amending s. 509.039, F.S.; revising requirements for testing and certification of food service managers, including fee requirements; amending s. 509.251, F.S.; excluding certain fees from the maximum aggregate license fee for public food service establishments; amending s. 509.291, F.S.; providing for increased coordination and consultation among the Secretary of Business and Professional Regulation, the Division of Hotels and Restaurants, and the advisory council; amending s. 509.302, F.S.; increasing the annual fee collected for the purpose of funding the Hospitality Education Program; amending s. 399.01, F.S.; revising and removing definitions; requiring that elevator service maintenance contracts be made available to the Department of Business and Professional Regulation upon request for oversight purposes; revising qualifications for an elevator certificate of competency; amending s. 399.02, F.S.; providing that each elevator owner is responsible for inspections and correction of code deficiencies; eliminating a requirement that the department review service maintenance contracts and determine whether they ensure safe operation; amending s. 399.03, F.S.; revising requirements relating to the design, installation, and alteration of conveyances; providing additional requirements for issuance of elevator permits; revising reporting requirements; providing requirements for temporary operation inspections; amending s. 399.049, F.S.; revising grounds for suspension or revocation of certification or registration; amending s. 399.061, F.S.; eliminating the requirement that annual inspections be conducted through third-party inspection services; revising reporting requirements relating to service maintenance contracts; revising requirements relating to the correction of violations; amending s. 399.07, F.S.; extending the period of validity of certificates of operation from 1 to 2 years; revising fee provisions to conform; amending s. 399.105, F.S.; providing administrative fines for violations relating to reporting, operating a sealed elevator, and complying with correction orders; eliminating a restriction on the issuance of an administrative fine relating to commencing installation without a construction permit; amending s. 399.106, F.S.; correcting a reference; amending s. 399.125, F.S.; eliminating the requirement to report elevator incidents; amending s. 399.13, F.S.; allowing municipalities or counties that assume elevator inspection duties to hire private inspectors to conduct inspections; providing an effective date.

Rep. Trovillion moved the adoption of the amendment.

On motion by Rep. Trovillion, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 102647)

Amendment 1 to Amendment 1—On page 19, line 23, remove: *operator*

and insert: *inspector*

Rep. Trovillion moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 491—A bill to be entitled An act relating to civil legal assistance; creating the Florida Access to Civil Legal Assistance Act; providing legislative intent and purpose; providing definitions; specifying powers of the Department of Community Affairs for certain purposes; limiting use of certain funds for certain purposes; requiring the department to contract for delivery of civil legal assistance to certain persons through not-for-profit legal aid organizations; providing contract requirements; specifying application; requiring the department to ensure accountability; requiring an annual audit; providing for eligibility for state support; providing for conditional repeal; providing an effective date.

—was read the second time by title.

Representative(s) Byrd and Goodlette offered the following:

(Amendment Bar Code: 093591)

Amendment 1 (with title amendment)—On page 5, line 19 insert:

Section 12. *There is hereby appropriated \$2 million of non-recurring General Revenue for the purposes of this act. Notwithstanding the provisions of section 6 of this act, for fiscal year 2002-2003 only, the charitable organization shall distribute these funds.*

And the title is amended as follows:

On page 1, line 16, after the semicolon

insert: providing an appropriation; providing for the distribution of the appropriation;

Rep. Byrd moved the adoption of the amendment.

On motion by Rep. Byrd, under Rule 12.2(c), the following late-filed substitute amendment was considered.

Representative(s) Byrd and Goodlette offered the following:

(Amendment Bar Code: 703433)

Substitute Amendment 1 (with title amendment)—On page 5, between lines 18 & 19, of the bill

insert:

Section 12. *There is appropriated \$2,000,000 to the Department of Community Affairs to contract with a not-for-profit organization that provides statewide funding for civil legal assistance to the poor. The department shall retain \$100,000, and the organization shall receive \$80,000, for administrative costs. The remaining funds shall be used by the organization for civil legal assistance pilot projects in the following judicial circuits:*

Fourth \$240,000

Ninth \$240,000

Eleventh \$600,000

Twelfth \$140,000

Thirteenth \$280,000

Fourteenth \$120,000

Twentieth \$200,000

The funds shall only be used for legal education or assistance in family law, juvenile law, entitlement to federal benefits, protection from domestic violence, elder abuse, child abuse, or immigration law. These funds shall not be used in criminal or post-conviction relief matters, for lobbying activities, to sue the state, its agencies or political sub-divisions, or colleges or universities, for class action lawsuits, to provide legal assistance with respect to noncriminal infractions pursuant to chapter 316, chapter 318, chapter 320, or chapter 322, to contest regulatory decisions of any municipal, county, or state administrative or legislative body, or to file or assist in the filing of private causes of action under federal or state statutes relating to or arising out of employment or terms or conditions of employment. The contracting organization shall require pilot projects to provide data on the number of clients served, the types of cases, the reasons the cases were closed, and the state dollars saved and federal dollars brought into the state because of the legal services provided. The contracting organization shall provide to the Department of Community Affairs, within sixty (60) days of the completion of the contract, a report on the legal services provided, the state dollars saved, and the federal dollars brought into the state.

And the title is amended as follows:

On page 1, line 16, of the amendment after the semicolon

insert: providing an appropriation; providing for the distribution of the appropriation;

Rep. Byrd moved the adoption of the substitute amendment, which was adopted.

On motion by Rep. Goodlette, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 133961)

Amendment 2—On page 3, between lines 21 and 22, of the bill

insert:

(7) *Contest any regulatory decision by any municipal, county, or state administrative or legislative body.*

(8) *File or assist in the filing of private causes of action under federal or state statutes enforced by federal or state agencies relating to or arising out of employment or the terms or conditions of employment.*

Rep. Goodlette moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Recessed

On motion by Rep. Byrd, the House recessed at 11:56 a.m., to reconvene at 12:30 p.m., or upon the call of the Chair.

Reconvened

The House was called to order by the Speaker at 12:40 p.m. A quorum was present [Session Vote Sequence: 865].

Recognition Ceremony/Speaker's Portrait Unveiled

On motion by Rep. Dockery, the rules were waived and the regular order of business was suspended for a recognition ceremony honoring the House leadership and the unveiling of the portrait of Speaker Feeney.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

A complete transcript of the above ceremonies will be printed in the *Journal* at a later date.

THE SPEAKER IN THE CHAIR

On motion by Rep. Byrd, the House moved to the order of—

Continuation of Special Orders

Continuation of Special Order Calendar

HB 703—A bill to be entitled An act relating to Medicaid home and community-based services; creating s. 409.221, F.S.; creating the “Florida Consumer-Directed Care Act”; providing legislative findings; providing legislative intent; establishing the consumer-directed care program; providing for consumer selection of certain long-term care services and providers; providing for interagency agreements between the Agency for Health Care Administration and the Departments of Elderly Affairs, Health, and Children and Family Services; providing for program eligibility and enrollment; providing definitions; providing for consumer budget allowances and purchasing guidelines; specifying authorized services; providing roles and responsibilities of consumers, the agency and departments, and fiduciary intermediaries; providing background screening requirements for persons who render care under the program; providing rulemaking authority of the agency and departments; requiring the agency to apply for federal waivers as necessary; requiring ongoing program reviews and annual reports; providing an effective date.

—was read the second time by title.

REPRESENTATIVE BALL IN THE CHAIR

The Committee on Elder & Long-Term Care offered the following:

(Amendment Bar Code: 674935)

Amendment 1—On page 4, between lines 28 and 29 of the bill

insert: 6. *Personal care and support services provided in an assisted living facility.*

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 355293)

Amendment 2—On page 3, line 21 of the bill after “employment”

insert: *information, if any,*

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 800725)

Amendment 3—On page 2, line 26 of the bill after “control.”

insert: *The agency shall implement the program upon federal approval.*

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 145697)

Amendment 4—On page 7, line 8 of the bill after “waivers”

insert: *or waiver amendments*

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 913411)

Amendment 5 (with title amendment)—On page 7, between 17 and 18 of the bill

insert:

Section 2, Paragraph (f) of section 409.912(3) is 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. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(1) The agency may enter into agreements with appropriate agents of other state agencies or of any agency of the Federal Government and accept such duties in respect to social welfare or public aid as may be necessary to implement the provisions of Title XIX of the Social Security Act and ss. 409.901-409.920.

(2) The agency may contract with health maintenance organizations certified pursuant to part I of chapter 641 for the provision of services to recipients.

(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county health department, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by January 1, 1998, and until then are exempt from the provisions of part I of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must be licensed under chapter 624, chapter 636, or chapter 641 and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Family Services shall approve provisions of procurements related to children in the department's care or custody prior to enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services. The agency may reimburse for substance-abuse-treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. By January 1, 2001, the agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance-abuse-treatment services.

2. By December 31, 2001, the agency shall contract with entities providing comprehensive behavioral health care services to Medicaid

recipients through capitated, prepaid arrangements in Charlotte, Collier, DeSoto, Escambia, Glades, Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, and Walton Counties. The agency may contract with entities providing comprehensive behavioral health care services to Medicaid recipients through capitated, prepaid arrangements in Alachua County. The agency may determine if Sarasota County shall be included as a separate catchment area or included in any other agency geographic area.

3. Children residing in a Department of Juvenile Justice residential program approved as a Medicaid behavioral health overlay services provider shall not be included in a behavioral health care prepaid health plan pursuant to this paragraph.

4. In converting to a prepaid system of delivery, the agency shall in its procurement document require an entity providing comprehensive behavioral health care services to prevent the displacement of indigent care patients by enrollees in the Medicaid prepaid health plan providing behavioral health care services from facilities receiving state funding to provide indigent behavioral health care, to facilities licensed under chapter 395 which do not receive state funding for indigent behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.

5. Traditional community mental health providers under contract with the Department of Children and Family Services pursuant to part IV of chapter 394 and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for 4 years from the date of implementation.

(e) An entity that provides comprehensive behavioral health care services to certain Medicaid recipients through an administrative services organization agreement. Such an entity must possess the clinical systems and operational competence to provide comprehensive health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. Any contract awarded under this paragraph must be competitively procured. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services.

(f) An entity that provides in-home physician services to test the cost effectiveness of enhanced home-based medical care to Medicaid recipients with degenerative neurological diseases and other diseases or disabling conditions associated with high costs to Medicaid. The

~~program shall be designed to serve very disabled persons and to reduce Medicaid reimbursed costs for inpatient, outpatient, and emergency department services. The agency shall contract with vendors on a risk-sharing basis in Pasco County or Pinellas County that provides in-home physician services to Medicaid recipients with degenerative neurological diseases in order to test the cost-effectiveness of enhanced home-based medical care. The entity providing the services shall be reimbursed on a fee-for-service basis at a rate not less than comparable Medicare reimbursement rates. The agency may apply for waivers of federal regulations necessary to implement such program. This paragraph shall be repealed on July 1, 2002.~~

(g) Children’s provider networks that provide care coordination and care management for Medicaid-eligible pediatric patients, primary care, authorization of specialty care, and other urgent and emergency care through organized providers designed to service Medicaid eligibles under age 18. The networks shall provide after-hour operations, including evening and weekend hours, to promote, when appropriate, the use of the children’s networks rather than hospital emergency departments.

And the title is amended as follows:

On page 1, line 25 after the semicolon

and insert: amending s. 409.912; authorizing the agency to contract with vendors on a risk-sharing basis for in-home physician services;

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 722629)

Amendment 6—On page 6, line 15 of the bill after the coma

insert: *if any,*

On motion by Rep. Green, the committee and council amendments failed of adoption *en bloc*.

Representative(s) Green offered the following:

(Amendment Bar Code: 805735)

Amendment 7 (with title amendment)—

Remove everything after the enacting clause

and insert:

Section 1. Subsection (4) of section 20.41, Florida Statutes, is amended to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(4) The department shall *administer administratively* house the State Long-Term Care Ombudsman Council, created by s. 400.0067, and the local long-term care ombudsman councils, created by s. 400.0069 and shall, as required by s. 712 of the federal Older Americans Act of 1965, ensure that both the state and local long-term care ombudsman councils operate in compliance with the Older Americans Act. ~~The councils in performance of their duties shall not be subject to control, supervision, or direction by the department.~~

Section 2. Subsection (1) and paragraph (b) of subsection (2) of section 400.0063, Florida Statutes, are amended to read:

400.0063 Establishment of Office of State Long-Term Care Ombudsman; designation of ombudsman and legal advocate.—

(1) There is created an Office of State Long-Term Care Ombudsman; ~~which shall be located for administrative purposes~~ in the Department of Elderly Affairs.

(2)

(b) The State Long-Term Care Ombudsman shall be appointed by and shall serve at the pleasure of the *Secretary of Elderly Affairs State Long-Term Care Ombudsman Council*. No person who has a conflict of

interest, or has an immediate family member who has a conflict of interest, may be involved in the designation of the ombudsman.

Section 3. Paragraphs (c) and (f) of subsection (2) and subsection (3) of section 400.0065, Florida Statutes, are 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:

(c) Within the limits of federal and state funding authorized and appropriated, employ such personnel, including staff for local ombudsman councils, as are necessary to perform adequately the functions of the office and provide or contract for legal services to assist the state and local ombudsman councils in the performance of their duties. Staff positions for each local ombudsman council may be established as career service positions, and shall be filled by the ombudsman after *approval by the secretary consultation with the respective local ombudsman council*.

~~(f) Annually prepare a budget request that shall be submitted to the Governor by the department for transmittal to the Legislature.~~

(3) The State Long-Term Care Ombudsman shall not:

(a) Have a direct involvement in the licensing or certification of, or an ownership or investment interest in, a long-term care facility or a provider of a long-term care service.

(b) Be employed by, or participate in the management of, a long-term care facility.

(c) Receive, or have a right to receive, directly or indirectly, remuneration, in cash or in kind, under a compensation agreement with the owner or operator of a long-term care facility.

The Department of Elderly Affairs, ~~in consultation with the ombudsman,~~ shall adopt rules to establish procedures to identify and eliminate conflicts of interest as described in this subsection.

Section 4. Paragraphs (c), (d), (f), and (g) of subsection (2) and paragraph (b) of subsection (3) 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:

(c) Assist the ombudsman to discover, investigate, and determine the existence of abuse or neglect in any long-term care facility. ~~and to develop procedures, in consultation with The Department of Elderly Affairs shall develop procedures,~~ relating to such investigations. Investigations may consist, in part, of one or more onsite administrative inspections.

(d) Assist the ombudsman in eliciting, receiving, responding to, and resolving complaints made by or on behalf of long-term care facility residents and in developing procedures, ~~in consultation with the Department of Elderly Affairs,~~ relating to the receipt and resolution of such complaints. *The secretary shall approve all such procedures.*

~~(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 Services.~~

~~(g)~~ 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 *Secretary of Elderly Affairs*. *The secretary shall in turn 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 ~~Secretary of Secretaries of Elderly Affairs and~~ Children and Family Services, and the Secretary of Health Care Administration. The report shall be submitted by the *Secretary of Elderly Affairs* 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 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 local 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 local and state councils.

(3)

(b)1. The ombudsman, in consultation with the secretary ~~and the state ombudsman council~~, shall submit to the Governor a list of at least eight names of persons who are not serving on a local council.

2. The Governor shall appoint three members chosen from the list, at least one of whom must be over 60 years of age.

3. If the Governor's appointments are not made within 60 days after the ombudsman submits the list, the ombudsman, in consultation with the ~~secretary State Long-Term Care Ombudsman Council~~, shall appoint three members, one of whom must be over 60 years of age.

Section 5. Subsection (1) of section 400.0071, Florida Statutes, is amended to read:

400.0071 Complaint procedures.—

(1) The state ombudsman council shall *recommend to the ombudsman and the secretary* ~~establish~~ state and local procedures for receiving complaints against a nursing home or long-term care facility or its employee. *The procedures shall be implemented after the approval of the ombudsman and the secretary.*

Section 6. Subsections (1) and (2) of section 400.0087, Florida Statutes, are amended to read:

400.0087 Agency oversight.—

(1) The Department of Elderly Affairs shall monitor the local ombudsman councils responsible for carrying out the duties delegated by s. 400.0069 and federal law. The department, in consultation with the ombudsman ~~and the State Long-Term Care Ombudsman Council~~, shall adopt rules to establish the policies and procedures for the monitoring of local ombudsman councils.

(2) The department is responsible for ensuring that the Office of State Long-Term Care Ombudsman ~~prepares its annual report;~~

provides information to public and private agencies, legislators, and others; provides appropriate training to representatives of the office or of the state or local long-term care ombudsman councils; and coordinates ombudsman services with the Advocacy Center for Persons with Disabilities and with providers of legal services to residents of long-term care facilities in compliance with state and federal laws.

Section 7. 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 *shall*, 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 *State Long-Term Care Ombudsman Council* shall submit such data as part of its annual report required pursuant to s. 400.0067(2)(g) to the Agency for Health Care Administration, the Department of Children and Family Services, the Florida Statewide Advocacy Council, 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 8. *Subsections (2) and (3) of section 400.0066, Florida Statutes, are repealed.*

Section 9. Section 409.221, Florida Statutes, is created to read:

409.221 *Consumer-directed care program.—*

(1) *SHORT TITLE.—This section may be cited as the "Florida Consumer-Directed Care Act."*

(2) *LEGISLATIVE FINDINGS.—The Legislature finds that alternatives to institutional care, such as in-home and community-based care, should be encouraged. The Legislature finds that giving recipients of in-home and community-based services the opportunity to select the services they need and the providers they want, including family and friends, enhances their sense of dignity and autonomy. The Legislature also finds that providing consumers choice and control, as tested in current research and demonstration projects, has been beneficial and should be developed further and implemented statewide.*

(3) *LEGISLATIVE INTENT.—It is the intent of the Legislature to nurture the autonomy of those citizens of the state, of all ages, who have disabilities by providing the long-term care services they need in the least restrictive, appropriate setting. It is the intent of the Legislature to give such individuals more choices in and greater control over the purchased long-term care services they receive.*

(4) *CONSUMER-DIRECTED CARE.—*

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

(b) *Eligibility and enrollment.—Persons who are enrolled in one of the Medicaid home and community-based waiver programs and are able to direct their own care, or to designate an eligible representative, may choose to participate in the consumer-directed care program.*

(c) *Definitions.—For purposes of this section, the term:*

1. *"Budget allowance" means the amount of money made available each month to a consumer to purchase needed long-term care services, based on the results of a functional needs assessment.*

2. *"Consultant" means an individual who provides technical assistance to consumers in meeting their responsibilities under this section.*

3. "Consumer" means a person who has chosen to participate in the program, has met the enrollment requirements, and has received an approved budget allowance.

4. "Fiscal intermediary" means an entity approved by the agency that helps the consumer manage the consumer's budget allowance, retains the funds, processes employment information, if any, and tax information, reviews records to ensure correctness, writes paychecks to providers, and delivers paychecks to the consumer for distribution to providers and caregivers.

5. "Provider" means:

a. A person licensed or otherwise permitted to render services eligible for reimbursement under this program for whom the consumer is not the employer of record; or

b. A consumer-employed caregiver for whom the consumer is the employer of record.

6. "Representative" means an uncompensated individual designated by the consumer to assist in managing the consumer's budget allowance and needed services.

(d) *Budget allowances.*—Consumers enrolled in the program shall be given a monthly budget allowance based on the results of their assessed functional needs and the financial resources of the program. Consumers shall receive the budget allowance directly from an agency-approved fiscal intermediary. Each department shall develop purchasing guidelines, approved by the agency, to assist consumers in using the budget allowance to purchase needed, cost-effective services.

(e) *Services.*—Consumers shall use the budget allowance only to pay for home and community-based services that meet the consumer's long-term care needs and are a cost-efficient use of funds. Such services may include, but are not limited to, the following:

1. Personal care.
2. Homemaking and chores, including housework, meals, shopping, and transportation.
3. Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.
4. Assistance in taking self-administered medication.
5. Day care and respite care services, including those provided by nursing home facilities pursuant to s. 400.141(6) or by adult day care facilities licensed pursuant to s. 400.554.
6. Personal care and support services provided in an assisted living facility.

(f) *Consumer roles and responsibilities.*—Consumers shall be allowed to choose the providers of services, as well as when and how the services are provided. Providers may include a consumer's neighbor, friend, spouse, or relative.

1. In cases where a consumer is the employer of record, the consumer's roles and responsibilities include, but are not limited to, the following:

- a. Developing a job description.
- b. Selecting caregivers and submitting information for the background screening as required in s. 435.05.
- c. Communicating needs, preferences, and expectations about services being purchased.
- d. Providing the fiscal intermediary with all information necessary for provider payments and tax requirements.
- e. Ending the employment of an unsatisfactory caregiver.

2. In cases where a consumer is not the employer of record, the consumer's roles and responsibilities include, but are not limited to, the following:

a. Communicating needs, preferences, and expectations about services being purchased.

b. Ending the services of an unsatisfactory provider.

c. Providing the fiscal agent with all information necessary for provider payments and tax requirements.

(g) *Agency and departments roles and responsibilities.*—The agency's and the departments' roles and responsibilities include, but are not limited to, the following:

1. Assessing each consumer's functional needs, helping with the service plan, and providing ongoing assistance with the service plan.
2. Offering the services of consultants who shall provide training, technical assistance, and support to the consumer.
3. Completing the background screening for providers.
4. Approving fiscal intermediaries.
5. Establishing the minimum qualifications for all caregivers and providers and being the final arbiter of the fitness of any individual to be a caregiver or provider.

(h) *Fiscal intermediary roles and responsibilities.*—The fiscal intermediary's roles and responsibilities include, but are not limited to, the following:

1. Providing recordkeeping services.
2. Retaining the consumer-directed care funds, processing employment and tax information, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks to the consumer for distribution.

(i) *Background screening requirements.*—All persons who render care under this section shall comply with the requirements of s. 435.05. Persons shall be excluded from employment pursuant to s. 435.06.

1. Persons excluded from employment may request an exemption from disqualification, as provided in s. 435.07. Persons not subject to certification or professional licensure may request an exemption from the agency. In considering a request for an exemption, the agency shall comply with the provisions of s. 435.07.

2. The agency shall, as allowable, reimburse consumer-employed caregivers for the cost of conducting background screening as required by this section.

(j) *Rules; federal waivers.*—In order to implement this section:

1. The agency and the Departments of Elderly Affairs, Health, and Children and Family Services are authorized to adopt and enforce rules.
2. The agency shall take all necessary action to ensure state compliance with federal regulations. The agency shall apply for any necessary federal waivers or waiver amendments needed to implement the program.

(k) *Reviews and reports.*—The agency and the Departments of Elderly Affairs, Health, and Children and Family Services shall each, on an ongoing basis, review and assess the implementation of the consumer-directed care program. By January 15 of each year, the agency shall submit a written report to the Legislature that includes each department's review of the program and contains recommendations for improvements to the program.

Section 10. (1) Prior to December 1, 2002, the Agency for Health Care Administration in consultation with the Department of Elderly Affairs shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan to reduce the number of nursing home bed days purchased by the state Medicaid program and to replace such nursing home care with care provided in less costly alternative settings.

(2) The plan must include specific goals for reducing Medicaid-funded bed days and recommend specific statutory and operational changes necessary to achieve such reduction.

(3) *The plan must include an evaluation of the cost-effectiveness and the relative strengths and weaknesses of programs that serve as alternatives to nursing homes.*

Section 11. Paragraph (d) of subsection (5) of section 400.179, Florida Statutes, is amended to read:

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

(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:

(d) Where the transfer involves a facility that has been leased by the transferor:

1. The transferee shall, as a condition to being issued a license by the agency, acquire, maintain, and provide proof to the agency of a bond with a term of 30 months, renewable annually, in an amount not less than the total of 3 months Medicaid payments to the facility computed on the basis of the preceding 12-month average Medicaid payments to the facility.

2. The leasehold operator may meet the bond requirement through other arrangements acceptable to the department.

3. All existing nursing facility licensees, operating the facility as a leasehold, shall acquire, maintain, and provide proof to the agency of the 30-month bond required in subparagraph 1., above, on and after July 1, 1993, for each license renewal.

4. It shall be the responsibility of all nursing facility operators, operating the facility as a leasehold, to renew the 30-month bond and to provide proof of such renewal to the agency annually at the time of application for license renewal.

5. Any failure of the nursing facility operator to acquire, maintain, renew annually, or provide proof to the agency shall be grounds for the agency to deny, cancel, revoke, or suspend the facility license to operate such facility and to take any further action, including, but not limited to, enjoining the facility, asserting a moratorium, or applying for a receiver, deemed necessary to ensure compliance with this section and to safeguard and protect the health, safety, and welfare of the facility's residents.

However, notwithstanding any provision of this section to the contrary, a lease agreement required as a condition of bond financing or refinancing under s. 154.213 by a health facilities authority or under s. 159.30 by a county or municipality is not considered to be a leasehold and, therefore, is not subject to the bond requirements of this paragraph.

Section 12. Section 408.034, Florida Statutes, is amended to read:

408.034 Duties and responsibilities of agency; rules.—

(1) The agency is designated as the single state agency to issue, revoke, or deny certificates of need and to issue, revoke, or deny exemptions from certificate-of-need review in accordance with the district plans and present and future federal and state statutes. The agency is designated as the state health planning agency for purposes of federal law.

(2) In the exercise of its authority to issue licenses to health care facilities and health service providers, as provided under chapters 393, 395, and parts II and VI of chapter 400, the agency may not issue a license to any health care facility, health service provider, hospice, or part of a health care facility which fails to receive a certificate of need or an exemption for the licensed facility or service.

(3) The agency shall establish, by rule, uniform need methodologies for health services and health facilities. In developing uniform need methodologies, the agency shall, at a minimum, consider the demographic characteristics of the population, the health status of the

population, service use patterns, standards and trends, geographic accessibility, and market economics.

(4) *Prior to determining that there is a need for additional community nursing facility beds in any area of the state, the agency shall determine that the need cannot be met through the provision, enhancement, or expansion of home and community-based services. In determining such need, the agency shall examine nursing home placement patterns and demographic patterns of persons entering nursing homes and the availability of and effectiveness of existing home-based and community-based service delivery systems at meeting the long-term care needs of the population. The agency shall recommend to the Office of Long-Term Care Policy changes that could be made to existing home-based and community-based delivery systems to lessen the need for additional nursing facility beds.*

(5)(4) The agency shall establish by rule a nursing-home-bed-need methodology that reduces the community nursing home bed need for the areas of the state where the agency establishes pilot community diversion programs through the Title XIX aging waiver program.

(6)(5) The agency may adopt rules necessary to implement ss. 408.031-408.045.

Section 13. Present subsections (13) through (39) of section 409.912, Florida Statutes, are renumbered as subsections (14) through (40), respectively, and subsection (13) is added to said section, 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. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(13)(a) *The agency shall operate the Comprehensive Assessment and Review (CARES) nursing facility preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals whose conditions require such care and to ensure that long-term care services are provided in the setting most appropriate to the needs of the person and in the most economical manner possible. The CARES program shall also ensure that individuals participating in Medicaid home and community-based waiver programs meet criteria for those programs, consistent with approved federal waivers.*

(b) *The agency may operate the CARES program using its own staff or may contract with another state agency or other provider. If the agency contracts for the operation of the program, the agency must maintain policy control of all operations of the program, including the criteria applied and forms used, and perform regular monitoring to ensure effective and efficient operation of the program and ensure that the operation of the program is consistent with state and federal law and rules.*

(c) *The agency shall develop performance standards for the CARES program.*

(d) *Prior to making payment for nursing facility services for a Medicaid recipient, the agency must verify that the nursing facility preadmission screening program has determined that the individual requires nursing facility care and that the individual cannot be safely served in community-based programs. The nursing facility preadmission*

screening program shall refer a Medicaid recipient to a community-based program if the individual could be safely served at a lower cost and the recipient chooses to participate in such program.

(e) By January 1 of each year, the agency shall submit a report to the Legislature and the Office of Long-Term Care Policy describing the operations of the CARES program. The report must describe:

1. Rate of diversion to community alternative programs.
2. CARES program staffing needs to achieve additional diversions.
3. Reasons the program is unable to place individuals in less restrictive settings when such individuals desired such services and could have been served in such settings.
4. Barriers to appropriate placement, including barriers due to policies or operations of other agencies or state-funded programs.
5. Statutory changes necessary to ensure that individuals in need of long-term care services receive care in the least restrictive environment.

Section 14. Section 430.03, Florida Statutes, is amended to read:

430.03 Purposes.—The purposes of the Department of Elderly Affairs are to:

- (1) Serve as the primary state agency responsible for administering human services programs for the elderly and for developing policy recommendations for long-term care.
- (2) Combat ageism and create public awareness and understanding of the potentials and needs of elderly persons.
- (3) Study and plan for programs and services to meet identified and projected needs and to provide opportunities for personal development and achievement of persons aged 60 years and older.
- (4) Advocate quality programs and services for the state's elderly population and on behalf of the individual citizen's needs.
- ~~(5) Coordinate interdepartmental policy development and program planning for all state agencies that provide services for the elderly population in order to prevent duplicative efforts, to maximize utilization of resources, and to ensure cooperation, communication, and departmental linkages.~~
- ~~(6) Recommend state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population.~~
- (5)(7) Oversee implementation of federally funded and state-funded programs and services for the state's elderly population.
- ~~(6)(8) Recommend legislative budget requests for programs and services for the state's elderly population.~~
- (7)(9) Serve as a state-level information clearinghouse and encourage the development of local-level identifiable points of information and referral regarding all federal, state, and local resources of assistance to elderly citizens.
- ~~(8)(10) Assist elderly persons to secure needed services in accordance with personal choice and in a manner that achieves or maintains autonomy and prevents, reduces, or eliminates dependency.~~
- (9)(11) Promote the maintenance and improvement of the physical well-being and mental health of elderly persons.
- ~~(10)(12) Promote opportunities for volunteerism among the elderly population.~~
- ~~(11)(13) Promote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.~~
- (12)(14) Eliminate and prevent inappropriate institutionalization of elderly persons by promoting community-based care, home-based care, or other forms of less intensive care.

~~(13)(15) Aid in the support of families and other caregivers of elderly persons.~~

~~(14)(16) Promote intergenerational relationships.~~

~~(17) Oversee aging research conducted or funded by any state agency to ensure that such activities are coordinated and directed to fulfill the intent and purposes of this act.~~

Section 15. Section 430.04, Florida Statutes, is amended to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

- (1) Administer human services and long-term care programs, including programs funded under the federal Older Americans Act of 1965, as amended, and other programs that are assigned to it by law.
- (2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:
 - (a) An intentional or negligent act of the agency has materially affected the health, welfare, or safety of clients, or substantially and negatively affected the operation of an aging services program.
 - (b) The agency lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated.
 - (c) The agency has committed multiple or repeated violations of legal and regulatory requirements or department standards.
 - (d) The agency has failed to continue the provision or expansion of services after the declaration of a state of emergency.
 - (e) The agency has failed to adhere to the terms of its contract with the department.
 - (f) The agency has failed to implement and maintain a department-approved client grievance resolution procedure.
- (3) Prepare and submit *the state plan as required by the United States Administration on Aging*, 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 Services to another state department, the plan must also include recommendations that provide for an independent third-party mechanism, as currently exists in the Florida advocacy councils 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.~~

(4) Serve as an information clearinghouse at the state level, and assist local-level information and referral resources as a repository and means for dissemination of information regarding all federal, state, and local resources for assistance to the elderly in the areas of, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.

~~(5) Recommend guidelines for the development of roles for state agencies that provide services for the aging, review plans of agencies that provide such services, and relay these plans 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.~~

~~(6) Recommend 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 an organizational framework for the planning, coordination, implementation, and evaluation of programs related to aging, with the purpose of expanding and improving programs and opportunities available to the state's elderly population and enhancing a continuum of long-term care. This framework must assure that:~~

- ~~(a) Performance objectives are established.~~
- ~~(b) Program reviews are conducted statewide.~~
- ~~(c) Each major program related to aging is reviewed every 3 years.~~
- ~~(d) Agency budget requests reflect the results and recommendations of such program reviews.~~
- ~~(e) Program decisions lead to the distinctive roles established for state agencies that provide aging services.~~

~~(7) Advise 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 the chairpersons of appropriate House and Senate committees regarding the need for and location of programs related to aging.~~

~~(8) Review and coordinate aging research plans of all state agencies to ensure the conformance of research objectives to issues and needs addressed in the master plan for policies and programs related to aging. The research activities that must be reviewed and coordinated by the department include, but are not limited to, contracts with academic institutions, development of educational and training curriculums, Alzheimer's disease and other medical research, studies of long-term care and other personal assistance needs, and design of adaptive or modified living environments.~~

~~(9) Review budget requests for programs related to aging for compliance with the master plan for policies and programs related to aging before submission to the Governor and the Legislature.~~

~~(10) Update the master plan for policies and programs related to aging every 3 years.~~

~~(11) Review implementation of the master plan for programs and policies related to aging and annually report 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~~

~~the chairpersons of appropriate House and Senate committees the progress towards implementation of the plan.~~

~~(12) Request other departments that administer programs affecting the state's elderly population to amend their plans, rules, policies, and research objectives as necessary to conform with the master plan for policies and programs related to aging.~~

~~(5)(13) Hold public meetings regularly throughout the state for purposes of receiving information and maximizing the visibility of important issues.~~

~~(6)(14) Conduct policy analysis and program evaluation studies assigned by the Legislature.~~

~~(7)(15) Assist 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 the chairpersons of appropriate House and Senate committees in the conduct of their responsibilities in such capacities as they consider appropriate.~~

~~(8)(16) Call upon appropriate agencies of state government for such assistance as is needed in the discharge of its duties. All agencies shall cooperate in assisting the department in carrying out its responsibilities as prescribed by this section. However, no provision of law with respect to confidentiality of information may be violated.~~

Section 16. Section 430.041, Florida Statutes, is created to read:

430.041 Office of Long-Term Care Policy.—

(1) There is established within the Department of Elderly Affairs the Office of Long-Term Care Policy to analyze the state's long-term care system and increase the availability and the use of noninstitutional settings to provide care to the elderly and to ensure coordination among the agencies responsible for the long-term care continuum. The Department of Elderly Affairs shall provide administrative support and service to the Office of Long-Term Care Policy. The office is not subject to control, supervision, or direction by the Department of Elderly Affairs in the performance of its duties.

(2) The Office of Long-Term Care Policy shall:

(a) Ensure close communication and coordination among state agencies involved in developing and administering a more efficient and coordinated long-term care service delivery system in this state.

(b) Ensure that state agencies involved in developing long-term care policy have considered the preferences of consumers, providers, and local elected officials.

(c) Study and plan for programs to meet identified and projected needs of people who need long-term care.

(d) Develop a State Long-Term Care Plan and policy recommendations to ensure that appropriate long-term care is available in institutional and community-based settings.

(e) Update the State Long-Term Care Plan every 3 years.

(f) Recommend state and local organizational models for the planning, coordination, implementation, and evaluation of programs serving people with long-term care needs.

(g) Make recommendations to agencies for budget requests for long-term care programs to ensure consistency with the State Long-Term Care Plan.

(h) Develop and recommend strategies for ensuring compliance with all federal requirements regarding access to and choice of services and providers.

(i) Identify duplication and unnecessary service provision in the long-term care system and make recommendations to decrease inappropriate service provision.

(j) Make recommendations to increase consistency in administering the state's long-term care programs.

(k) *Ensure regular periodic evaluations of all programs providing long-term care services to determine whether the programs are cost-effective, of high quality, operating efficiently, and consistent with state policy.*

(l) *Monitor characteristics of people applying for and entering institutional and community-based long-term care, and changes to these characteristics over time, to determine the reasons and causes for changing levels of state expenditures and to determine services that the state's system of community-based care could provide to lessen the need for facility-based care.*

(m) *Recommend changes to the preadmission screening system of state nursing homes to ensure that individuals in need of long-term care are served in settings most appropriate to their needs.*

(n) *Recommend mechanisms to encourage families and other caregivers to assist people in need of long-term care services to remain as independent as possible.*

(o) *Analyze waiting lists for long-term care services and recommend strategies to reduce the time applicants wait for services.*

(p) *Oversee research on aging conducted or funded by any state agency to ensure that such research is coordinated and directed to fulfill the intent and purposes of this act.*

(3) *The director of the Office of Long-Term Care Policy shall be appointed by and serve at the pleasure of the Governor. The director of the Office of Long-Term Care Policy shall report to the Governor.*

(4) *The Office of Long-Term Care Policy shall have an advisory board, whose chair is to be selected by the board. The board shall consist of:*

(a) *A member of the Senate, appointed by the President of the Senate.*

(b) *A member of the House of Representatives, appointed by the Speaker of the House of Representatives.*

(c) *The Secretary of Health Care Administration.*

(d) *The Secretary of Elderly Affairs.*

(e) *The state Medicaid Director.*

(f) *Two representatives of providers of long-term care services for elderly persons, appointed by the Governor.*

(g) *Two representatives of people receiving long-term care services, appointed by the Governor from groups representing elderly persons.*

(5) *Members of the advisory board shall serve without compensation, but are entitled to receive reimbursement for travel and per diem as provided in s. 112.061.*

(6) *The advisory board shall meet at least monthly or more often at the call of its chair or at the request of a majority of its members.*

(7) *The office shall submit a report of its policy, legislative, and funding recommendations to the Governor and the Legislature by January 1 of each year.*

(8) *Personnel who are solely under the direction of the Office of Long-Term Care Policy shall be provided by the Agency for Health Care Administration and the Department of Elderly Affairs. The office shall call upon appropriate agencies of state government, including the centers on aging in the State University System, for assistance needed in discharging its duties. All agencies shall assist the office in carrying out its responsibilities prescribed by this section.*

Section 17. Section 430.7031, Florida Statutes, is created to read:

430.7031 *Nursing home transition program.—The department and the Agency for Health Care Administration:*

(1) *Shall implement a system of care designed to assist individuals residing in nursing homes to regain independence and to move to less costly settings.*

(2) *Shall collaboratively work to identify long-stay nursing home residents who are able to move to community placements, and to provide case management and supportive services to such individuals while they are in nursing homes to assist such individuals in moving to less expensive and less restrictive settings.*

(3) *Shall modify existing service delivery systems or develop new service delivery systems to economically and efficiently meet such individuals' care needs.*

(4) *Shall offer such individuals priority placement and services in all home-based and community-based care programs, and shall ensure that funds are available to provide services to individuals to whom services are offered.*

(5) *May seek federal waivers necessary to administer this section.*

Section 18. Subsection (4) of section 409.908, Florida Statutes, is amended to read:

409.908 *Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.*

(4) *Subject to any limitations or directions provided for in the General Appropriations Act, alternative health plans, health maintenance organizations, and prepaid health plans shall be reimbursed a fixed, prepaid amount negotiated, or competitively bid pursuant to s. 287.057, by the agency and prospectively paid to the provider monthly for each Medicaid recipient enrolled. The amount may not exceed the average amount the agency determines it would have paid, based on claims experience, for recipients in the same or similar category of eligibility. The agency shall calculate capitation rates on a regional basis and, beginning September 1, 1995, shall include age-band differentials in such calculations. Effective July 1, 2001, the cost of exempting statutory teaching hospitals, specialty hospitals, and community hospital education program hospitals from reimbursement ceilings and the cost of special Medicaid payments shall not be included in premiums paid to health maintenance organizations or prepaid health care plans. Each rate semester, the agency shall calculate and publish a Medicaid hospital rate schedule that does not reflect either special Medicaid payments or the elimination of rate reimbursement ceilings, to be used by hospitals and Medicaid health maintenance organizations, in order to determine the Medicaid rate referred to in ss. 409.912(17) ~~409.912(16)~~, 409.9128(5), and 641.513(6).*

Section 19. Section 430.708, Florida Statutes, is amended to read:

430.708 *Certificate of need.—To ensure that Medicaid community diversion pilot projects result in a reduction in the projected average monthly nursing home caseload, the agency shall, in accordance with the provisions of s. 408.034(5) ~~s. 408.034(4)~~:*

(1) *Reduce the projected nursing home bed need in each certificate-of-need batching cycle in the community diversion pilot project areas.*

(2) *Reduce the conditions imposed on existing nursing homes or those to be constructed, in accordance with the number of projected community diversion slots.*

(3) Adopt rules to reduce the number of beds in Medicaid-participating nursing homes eligible for Medicaid, through a Medicaid-selective contracting process or some other appropriate method.

(4) Determine the feasibility of increasing the nursing home occupancy threshold used in determining nursing home bed needs under the certificate-of-need process.

Section 20. Subsection (4) of section 641.386, Florida Statutes, is amended to read:

641.386 Agent licensing and appointment required; exceptions.—

(4) All agents and health maintenance organizations shall comply with and be subject to the applicable provisions of ss. 641.309 and 409.912(19) ~~409.912(18)~~, and all companies and entities appointing agents shall comply with s. 626.451, when marketing for any health maintenance organization licensed pursuant to this part, including those organizations under contract with the Agency for Health Care Administration to provide health care services to Medicaid recipients or any private entity providing health care services to Medicaid recipients pursuant to a prepaid health plan contract with the Agency for Health Care Administration.

Section 21. This act shall take effect July 1, 2002.

And the title is amended as follows:

remove: the entire title

and insert: A bill to be entitled An act relating to long-term care; amending s. 20.41, F.S.; providing for administration of the State Long-Term Care Ombudsman Council by the Department of Elderly Affairs; amending s. 400.0063, F.S.; locating the Office of the State Long-Term Care Ombudsman in the department; providing for appointment of the ombudsman by the Secretary of Elderly Affairs; amending s. 400.0065, F.S.; requiring the secretary's approval of staff for the local ombudsman councils; deleting requirement that the ombudsman prepare an annual legislative budget request; revising rulemaking authority; amending s. 400.0067, F.S.; revising duties of the State Long-Term Care Ombudsman Council; providing duties of the department and secretary; amending s. 400.0071, F.S.; revising procedures relating to complaints; amending s. 400.0087, F.S.; revising provisions relating to agency oversight; amending s. 400.0089, F.S.; revising reporting responsibilities; repealing s. 400.0066(2) and (3), F.S., relating to administrative support for the ombudsman program and interference with ombudsman staff or volunteers; creating s. 409.221, F.S.; creating the "Florida Consumer-Directed Care Act"; providing legislative findings; providing legislative intent; establishing the consumer-directed care program; providing for consumer selection of certain long-term care services and providers; providing for interagency agreements between the Agency for Health Care Administration and the Department of Elderly Affairs, the Department of Health, and the Department of Children and Family Services; providing for program eligibility and enrollment; providing definitions; providing for consumer budget allowances and purchasing guidelines; specifying authorized services; providing roles and responsibilities of consumers, the agency and departments, and fiduciary intermediaries; providing background screening requirements for persons who render care under the program; providing rulemaking authority of the agency and departments; requiring the agency to apply for federal waivers as necessary; requiring ongoing program reviews and annual reports; requiring the Agency for Health Care Administration and the Department of Elderly Affairs to submit a plan to the Governor and Legislature for reducing nursing home bed days funded under the Medicaid program; amending s. 400.179, F.S.; providing an exception from a bond requirement for certain mortgage arrangements; amending s. 408.034, F.S.; providing additional requirements for the Agency for Health Care Administration in determining the need for additional nursing facility beds; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to establish a nursing facility preadmission screening program; authorizing the agency to operate the program by contract; requiring an annual report to the Legislature and the Office of Long-Term Care Policy; amending s. 430.03, F.S.; revising the purposes of the Department of Elderly Affairs with respect to developing policy, making

recommendations, coordinating activities, and overseeing research; amending s. 430.04, F.S.; revising the duties of the Department of Elderly Affairs with respect to developing programs and policies related to aging; creating s. 430.041, F.S.; establishing the Office of Long-Term Care Policy within the Department of Elderly Affairs; requiring the office to develop a State Long-Term Care Plan; requiring the office to make recommendations for coordinating the services provided by state agencies; providing for appointment of the director of the Office of Long-Term Care Policy; providing for the appointment of an advisory board to the Office of Long-Term Care Policy; specifying membership in the advisory board; providing for reimbursement of per diem and travel expenses for members of the advisory board; requiring that the office submit an annual report to the Governor and Legislature; requiring the Agency for Health Care Administration and the Department of Elderly Affairs to provide staff and support services for the Office of Long-Term Care Policy; creating s. 430.7031, F.S.; requiring the Department of Elderly Affairs and the Agency for Health Care Administration to implement a nursing home transition program; providing requirements for the program; amending ss. 409.908, 430.708, and 641.386, F.S., relating to reimbursement of Medicaid providers, certificates of need, and agent licensing and appointment; conforming cross references to changes made by the act; providing an effective date.

Rep. Green moved the adoption of the amendment, which was adopted.

On motion by Rep. Green, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Green offered the following:

(Amendment Bar Code: 415941)

Amendment 8 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Subsection (4) of section 20.41, Florida Statutes, is amended to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(4) The department shall ~~administer administratively~~ ~~house~~ the State Long-Term Care Ombudsman Council, created by s. 400.0067, and the local long-term care ombudsman councils, created by s. 400.0069 and shall, as required by s. 712 of the federal Older Americans Act of 1965, ensure that both the state and local long-term care ombudsman councils operate in compliance with the Older Americans Act. ~~The councils in performance of their duties shall not be subject to control, supervision, or direction by the department.~~

Section 2. Subsection (1) and paragraph (b) of subsection (2) of section 400.0063, Florida Statutes, are amended to read:

400.0063 Establishment of Office of State Long-Term Care Ombudsman; designation of ombudsman and legal advocate.—

(1) There is created an Office of State Long-Term Care Ombudsman, ~~which shall be located for administrative purposes~~ in the Department of Elderly Affairs.

(2)

(b) The State Long-Term Care Ombudsman shall be appointed by and shall serve at the pleasure of the ~~Secretary of Elderly Affairs State Long-Term Care Ombudsman Council~~. No person who has a conflict of interest, or has an immediate family member who has a conflict of interest, may be involved in the designation of the ombudsman.

Section 3. Paragraphs (c) and (f) of subsection (2) and subsection (3) of section 400.0065, Florida Statutes, are 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:

(c) Within the limits of federal and state funding authorized and appropriated, employ such personnel, including staff for local ombudsman councils, as are necessary to perform adequately the functions of the office and provide or contract for legal services to assist the state and local ombudsman councils in the performance of their duties. Staff positions for each local ombudsman council may be established as career service positions, and shall be filled by the ombudsman after *approval by the secretary* ~~consultation with the respective local ombudsman council.~~

~~(f) Annually prepare a budget request that shall be submitted to the Governor by the department for transmittal to the Legislature.~~

(3) The State Long-Term Care Ombudsman shall not:

(a) Have a direct involvement in the licensing or certification of, or an ownership or investment interest in, a long-term care facility or a provider of a long-term care service.

(b) Be employed by, or participate in the management of, a long-term care facility.

(c) Receive, or have a right to receive, directly or indirectly, remuneration, in cash or in kind, under a compensation agreement with the owner or operator of a long-term care facility.

The Department of Elderly Affairs, ~~in consultation with the ombudsman,~~ shall adopt rules to establish procedures to identify and eliminate conflicts of interest as described in this subsection.

Section 4. Paragraphs (c), (d), (f), and (g) of subsection (2) and paragraph (b) of subsection (3) 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:

(c) Assist the ombudsman to discover, investigate, and determine the existence of abuse or neglect in any long-term care facility. ~~and to develop procedures, in consultation with The Department of Elderly Affairs shall develop procedures,~~ relating to such investigations. Investigations may consist, in part, of one or more onsite administrative inspections.

(d) Assist the ombudsman in eliciting, receiving, responding to, and resolving complaints made by or on behalf of long-term care facility residents and in developing procedures, ~~in consultation with the Department of Elderly Affairs,~~ relating to the receipt and resolution of such complaints. *The secretary shall approve all such procedures.*

~~(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 Services.~~

~~(f)(g)~~ 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 *Secretary of Elderly Affairs. The secretary shall in turn 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 Secretary of Secretaries of Elderly Affairs and Children and Family Services, and the Secretary of Health Care Administration.* The report shall be submitted *by the Secretary of Elderly Affairs* 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 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 local 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 local and state councils.

(3)

(b)1. The ombudsman, in consultation with the secretary ~~and the state ombudsman council,~~ shall submit to the Governor a list of at least eight names of persons who are not serving on a local council.

2. The Governor shall appoint three members chosen from the list, at least one of whom must be over 60 years of age.

3. If the Governor's appointments are not made within 60 days after the ombudsman submits the list, the ombudsman, in consultation with the ~~secretary State Long-Term Care Ombudsman Council,~~ shall appoint three members, one of whom must be over 60 years of age.

Section 5. Subsection (1) of section 400.0071, Florida Statutes, is amended to read:

400.0071 Complaint procedures.—

(1) The state ombudsman council shall *recommend to the ombudsman and the secretary* ~~establish~~ state and local procedures for receiving complaints against a nursing home or long-term care facility or its employee. *The procedures shall be implemented after the approval of the ombudsman and the secretary.*

Section 6. Subsections (1) and (2) of section 400.0087, Florida Statutes, are amended to read:

400.0087 Agency oversight.—

(1) The Department of Elderly Affairs shall monitor the local ombudsman councils responsible for carrying out the duties delegated by s. 400.0069 and federal law. The department, in consultation with the ombudsman ~~and the State Long-Term Care Ombudsman Council,~~ shall adopt rules to establish the policies and procedures for the monitoring of local ombudsman councils.

(2) The department is responsible for ensuring that the Office of State Long-Term Care Ombudsman ~~prepares its annual report;~~ provides information to public and private agencies, legislators, and others; provides appropriate training to representatives of the office or of the state or local long-term care ombudsman councils; and coordinates ombudsman services with the Advocacy Center for Persons with Disabilities and with providers of legal services to residents of long-term care facilities in compliance with state and federal laws.

Section 7. 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 shall,~~ 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 *State Long-Term Care Ombudsman Council* shall submit such data as part of its annual report required pursuant to s. 400.0067(2)(g) to the Agency for Health Care Administration, the Department of Children and Family Services, the Florida Statewide Advocacy Council, 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 8. Subsections (2) and (3) of section 400.0066, Florida Statutes, are repealed.

Section 9. Section 409.221, Florida Statutes, is created to read:

409.221 Consumer-directed care program.—

(1) *SHORT TITLE.*—This section may be cited as the “Florida Consumer-Directed Care Act.”

(2) *LEGISLATIVE FINDINGS.*—The Legislature finds that alternatives to institutional care, such as in-home and community-based care, should be encouraged. The Legislature finds that giving recipients of in-home and community-based services the opportunity to select the services they need and the providers they want, including family and friends, enhances their sense of dignity and autonomy. The Legislature also finds that providing consumers choice and control, as tested in current research and demonstration projects, has been beneficial and should be developed further and implemented statewide.

(3) *LEGISLATIVE INTENT.*—It is the intent of the Legislature to nurture the autonomy of those citizens of the state, of all ages, who have disabilities by providing the long-term care services they need in the least restrictive, appropriate setting. It is the intent of the Legislature to give such individuals more choices in and greater control over the purchased long-term care services they receive.

(4) *CONSUMER-DIRECTED CARE.*—

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

(b) *Eligibility and enrollment.*—Persons who are enrolled in one of the Medicaid home and community-based waiver programs and are able to direct their own care, or to designate an eligible representative, may choose to participate in the consumer-directed care program.

(c) *Definitions.*—For purposes of this section, the term:

1. “Budget allowance” means the amount of money made available each month to a consumer to purchase needed long-term care services, based on the results of a functional needs assessment.

2. “Consultant” means an individual who provides technical assistance to consumers in meeting their responsibilities under this section.

3. “Consumer” means a person who has chosen to participate in the program, has met the enrollment requirements, and has received an approved budget allowance.

4. “Fiscal intermediary” means an entity approved by the agency that helps the consumer manage the consumer’s budget allowance, retains the funds, processes employment information, if any, and tax information,

reviews records to ensure correctness, writes paychecks to providers, and delivers paychecks to the consumer for distribution to providers and caregivers.

5. “Provider” means:

a. A person licensed or otherwise permitted to render services eligible for reimbursement under this program for whom the consumer is not the employer of record; or

b. A consumer-employed caregiver for whom the consumer is the employer of record.

6. “Representative” means an uncompensated individual designated by the consumer to assist in managing the consumer’s budget allowance and needed services.

(d) *Budget allowances.*—Consumers enrolled in the program shall be given a monthly budget allowance based on the results of their assessed functional needs and the financial resources of the program. Consumers shall receive the budget allowance directly from an agency-approved fiscal intermediary. Each department shall develop purchasing guidelines, approved by the agency, to assist consumers in using the budget allowance to purchase needed, cost-effective services.

(e) *Services.*—Consumers shall use the budget allowance only to pay for home and community-based services that meet the consumer’s long-term care needs and are a cost-efficient use of funds. Such services may include, but are not limited to, the following:

1. Personal care.

2. Homemaking and chores, including housework, meals, shopping, and transportation.

3. Home modifications and assistive devices which may increase the consumer’s independence or make it possible to avoid institutional placement.

4. Assistance in taking self-administered medication.

5. Day care and respite care services, including those provided by nursing home facilities pursuant to s. 400.141(6) or by adult day care facilities licensed pursuant to s. 400.554.

6. Personal care and support services provided in an assisted living facility.

(f) *Consumer roles and responsibilities.*—Consumers shall be allowed to choose the providers of services, as well as when and how the services are provided. Providers may include a consumer’s neighbor, friend, spouse, or relative.

1. In cases where a consumer is the employer of record, the consumer’s roles and responsibilities include, but are not limited to, the following:

a. Developing a job description.

b. Selecting caregivers and submitting information for the background screening as required in s. 435.05.

c. Communicating needs, preferences, and expectations about services being purchased.

d. Providing the fiscal intermediary with all information necessary for provider payments and tax requirements.

e. Ending the employment of an unsatisfactory caregiver.

2. In cases where a consumer is not the employer of record, the consumer’s roles and responsibilities include, but are not limited to, the following:

a. Communicating needs, preferences, and expectations about services being purchased.

b. Ending the services of an unsatisfactory provider.

c. Providing the fiscal agent with all information necessary for provider payments and tax requirements.

(g) Agency and departments roles and responsibilities.—The agency's and the departments' roles and responsibilities include, but are not limited to, the following:

1. *Assessing each consumer's functional needs, helping with the service plan, and providing ongoing assistance with the service plan.*
2. *Offering the services of consultants who shall provide training, technical assistance, and support to the consumer.*
3. *Completing the background screening for providers.*
4. *Approving fiscal intermediaries.*
5. *Establishing the minimum qualifications for all caregivers and providers and being the final arbiter of the fitness of any individual to be a caregiver or provider.*

(h) Fiscal intermediary roles and responsibilities.—The fiscal intermediary's roles and responsibilities include, but are not limited to, the following:

1. *Providing recordkeeping services.*
2. *Retaining the consumer-directed care funds, processing employment and tax information, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks to the consumer for distribution.*

(i) Background screening requirements.—All persons who render care under this section shall comply with the requirements of s. 435.05. Persons shall be excluded from employment pursuant to s. 435.06.

1. *Persons excluded from employment may request an exemption from disqualification, as provided in s. 435.07. Persons not subject to certification or professional licensure may request an exemption from the agency. In considering a request for an exemption, the agency shall comply with the provisions of s. 435.07.*

2. *The agency shall, as allowable, reimburse consumer-employed caregivers for the cost of conducting background screening as required by this section.*

(j) Rules; federal waivers.—In order to implement this section:

1. *The agency and the Departments of Elderly Affairs, Health, and Children and Family Services are authorized to adopt and enforce rules.*

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

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

Section 10. (1) *Prior to December 1, 2002, the Agency for Health Care Administration in consultation with the Department of Elderly Affairs shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan to reduce the number of nursing home bed days purchased by the state Medicaid program and to replace such nursing home care with care provided in less costly alternative settings.*

(2) *The plan must include specific goals for reducing Medicaid-funded bed days and recommend specific statutory and operational changes necessary to achieve such reduction.*

(3) *The plan must include an evaluation of the cost-effectiveness and the relative strengths and weaknesses of programs that serve as alternatives to nursing homes.*

Section 11. Paragraph (d) of subsection (5) of section 400.179, Florida Statutes, is amended to read:

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

(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:*

(d) *Where the transfer involves a facility that has been leased by the transferor:*

1. *The transferee shall, as a condition to being issued a license by the agency, acquire, maintain, and provide proof to the agency of a bond with a term of 30 months, renewable annually, in an amount not less than the total of 3 months Medicaid payments to the facility computed on the basis of the preceding 12-month average Medicaid payments to the facility.*

2. *The leasehold operator may meet the bond requirement through other arrangements acceptable to the department.*

3. *All existing nursing facility licensees, operating the facility as a leasehold, shall acquire, maintain, and provide proof to the agency of the 30-month bond required in subparagraph 1., above, on and after July 1, 1993, for each license renewal.*

4. *It shall be the responsibility of all nursing facility operators, operating the facility as a leasehold, to renew the 30-month bond and to provide proof of such renewal to the agency annually at the time of application for license renewal.*

5. *Any failure of the nursing facility operator to acquire, maintain, renew annually, or provide proof to the agency shall be grounds for the agency to deny, cancel, revoke, or suspend the facility license to operate such facility and to take any further action, including, but not limited to, enjoining the facility, asserting a moratorium, or applying for a receiver, deemed necessary to ensure compliance with this section and to safeguard and protect the health, safety, and welfare of the facility's residents.*

However, notwithstanding any provision of this section to the contrary, a lease agreement required as a condition of bond financing or refinancing under s. 154.213 by a health facilities authority or under s. 159.30 by a county or municipality is not considered to be a leasehold and, therefore, is not subject to the bond requirements of this paragraph.

Section 12. Section 408.034, Florida Statutes, is amended to read:

408.034 *Duties and responsibilities of agency; rules.—*

(1) *The agency is designated as the single state agency to issue, revoke, or deny certificates of need and to issue, revoke, or deny exemptions from certificate-of-need review in accordance with the district plans and present and future federal and state statutes. The agency is designated as the state health planning agency for purposes of federal law.*

(2) *In the exercise of its authority to issue licenses to health care facilities and health service providers, as provided under chapters 393, 395, and parts II and VI of chapter 400, the agency may not issue a license to any health care facility, health service provider, hospice, or part of a health care facility which fails to receive a certificate of need or an exemption for the licensed facility or service.*

(3) *The agency shall establish, by rule, uniform need methodologies for health services and health facilities. In developing uniform need methodologies, the agency shall, at a minimum, consider the demographic characteristics of the population, the health status of the population, service use patterns, standards and trends, geographic accessibility, and market economics.*

(4) *Prior to determining that there is a need for additional community nursing facility beds in any area of the state, the agency shall*

determine that the need cannot be met through the provision, enhancement, or expansion of home and community-based services. In determining such need, the agency shall examine nursing home placement patterns and demographic patterns of persons entering nursing homes and the availability of and effectiveness of existing home-based and community-based service delivery systems at meeting the long-term care needs of the population. The agency shall recommend to the Office of Long-Term Care Policy changes that could be made to existing home-based and community-based delivery systems to lessen the need for additional nursing facility beds.

(5)(4) The agency shall establish by rule a nursing-home-bed-need methodology that reduces the community nursing home bed need for the areas of the state where the agency establishes pilot community diversion programs through the Title XIX aging waiver program.

(6)(5) The agency may adopt rules necessary to implement ss. 408.031-408.045.

Section 13. Present subsections (13) through (39) of section 409.912, Florida Statutes, are renumbered as subsections (14) through (40), respectively, and subsection (13) is added to said section, 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. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(13)(a) *The agency shall operate the Comprehensive Assessment and Review (CARES) nursing facility preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals whose conditions require such care and to ensure that long-term care services are provided in the setting most appropriate to the needs of the person and in the most economical manner possible. The CARES program shall also ensure that individuals participating in Medicaid home and community-based waiver programs meet criteria for those programs, consistent with approved federal waivers.*

(b) *The agency may operate the CARES program using its own staff or may contract with another state agency or other provider. If the agency contracts for the operation of the program, the agency must maintain policy control of all operations of the program, including the criteria applied and forms used, and perform regular monitoring to ensure effective and efficient operation of the program and ensure that the operation of the program is consistent with state and federal law and rules.*

(c) *The agency shall develop performance standards for the CARES program.*

(d) *Prior to making payment for nursing facility services for a Medicaid recipient, the agency must verify that the nursing facility preadmission screening program has determined that the individual requires nursing facility care and that the individual cannot be safely served in community-based programs. The nursing facility preadmission screening program shall refer a Medicaid recipient to a community-based program if the individual could be safely served at a lower cost and the recipient chooses to participate in such program.*

(e) *By January 1 of each year, the agency shall submit a report to the Legislature and the Office of Long-Term Care Policy describing the operations of the CARES program. The report must describe:*

1. *Rate of diversion to community alternative programs.*
2. *CARES program staffing needs to achieve additional diversions.*
3. *Reasons the program is unable to place individuals in less restrictive settings when such individuals desired such services and could have been served in such settings.*

4. *Barriers to appropriate placement, including barriers due to policies or operations of other agencies or state-funded programs.*

5. *Statutory changes necessary to ensure that individuals in need of long-term care services receive care in the least restrictive environment.*

Section 14. Section 430.03, Florida Statutes, is amended to read:

430.03 Purposes.—The purposes of the Department of Elderly Affairs are to:

(1) Serve as the primary state agency responsible for administering human services programs for the elderly ~~and for developing policy recommendations for long-term care.~~

(2) Combat ageism and create public awareness and understanding of the potentials and needs of elderly persons.

(3) Study and plan for programs and services to meet identified and projected needs and to provide opportunities for personal development and achievement of persons aged 60 years and older.

(4) Advocate quality programs and services for the state's elderly population and on behalf of the individual citizen's needs.

~~(5) Coordinate interdepartmental policy development and program planning for all state agencies that provide services for the elderly population in order to prevent duplicative efforts, to maximize utilization of resources, and to ensure cooperation, communication, and departmental linkages.~~

~~(6) Recommend state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population.~~

(5)(7) Oversee implementation of federally funded and state-funded programs and services for the state's elderly population.

(6)(8) Recommend legislative budget requests for programs and services for the state's elderly population.

(7)(9) Serve as a state-level information clearinghouse and encourage the development of local-level identifiable points of information and referral regarding all federal, state, and local resources of assistance to elderly citizens.

(8)(10) Assist elderly persons to secure needed services in accordance with personal choice and in a manner that achieves or maintains autonomy and prevents, reduces, or eliminates dependency.

(9)(11) Promote the maintenance and improvement of the physical well-being and mental health of elderly persons.

(10)(12) Promote opportunities for volunteerism among the elderly population.

(11)(13) Promote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.

(12)(14) Eliminate and prevent inappropriate institutionalization of elderly persons by promoting community-based care, home-based care, or other forms of less intensive care.

(13)(15) Aid in the support of families and other caregivers of elderly persons.

(14)(16) Promote intergenerational relationships.

~~(17) Oversee aging research conducted or funded by any state agency to ensure that such activities are coordinated and directed to fulfill the intent and purposes of this act.~~

Section 15. Section 430.04, Florida Statutes, is amended to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(1) Administer human services and long-term care programs, including programs funded under the federal Older Americans Act of 1965, as amended, and other programs that are assigned to it by law.

(2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:

(a) An intentional or negligent act of the agency has materially affected the health, welfare, or safety of clients, or substantially and negatively affected the operation of an aging services program.

(b) The agency lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated.

(c) The agency has committed multiple or repeated violations of legal and regulatory requirements or department standards.

(d) The agency has failed to continue the provision or expansion of services after the declaration of a state of emergency.

(e) The agency has failed to adhere to the terms of its contract with the department.

(f) The agency has failed to implement and maintain a department-approved client grievance resolution procedure.

(3) Prepare and submit *the state plan as required by the United States Administration on Aging*, 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 Services to another state department, the plan must also include recommendations that provide for an independent third-party mechanism, as currently exists in the Florida advocacy councils 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.~~

(4) Serve as an information clearinghouse at the state level, and assist local-level information and referral resources as a repository and means for dissemination of information regarding all federal, state, and local resources for assistance to the elderly in the areas of, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.

~~(5) Recommend guidelines for the development of roles for state agencies that provide services for the aging, review plans of agencies that provide such services, and relay these plans 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.~~

~~(6) Recommend 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 an organizational framework for the planning, coordination, implementation, and evaluation of programs related to aging, with the purpose of expanding and improving programs and opportunities available to the state's elderly population and enhancing a continuum of long term care. This framework must assure that:~~

~~(a) Performance objectives are established.~~

~~(b) Program reviews are conducted statewide.~~

~~(c) Each major program related to aging is reviewed every 3 years.~~

~~(d) Agency budget requests reflect the results and recommendations of such program reviews.~~

~~(e) Program decisions lead to the distinctive roles established for state agencies that provide aging services.~~

(7) Advise 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 the chairpersons of appropriate House and Senate committees regarding the need for and location of programs related to aging.

(8) Review and coordinate aging research plans of all state agencies to ensure the conformance of research objectives to issues and needs addressed in the master plan for policies and programs related to aging. The research activities that must be reviewed and coordinated by the department include, but are not limited to, contracts with academic institutions, development of educational and training curriculums, Alzheimer's disease and other medical research, studies of long term care and other personal assistance needs, and design of adaptive or modified living environments.

(9) Review budget requests for programs related to aging for compliance with the master plan for policies and programs related to aging before submission to the Governor and the Legislature.

(10) Update the master plan for policies and programs related to aging every 3 years.

(11) Review implementation of the master plan for programs and policies related to aging and annually report 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 the chairpersons of appropriate House and Senate committees the progress towards implementation of the plan.

(12) Request other departments that administer programs affecting the state's elderly population to amend their plans, rules, policies, and

~~research objectives as necessary to conform with the master plan for policies and programs related to aging.~~

(5)(13) Hold public meetings regularly throughout the state for purposes of receiving information and maximizing the visibility of important issues.

(6)(14) Conduct policy analysis and program evaluation studies assigned by the Legislature.

(7)(15) Assist 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 the chairpersons of appropriate House and Senate committees in the conduct of their responsibilities in such capacities as they consider appropriate.

(8)(16) Call upon appropriate agencies of state government for such assistance as is needed in the discharge of its duties. All agencies shall cooperate in assisting the department in carrying out its responsibilities as prescribed by this section. However, no provision of law with respect to confidentiality of information may be violated.

Section 16. Section 430.041, Florida Statutes, is created to read:

430.041 Office of Long-Term Care Policy.—

(1) *There is established within the Department of Elderly Affairs the Office of Long-Term Care Policy to analyze the state's long-term care system and increase the availability and the use of noninstitutional settings to provide care to the elderly and to ensure coordination among the agencies responsible for the long-term care continuum. The Department of Elderly Affairs shall provide administrative support and service to the Office of Long-Term Care Policy. The office is not subject to control, supervision, or direction by the Department of Elderly Affairs in the performance of its duties.*

(2) *The Office of Long-Term Care Policy shall:*

(a) *Ensure close communication and coordination among state agencies involved in developing and administering a more efficient and coordinated long-term care service delivery system in this state.*

(b) *Ensure that state agencies involved in developing long-term care policy have considered the preferences of consumers, providers, and local elected officials.*

(c) *Study and plan for programs to meet identified and projected needs of people who need long-term care.*

(d) *Develop a State Long-Term Care Plan and policy recommendations to ensure that appropriate long-term care is available in institutional and community-based settings.*

(e) *Update the State Long-Term Care Plan every 3 years.*

(f) *Recommend state and local organizational models for the planning, coordination, implementation, and evaluation of programs serving people with long-term care needs.*

(g) *Make recommendations to agencies for budget requests for long-term care programs to ensure consistency with the State Long-Term Care Plan.*

(h) *Develop and recommend strategies for ensuring compliance with all federal requirements regarding access to and choice of services and providers.*

(i) *Identify duplication and unnecessary service provision in the long-term care system and make recommendations to decrease inappropriate service provision.*

(j) *Make recommendations to increase consistency in administering the state's long-term care programs.*

(k) *Ensure regular periodic evaluations of all programs providing long-term care services to determine whether the programs are cost-effective, of high quality, operating efficiently, and consistent with state policy.*

(l) *Monitor characteristics of people applying for and entering institutional and community-based long-term care, and changes to these characteristics over time, to determine the reasons and causes for changing levels of state expenditures and to determine services that the state's system of community-based care could provide to lessen the need for facility-based care.*

(m) *Recommend changes to the preadmission screening system of state nursing homes to ensure that individuals in need of long-term care are served in settings most appropriate to their needs.*

(n) *Recommend mechanisms to encourage families and other caregivers to assist people in need of long-term care services to remain as independent as possible.*

(o) *Analyze waiting lists for long-term care services and recommend strategies to reduce the time applicants wait for services.*

(p) *Oversee research on aging conducted or funded by any state agency to ensure that such research is coordinated and directed to fulfill the intent and purposes of this act.*

(3) *The director of the Office of Long-Term Care Policy shall be appointed by and serve at the pleasure of the Governor. The director of the Office of Long-Term Care Policy shall report to the Governor.*

(4) *The Office of Long-Term Care Policy shall have an advisory board, whose chair is to be selected by the board. The board shall consist of:*

(a) *A member of the Senate, appointed by the President of the Senate.*

(b) *A member of the House of Representatives, appointed by the Speaker of the House of Representatives.*

(c) *The Secretary of Health Care Administration.*

(d) *The Secretary of Elderly Affairs.*

(e) *The state Medicaid Director.*

(f) *Two representatives of providers of long-term care services for elderly persons, appointed by the Governor.*

(g) *Two representatives of people receiving long-term care services, appointed by the Governor from groups representing elderly persons.*

(5) *Members of the advisory board shall serve without compensation, but are entitled to receive reimbursement for travel and per diem as provided in s. 112.061.*

(6) *The advisory board shall meet at least monthly or more often at the call of its chair or at the request of a majority of its members.*

(7) *The office shall submit a report of its policy, legislative, and funding recommendations to the Governor and the Legislature by January 1 of each year.*

(8) *Personnel who are solely under the direction of the Office of Long-Term Care Policy shall be provided by the Agency for Health Care Administration and the Department of Elderly Affairs. The office shall call upon appropriate agencies of state government, including the centers on aging in the State University System, for assistance needed in discharging its duties. All agencies shall assist the office in carrying out its responsibilities prescribed by this section.*

Section 17. Section 430.7031, Florida Statutes, is created to read:

430.7031 Nursing home transition program.—The department and the Agency for Health Care Administration:

(1) *Shall implement a system of care designed to assist individuals residing in nursing homes to regain independence and to move to less costly settings.*

(2) *Shall collaboratively work to identify long-stay nursing home residents who are able to move to community placements, and to provide case management and supportive services to such individuals while they*

are in nursing homes to assist such individuals in moving to less expensive and less restrictive settings.

(3) Shall modify existing service delivery systems or develop new service delivery systems to economically and efficiently meet such individuals' care needs.

(4) Shall offer such individuals priority placement and services in all home-based and community-based care programs, and shall ensure that funds are available to provide services to individuals to whom services are offered.

(5) May seek federal waivers necessary to administer this section.

Section 18. Subsection (4) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(4) Subject to any limitations or directions provided for in the General Appropriations Act, alternative health plans, health maintenance organizations, and prepaid health plans shall be reimbursed a fixed, prepaid amount negotiated, or competitively bid pursuant to s. 287.057, by the agency and prospectively paid to the provider monthly for each Medicaid recipient enrolled. The amount may not exceed the average amount the agency determines it would have paid, based on claims experience, for recipients in the same or similar category of eligibility. The agency shall calculate capitation rates on a regional basis and, beginning September 1, 1995, shall include age-band differentials in such calculations. Effective July 1, 2001, the cost of exempting statutory teaching hospitals, specialty hospitals, and community hospital education program hospitals from reimbursement ceilings and the cost of special Medicaid payments shall not be included in premiums paid to health maintenance organizations or prepaid health care plans. Each rate semester, the agency shall calculate and publish a Medicaid hospital rate schedule that does not reflect either special Medicaid payments or the elimination of rate reimbursement ceilings, to be used by hospitals and Medicaid health maintenance organizations, in order to determine the Medicaid rate referred to in ss. 409.912(17) ~~409.912(16)~~, 409.9128(5), and 641.513(6).

Section 19. Section 430.708, Florida Statutes, is amended to read:

430.708 Certificate of need.—To ensure that Medicaid community diversion pilot projects result in a reduction in the projected average monthly nursing home caseload, the agency shall, in accordance with the provisions of s. 408.034(5) ~~s. 408.034(4)~~:

(1) Reduce the projected nursing home bed need in each certificate-of-need batching cycle in the community diversion pilot project areas.

(2) Reduce the conditions imposed on existing nursing homes or those to be constructed, in accordance with the number of projected community diversion slots.

(3) Adopt rules to reduce the number of beds in Medicaid-participating nursing homes eligible for Medicaid, through a Medicaid-selective contracting process or some other appropriate method.

(4) Determine the feasibility of increasing the nursing home occupancy threshold used in determining nursing home bed needs under the certificate-of-need process.

Section 20. Section 627.9408, Florida Statutes, is amended to read:
627.9408 Rules.—

(1) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

(2) The department may adopt by rule the provisions of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000 which are not in conflict with the Florida Insurance Code.

Section 21. Subsection (4) of section 641.386, Florida Statutes, is amended to read:

641.386 Agent licensing and appointment required; exceptions.—

(4) All agents and health maintenance organizations shall comply with and be subject to the applicable provisions of ss. 641.309 and 409.912(19) ~~409.912(18)~~, and all companies and entities appointing agents shall comply with s. 626.451, when marketing for any health maintenance organization licensed pursuant to this part, including those organizations under contract with the Agency for Health Care Administration to provide health care services to Medicaid recipients or any private entity providing health care services to Medicaid recipients pursuant to a prepaid health plan contract with the Agency for Health Care Administration.

Section 22. This act shall take effect July 1, 2002.

And the title is amended as follows:
remove: the entire title

and insert: A bill to be entitled An act relating to long-term care; amending s. 20.41, F.S.; providing for administration of the State Long-Term Care Ombudsman Council by the Department of Elderly Affairs; amending s. 400.0063, F.S.; locating the Office of the State Long-Term Care Ombudsman in the department; providing for appointment of the ombudsman by the Secretary of Elderly Affairs; amending s. 400.0065, F.S.; requiring the secretary's approval of staff for the local ombudsman councils; deleting requirement that the ombudsman prepare an annual legislative budget request; revising rulemaking authority; amending s. 400.0067, F.S.; revising duties of the State Long-Term Care Ombudsman Council; providing duties of the department and secretary; amending s. 400.0071, F.S.; revising procedures relating to complaints; amending s. 400.0087, F.S.; revising provisions relating to agency oversight; amending s. 400.0089, F.S.; revising reporting responsibilities; repealing s. 400.0066(2) and (3), F.S., relating to administrative support for the ombudsman program and interference with ombudsman staff or volunteers; creating s. 409.221, F.S.; creating the "Florida Consumer-Directed Care Act"; providing legislative findings; providing legislative intent; establishing the consumer-directed care program; providing for consumer selection of certain long-term care services and providers; providing for interagency agreements between the Agency for Health Care Administration and the Department of Elderly Affairs, the Department of Health, and the Department of Children and Family Services; providing for program eligibility and enrollment; providing definitions; providing for consumer budget allowances and purchasing guidelines; specifying authorized services; providing roles and responsibilities of consumers, the agency and departments, and fiduciary intermediaries; providing background screening requirements for persons who render care under the program; providing rulemaking authority of the agency and departments; requiring the agency to apply for federal waivers as necessary; requiring ongoing program reviews and annual reports; requiring the Agency for Health Care Administration and the Department of Elderly Affairs to submit a plan to the Governor and Legislature for reducing nursing home bed days funded under the Medicaid program; amending s. 400.179, F.S.; providing an exception from a bond requirement for certain mortgage arrangements; amending s. 408.034, F.S.; providing additional requirements for the Agency for Health Care Administration

in determining the need for additional nursing facility beds; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to establish a nursing facility preadmission screening program; authorizing the agency to operate the program by contract; requiring an annual report to the Legislature and the Office of Long-Term Care Policy; amending s. 430.03, F.S.; revising the purposes of the Department of Elderly Affairs with respect to developing policy, making recommendations, coordinating activities, and overseeing research; amending s. 430.04, F.S.; revising the duties of the Department of Elderly Affairs with respect to developing programs and policies related to aging; creating s. 430.041, F.S.; establishing the Office of Long-Term Care Policy within the Department of Elderly Affairs; requiring the office to develop a State Long-Term Care Plan; requiring the office to make recommendations for coordinating the services provided by state agencies; providing for appointment of the director of the Office of Long-Term Care Policy; providing for the appointment of an advisory board to the Office of Long-Term Care Policy; specifying membership in the advisory board; providing for reimbursement of per diem and travel expenses for members of the advisory board; requiring that the office submit an annual report to the Governor and Legislature; requiring the Agency for Health Care Administration and the Department of Elderly Affairs to provide staff and support services for the Office of Long-Term Care Policy; creating s. 430.7031, F.S.; requiring the Department of Elderly Affairs and the Agency for Health Care Administration to implement a nursing home transition program; providing requirements for the program; amending ss. 409.908, 430.708, and 641.386, F.S., relating to reimbursement of Medicaid providers, certificates of need, and agent licensing and appointment; conforming cross references to changes made by the act; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; providing an effective date.

Rep. Green moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1405—A bill to be entitled An act relating to health care practitioner student loans and service scholarship obligations; amending s. 456.074, F.S.; providing for an emergency order suspending the license of any health care practitioner who has defaulted on a student loan issued or guaranteed by the state or the Federal Government; amending s. 456.072, F.S., and reenacting subsection (2), relating to disciplinary actions; clarifying the ground for disciplinary action for failing to perform a statutory or legal obligation to include failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan and for failing to comply with service scholarship obligations; providing penalties; directing the Department of Health to obtain certain information from the United States Department of Health and Human Services on a monthly basis and to include certain information in its annual report to the Legislature; reenacting ss. 456.026 and 456.073, F.S., relating to the annual report and disciplinary proceedings, respectively, to conform; providing applicability; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1935—A bill to be entitled An act relating to controlled substances; creating s. 893.101, F.S.; providing legislative findings and intent; providing for affirmative defense in certain criminal cases; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 881 was taken up. On motion by Rep. Detert, the rules were waived and SB 592 was substituted for HB 881. Under Rule 5.15, the House bill was laid on the table and—

SB 592—A bill to be entitled An act providing for adoption assistance; creating s. 409.406, F.S.; providing authority for the Department of

Children and Family Services to enter into interstate agreements with other participating states for medical and other necessary services for special-needs children; establishing procedures for interstate delivery of adoption assistance and related services and benefits; providing for rules; creating s. 409.407, F.S.; prohibiting expansion of the state's financial commitment; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1437 was taken up. On motion by Rep. Gelber, the rules were waived and CS for SB 998 was substituted for HB 1437. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 998—A bill to be entitled An act relating to criminal justice; amending ss. 790.163, 790.164, F.S.; prohibiting making a false report concerning the placing or planting of a weapon of mass destruction; providing a penalty; prohibiting the court from suspending or withholding adjudication of guilt or imposition of sentence for such offense; providing that proof of a person knowingly making a false report is prima facie evidence of intent to deceive or provide misinformation; amending s. 790.165, F.S.; revising the elements of the offense of planting a hoax bomb to prohibit sending, mailing, or using a hoax bomb or threatening, attempting, or conspiring to use a hoax bomb; enhancing the penalty imposed for committing such offense; amending s. 790.166, F.S.; redefining the term “weapon of mass destruction” to include a device or object that is intended to kill or injure an animal, that involves a biological agent, or that is designed to release radiation or any biological agent, toxin, vector, or delivery system; prohibiting the court from suspending or withholding adjudication of guilt or imposition of sentence for specified offenses involving a hoax weapon of mass destruction; providing that proof a device caused injury or death or released radiation is prima facie evidence that the device was designed or intended to cause such death, injury, or release; providing that it is a felony of the second degree to possess, display, or threaten to use a hoax weapon of mass destruction while committing or attempting to commit a felony; providing that certain devices or instruments are not weapons of mass destruction; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; conforming cross-references and provisions to changes made by the act; providing an effective date.

—was read the second time by title.

Representative(s) Gelber offered the following:

(Amendment Bar Code: 542981)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Section 790.163, Florida Statutes, is amended to read:

790.163 False report about planting bomb, ~~or~~ explosive, or *weapon of mass destruction*; penalty.—

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, ~~or~~ other deadly explosive, or *weapon of mass destruction as defined in s. 790.166*; and any person convicted thereof ~~commits~~ ~~is guilty~~ of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) *Notwithstanding any other law, adjudication of guilt or imposition of sentence for a violation of this section may not be suspended, deferred, or withheld. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, conspirators, or principals.*

(3) *Proof that a person accused of violating this section knowingly made a false report is prima facie evidence of the accused person's intent to deceive, mislead, or otherwise misinform any person.*

(4) *In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.*

Section 2. Section 790.164, Florida Statutes, is amended to read:

790.164 False reports concerning planting a bomb, explosive, or weapon of mass destruction in, ~~of bombing~~ or committing arson against, state-owned property; penalty; reward.—

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, or other deadly explosive, or weapon of mass destruction as defined in s. 790.166, or concerning any act of arson or other violence to property owned by the state or any political subdivision. Any person violating the provisions of this subsection ~~commits~~ ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) *Notwithstanding any other law, adjudication of guilt or imposition of sentence for a violation of this section may not be suspended, deferred, or withheld. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, conspirators, or principals.*

(3) *Proof that a person accused of violating this section knowingly made a false report is prima facie evidence of the accused person's intent to deceive, mislead, or otherwise misinform any person.*

(4)(2)(a) There shall be a \$5,000 reward for the giving of information to any law enforcement agency in the state, which information leads to the arrest and conviction of any person violating the provisions of this section. Any person claiming such reward shall apply to the law enforcement agency developing the case and be paid by the Department of Law Enforcement from the deficiency fund.

(b) There shall be only one reward given for each case, regardless of how many persons are arrested and convicted in connection with the case and regardless of how many persons submit claims for the reward.

(c) The Department of Law Enforcement shall establish procedures to be used by all reward applicants, and the circuit judge in whose jurisdiction the action occurs shall review all such applications and make final determination as to those applicants entitled to receive an award.

(d) *In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.*

Section 3. Section 790.165, Florida Statutes, is amended to read:

790.165 Planting of "hoax bomb" prohibited; penalties.—

(1) For the purposes of this section, "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.

(2) Any person who, *without lawful authority*, manufactures, possesses, sells, or delivers, sends, mails, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax bomb or mails or sends a hoax bomb to another person commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~Notwithstanding any other law the provisions of s. 948.01, adjudication of guilt or imposition of sentence may shall~~ not be suspended, deferred, or withheld. However, the state attorney or defense attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(4) ~~The provisions of Subsection (2) does shall~~ not apply to any law enforcement officer, firefighter, person, or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of his or her employment, or to any person properly authorized to test a security system, or to any security personnel, while operating within the scope of their employment, including, but not limited to, security personnel in airports and other controlled access areas, or to any member of a theatrical company or production using ~~utilizing~~ a hoax bomb as property during the course of a rehearsal or performance.

(5) *In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.*

Section 4. Section 790.166, Florida Statutes, is amended to read:

790.166 Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited; definitions; penalties.—

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

(a) "Weapon of mass destruction" means:

1. Any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

2. Any device or object involving a ~~biological agent~~ ~~disease organism~~; ~~or~~

3. Any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; ~~or~~

4. Any biological agent, toxin, vector, or delivery system.

(b) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction which does not meet the definition of a weapon of mass destruction or which does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(c) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered through biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

1. Death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism;

2. Deterioration of food, water, equipment, supplies, or material of any kind; or

3. Deleterious alteration of the environment.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of reproduction, including:

1. Any poisonous substance or biological product that may be engineered through biotechnology produced by a living organism; or

2. Any poisonous isomer or biological product, homolog, or derivative of such substance.

(e) "Delivery system" means:

1. Any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

2. Any vector.

(f) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, capable of carrying a biological agent or toxin to a host.

(2) A person who, without lawful authority, manufactures, possesses, sells, delivers, *sends, mails*, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others a weapon of mass destruction, ~~including any biological agent, toxin, vector, or delivery system as those terms are defined in this section,~~ commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, and if death results, commits a capital felony, punishable as provided in s. 775.082.

(3) Any person who, without lawful authority, manufactures, possesses, sells, delivers, *mails, sends*, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax weapon of mass destruction ~~with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) *Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax weapon of mass destruction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(5) *Notwithstanding any other law, adjudication of guilt or imposition of sentence may not be suspended, deferred, or withheld for a violation of this section. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, conspirators, or principals.*

(6) *Proof that a device or object described in subparagraph (1)(a)1. caused death or serious bodily injury to a human or animal through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, is prima facie evidence that the device or object was designed or intended to cause such death or serious bodily injury. Proof that a device or object described in subparagraph (1)(a)3. released radiation or radioactivity at a level dangerous to human or animal life is prima facie evidence that the device or object was designed or intended for such release.*

(7)(4) This section does not apply to any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity who is otherwise engaged in lawful activity within the scope of his or her employment, if such person is otherwise duly authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section and if such person is in compliance with applicable federal and state law.

(8) *For purpose of this section, the term "weapon of mass destruction" does not include:*

(a) *A device or instrument that emits or discharges smoke or an offensive, noxious, or irritant liquid, powder, gas, or chemical for the purpose of immobilizing, incapacitating, or thwarting an attack by a person or animal and that is lawfully possessed or used by a person for the purpose of self-protection or, as provided in subsection (7), is lawfully possessed or used by any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity. A member or employee of a federal or state governmental agency includes, but is not limited to, a law enforcement officer, as defined in s. 784.07; a federal law enforcement officer, as defined in s. 901.1505; and an emergency service employee, as defined in s. 496.404.*

(b) *The liquid, powder, gas, chemical, or smoke that is emitted or discharged from a device or instrument as specified in paragraph (a).*

(9) *In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.*

Section 5. Paragraphs (e), (f), and (g) of subsection (3) of section 921.0022, Florida Statutes, as amended by section 2 of chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
790.163		
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
812.019(1)	2nd	Stolen property; dealing in or trafficking in.	775.21(10)	3rd	Sexual predators; failure to register; failure to renew driver's license or identification card.
812.131(2)(b)	3rd	Robbery by sudden snatching.	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.	784.041	3rd	Felony battery.
817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.	784.048(3)	3rd	Aggravated stalking; credible threat.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$75,000 or more.	784.048(5)	3rd	Aggravated stalking of person under 16.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.	784.081(2)	2nd	Aggravated assault on specified official or employee.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	784.083(2)	2nd	Aggravated assault on code inspector.
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school.	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park.	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility.	790.164(1)	2nd	False report of deadly explosive, <i>weapon of mass destruction</i> , or act of arson or violence to state property.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.	794.05(1)	2nd	Unlawful sexual activity with specified minor.
775.0875(1)	3rd	Taking firearm from law enforcement officer.	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
			800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
			806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
			810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
			812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
			812.014(2)(b)2.	2nd	Property stolen cargo valued at less than \$50,000, grand theft in 2nd degree.
		(f) LEVEL 6	812.015(9)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
			812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
			817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
			817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
825.102(1)	3rd	Abuse of an elderly person or disabled adult.	462.17	3rd	Practicing naturopathy without a license.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.	463.015(1)	3rd	Practicing optometry without a license.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.	464.016(1)	3rd	Practicing nursing without a license.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.	465.015(2)	3rd	Practicing pharmacy without a license.
827.03(1)	3rd	Abuse of a child.	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
827.03(3)(c)	3rd	Neglect of a child.	467.201	3rd	Practicing midwifery without a license.
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.	468.366	3rd	Delivering respiratory care services without a license.
836.05	2nd	Threats; extortion.	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
836.10	2nd	Written threats to kill or do bodily injury.	483.901(9)	3rd	Practicing medical physics without a license.
843.12	3rd	Aids or assists person to escape.	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.	484.053	3rd	Dispensing hearing aids without a license.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
943.0435(9)	3rd	Sex offenders; failure to comply with reporting requirements.	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
944.40	2nd	Escapes.	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
409.920(2)	3rd	Medicaid provider fraud.	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
456.065(2)	3rd	Practicing a health care profession without a license.	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
458.327(1)	3rd	Practicing medicine without a license.	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
459.013(1)	3rd	Practicing osteopathic medicine without a license.	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
460.411(1)	3rd	Practicing chiropractic medicine without a license.	784.081(1)	1st	Aggravated battery on specified official or employee.
461.012(1)	3rd	Practicing podiatric medicine without a license.			

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
784.083(1)	1st	Aggravated battery on code inspector.	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	872.06	2nd	Abuse of a dead human body.
790.16(1)	1st	Discharge of a machine gun under specified circumstances.	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
790.165(2)	2nd	<i>Manufacture, sell, possess, or deliver hoax bomb.</i>	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
790.165(3)	2nd	<i>Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.</i>	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
790.166(4)	2nd	<i>Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.</i>	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
796.03	2nd	Procuring any person under 16 years for prostitution.	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.	893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.	893.135(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000, or more; property stolen while causing other property damage; 1st degree grand theft.	893.135(1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
812.014(2)(b)2.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
812.131(2)(a)	2nd	Robbery by sudden snatching.	Section 6. This act shall take effect July 1, 2002.		
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	And the title is amended as follows:		
817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.	On page 1, line 11, On page 1, line 17, On page 2, line 6,		
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.	after the semicolon, insert: authorizing court to order restitution;		
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.			
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.			
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.			

Rep. Gelber moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1641—A bill to be entitled An act relating to law enforcement; amending s. 943.12, F.S.; requiring the Criminal Justice Standards and Training Commission to conduct inquiries of criminal justice training instructors; amending s. 943.13, F.S.; authorizing physician assistants to examine law enforcement officers as a condition of employment; amending s. 943.131, F.S.; revising provisions relating to minimum basic training for temporary employees and officers; amending s. 943.135, F.S.; deleting requirement to provide a remediation program for certain officers; amending s. 943.14, F.S.; revising provisions relating to commission-certified criminal justice training schools; authorizing employing agencies to submit information regarding fingerprints and criminal history checks; amending s. 943.17, F.S.; revising provisions relating to basic recruit, advanced, and career development programs; providing for a specialized training program; amending s. 943.173, F.S.; removing requirement that certain examinations be adopted by the commission; amending s. 943.175, F.S.; removing provisions relating to specialized training programs; amending s. 943.22, F.S.; clarifying authority for accreditation; amending s. 943.25, F.S.; prohibiting the assessment of costs for advanced and specialized training under certain circumstances; conforming a cross reference; amending s. 316.640, F.S.; revising provisions relating to required instruction for certain traffic officers; amending s. 790.065, F.S., relating to the sale and delivery of weapons and firearms; extending the date of repeal of such section; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 613 was taken up. On motion by Rep. Fiorentino, SB 1028 was substituted for HB 613. Under Rule 5.15, the House bill was laid on the table and—

SB 1028—A bill to be entitled An act relating to pharmacy; amending s. 465.009, F.S.; allowing continuing professional pharmaceutical education requirements to be met at any time during the biennium preceding application for license renewal by eliminating the requirement that a specified number of hours of the biennial requirements be done each year; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 351 was taken up. On motion by Rep. Benson, the rules were waived and SB 612 was substituted for HB 351. Under Rule 5.15, the House bill was laid on the table and—

SB 612—A bill to be entitled An act relating to controlled substances; amending s. 893.03, F.S.; adding carisoprodol to Schedule IV of the controlled substance standards and schedules; reenacting ss. 316.193(5), 322.2616(2)(c), 327.35(5), 440.102(11)(b), 458.326(3), 817.563, 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.13(1)(a), (c), (d), (e), and (f), (2)(a), (4)(b), and (5)(b), 921.0022(3)(b), (c), and (e), F.S., relating to driving under the influence, persons under 21 years of age driving with a blood-alcohol or breath-alcohol level in excess of a specified threshold, boating under the influence, drug-free workplace program requirements, treatment of intractable pain, sale of substance in lieu of controlled substance, counterfeit controlled substances, open house parties, the definition of “controlled substance,” prohibited acts involving controlled substances, and the offense severity ranking chart, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1563—A bill to be entitled An act relating to sentencing; amending s. 775.082, F.S.; requiring that the court sentence a prison releasee offender under provisions requiring enhanced penalties rather than under the sentencing guidelines or Criminal Punishment

Code if the defendant’s sentence under the guidelines or Criminal Punishment Code would be less severe; authorizing the court to impose a sentence greater than that otherwise provided by law using the scoresheet of the sentencing guidelines or Criminal Punishment Code; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 321—A bill to be entitled An act relating to prescription drug claim identification cards; creating s. 627.4302, F.S.; providing intent; requiring certain entities to provide a benefits identification card by a date certain for certain purposes under certain circumstances; providing an exception; specifying required information; providing for temporary stickers for annual renewal cards; providing an effective date.

—was read the second time by title.

Representative(s) Brown offered the following:

(Amendment Bar Code: 723053)

Amendment 1—On page 2, lines 1 through 3, remove: all of said lines

and insert: *American National Standards Institute.*

Rep. Brown moved the adoption of the amendment, which was adopted.

Representative(s) Brown offered the following:

(Amendment Bar Code: 424901)

Amendment 2—On page 2, between lines 10 and 11, of the bill

insert: *(i) The information required in (a), (b), (g), and (h) must be provided on the card, unless instruction is provided on the card for ready access to such information by electronic means.*

Rep. Brown moved the adoption of the amendment, which was adopted.

Representative(s) Brown offered the following:

(Amendment Bar Code: 931987)

Amendment 3—On page 2, lines 24 and 25,

remove: all of said lines

and insert: *effective. An entity may issue a temporary sticker containing the*

Rep. Brown moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1447—A bill to be entitled An act relating to assault; amending s. 901.15, F.S.; authorizing a law enforcement officer to make an arrest without a warrant when there is probable cause to believe that the person has committed assault upon a law enforcement officer, a firefighter, an emergency medical care provider, public transit employees or agents, or certain other officers or has committed assault or battery upon any employee of a receiving facility; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 163—A bill to be entitled An act relating to sentencing for sexual offenses; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; providing a change in ranking for a second degree felony conviction for lewd or lascivious battery upon an elderly person or disabled adult; providing an effective date.

—was read the second time by title.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 815133)

Amendment 1 (with title amendment)—On page 1, between lines 12 and 13, of the bill

insert:

Section 1. Subsection (11) is added to section 794.011, Florida Statutes, to read:

(11) When mental defect or mental incapacity of the victim is in issue, an expert witness who is licensed pursuant to chapter 490 or chapter 458, may be utilized.

And the title is amended as follows:

On page 1, line 3 after “offenses;” remove:

and insert: amending s. 794.011, providing for use of expert witnesses;

Rep. Paul moved the adoption of the amendment.

On motion by Rep. Paul, further consideration of **CS/HB 163**, with pending amendment, was temporarily postponed under Rule 11.10.

CS/HB 1219—A bill to be entitled An act relating to health care; creating the “Patient Safety Improvement Act”; providing legislative intent and definitions; creating the Florida Patient Safety Center; providing for location and duties of the center; requiring identifying information in medical patient records to remain confidential as provided by law; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 821—A bill to be entitled An act relating to substance abuse and mental health programs; amending s. 394.4574, F.S.; requiring publicly announced meetings for input from assisted living facilities that hold limited mental health licenses; providing for annual review of district plans; amending s. 394.74, F.S.; authorizing the Department of Children and Family Services to use case rates or per capita contracts in contracting for the provision of services for local substance abuse and mental health programs; specifying additional requirements relating to such contracts; providing an effective date.

—was read the second time by title.

Representative(s) Bean offered the following:

(Amendment Bar Code: 072141)

Amendment 1 (with title amendment)—On page 1, line 25 of the bill

insert before the comma: *and implement*

And the title is amended as follows:

On page 1, between lines 3 and 4

insert: requiring district administrators of the Department of Children and Family Services to accept community input in the implementation of plans to ensure the provision of certain treatment to certain patients;

Rep. Bean moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1467—A bill to be entitled An act relating to “Shaken-Baby Syndrome”; requiring hospitals to give to new parents informational brochures concerning the dangers of shaking babies and young children; requiring the Department of Health to prepare the brochures; prescribing the contents of the brochures; providing that a cause of action against specified persons and entities does not accrue as a result

of failure to give this information; providing for a fine for violations; providing an effective date.

—was read the second time by title.

The Committee on Child & Family Security offered the following:

(Amendment Bar Code: 631663)

Amendment 1 (with title amendment)—

Remove everything after the enacting clause

and insert:

Section 1. *Dangers of shaking infants and young children; requirements for distributing brochures.—*

(1) Every hospital, birthing facility, and provider of home birth that has maternity and newborn services shall provide to the parents of a newborn, before they take their newborn home from the hospital, or birthing facility, written information with an explanation concerning the dangers of shaking infants and young children. Brochures shall also be provided to infant child care providers.

(2) The Department of Health shall prepare a brochure that describes the dangers of shaking infants and young children. The description must include information concerning the grave effects of shaking infants and young children, information concerning appropriate ways to manage the causes that can lead a person to shake infants and young children, and a discussion of ways to reduce the risks that can lead a person to shake infants and young children.

(3) This section does not preclude a hospital, birthing facility, or a home birth provider, from providing the notice required under this section as an addendum to, or in connection with, any other required information.

(4) A cause of action does not accrue against the state or any subdivision or agency thereof, or any hospital birthing facility, or a home birth provider, for failure to give or receive the information required under this section.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 3-12

insert: requiring hospitals, birthing facilities, or home birth providers to give to new parents informational brochures concerning the dangers of shaking babies and young children; requiring the Department of Health to prepare the brochures; prescribing the contents of the brochures; providing that a cause of action against specified persons and entities does not accrue as a result of failure to give this information; providing an effective date

Rep. Waters moved the adoption of the amendment.

Representative(s) Waters offered the following:

(Amendment Bar Code: 430135)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, between lines 17 and 18, of the amendment

insert:

Section 1. *This act may be cited as the “Kimberlin West Act of 2002.”*

And the title is amended as follows:

On page 2, between lines 20 and 21, of the amendment

insert: providing a short title;

Rep. Waters moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Bilirakis offered the following:

(Amendment Bar Code: 313385)

Amendment 2 to Amendment 1 (with title amendment)—On page 2, between lines 11 & 12, of the amendment

insert:

Section 2. Section 39.204, Florida Statutes, is amended to read:

39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with *law enforcement* or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

Section 3. Subsections (3) and (5) of section 415.1045, Florida Statutes, are amended to read:

415.1045 Photographs, videotapes, and medical examinations; abrogation of privileged communications; confidential records and documents.—

(3) ABROGATION OF PRIVILEGED COMMUNICATIONS.—The privileged quality of communication between husband and wife and between any professional and the professional's patient or client, and any other privileged communication except that between attorney and client or clergy and person, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, does not apply to any situation involving known or suspected abuse, neglect, or exploitation of a vulnerable adult and does not constitute grounds for failure to report as required by s. 415.1034, for failure to cooperate with *law enforcement* or the department in its activities under ss. 415.101-415.113, or for failure to give evidence in any judicial or administrative proceeding relating to abuse, neglect, or exploitation of a vulnerable adult.

(5) ACCESS TO RECORDS AND DOCUMENTS.—If any person refuses to allow a *law enforcement officer* or the protective investigator to have access to, inspect, or copy any medical, social, or financial record or document in the possession of any person, caregiver, guardian, or facility which is relevant to the allegations under investigation, the department may petition the court for an order requiring the person to allow access to the record or document. The petition must allege specific facts sufficient to show that the record or document is relevant to the allegations under investigation and that the person refuses to allow access to such record or document. If the court finds by a preponderance of the evidence that the record or document is relevant to the allegations under investigation, the court may order the person to allow access to and permit the inspection or copying of the medical, social, or financial record or document.

And the title is amended as follows:
remove: the entire title

and insert: A bill to be entitled An act relating to child and adult abuse; requiring hospitals, birthing facilities, or home birth providers to give to new parents informational brochures concerning the dangers of shaking babies and young children; requiring the Department of Health to prepare the brochures; prescribing the contents of the brochures; providing that a cause of action against specified persons and entities does not accrue as a result of failure to give this information; amending ss. 39.204 and 415.1045, F.S.; providing applicability of failure to cooperate with law enforcement with respect to investigation of or privileged communications regarding child or adult abuse; providing an effective date.

Rep. Bilirakis moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1313—A bill to be entitled An act relating to the Department of Children and Family Services; creating s. 839.27, F.S.; providing definitions; specifying unlawful acts relating to records of investigations of abuse of a child, elderly person, or disabled adult; providing penalties; requiring imposition of sentence for violations; providing for certain disposal or archiving of records; providing for certain correcting and updating of records; providing an effective date.

—was read the second time by title.

Representative(s) Detert offered the following:

(Amendment Bar Code: 102851)

Amendment 1—On page 1, line 30, and on page 2, line 5, after *Department of Children and Family Services*,

insert: *or its contract provider*

Rep. Detert moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1289—A bill to be entitled An act relating to the testing of inmates for HIV; creating s. 945.355, F.S.; defining "HIV test"; requiring the Department of Corrections to perform an HIV test before an inmate is released if the inmate's HIV status is unknown; providing certain exceptions; requiring that the Department of Corrections notify the county health department where the inmate plans to reside following release if the inmate is HIV positive; requiring the department to provide special transitional assistance to an inmate who is HIV positive; requiring the department to report to the Legislature; amending s. 945.10, F.S.; requiring that certain medical records be released to the Department of Health and the county health department where an inmate who is HIV positive plans to reside; reenacting s. 945.10(1)(a), F.S., relating to mental health, medical, or substance abuse records of an inmate; amending s. 381.004, F.S.; providing that informed consent is not required for an HIV test of an inmate prior to the inmate's release; amending s. 944.704, F.S.; providing additional duties for the department with respect to transition assistance for inmates who are HIV positive; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 250149)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Section 945.355, Florida Statutes, is created to read:

945.355 *HIV testing of inmates prior to release.*—

(1) *As used in this section, the term "HIV test" means a test ordered to determine the presence of the antibody or antigen to human immunodeficiency virus or the presence of human immunodeficiency virus infection.*

(2) *If an inmate's HIV status is unknown to the department, the department shall, pursuant to s. 381.004(3), perform an HIV test on the inmate not less than 60 days prior to the inmate's presumptive release date from prison by reason of parole, accumulation of gain-time credits, or expiration of sentence. An inmate who is known to the department to be HIV positive or who has been tested within the previous year and does*

not request retesting need not be tested under this section, but is subject to subsections (4) and (5). However, an inmate who is released due to an emergency is exempt from the provisions of this section.

(3) The department shall record the results of the HIV test in the inmate's medical record.

(4) Pursuant to ss. 381.004(3) and 945.10, the department shall notify the Department of Health and the county health department where the inmate plans to reside regarding an inmate who is known to be HIV positive or has received an HIV positive test result under this section prior to the release of that inmate.

(5) Prior to the release of an inmate who is known to be HIV positive or who has received a positive HIV test result under this section, the department shall provide special transitional assistance to the inmate, which must include:

(a) Education on preventing the transmission of HIV to others and on the importance of receiving follow-up care and treatment.

(b) A written, individualized discharge plan that includes referrals to and contacts with the county health department and local HIV primary care services in the area where the inmate plans to reside.

(c) A 30-day supply of all HIV/AIDS-related medications that the inmate is taking prior to release under the protocols of the Department of Corrections and the treatment guidelines of the United States Department of Health and Human Services.

Section 2. By March 1, 2003, the Department of Corrections shall submit a report to the Legislature concerning the department's implementation of section 945.355, Florida Statutes. At a minimum, the report must include the total number of inmates tested under the program, the number of inmates who tested positive for HIV, the number of inmates who received special transitional assistance, and the number of inmates who received medication in accordance with protocols of the Department of Corrections and the treatment guidelines of the United States Department of Health and Human Services.

Section 3. Paragraph (a) of subsection (1) of section 945.10, Florida Statutes, is reenacted, and subsection (2) of that section is amended to read:

945.10 Confidential information.—

(1) Except as otherwise provided by law or in this section, the following records and information of the Department of Corrections are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Mental health, medical, or substance abuse records of an inmate or an offender.

(2) The records and information specified in paragraphs (1)(a)-(h) ~~(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 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 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.

(c) Information specified in paragraph (1)(b) to an attorney representing an inmate under sentence of death, except those portions

of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records of information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(d) Information specified in paragraph (1)(b) to a public defender representing a defendant, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records or information pursuant to this paragraph need not be in writing.

(e) Information specified in paragraph (1)(b) to state or local governmental agencies. 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.

(f) Information specified in paragraph (1)(b) to a person conducting legitimate research. A request for records and information pursuant to this paragraph must be in writing, the person requesting the records or information must sign a confidentiality agreement, and the department must approve the request in writing.

(g) Information specified in paragraph (1)(a) to the Department of Health and the county health department where an inmate plans to reside if he or she has tested positive for the presence of the antibody or antigen to human immunodeficiency virus infection.

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 4. Paragraph (h) of subsection (3) of section 381.004, Florida Statutes, is amended to read:

381.004 HIV testing.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(h) Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution.

b. HIV testing of inmates pursuant to s. 945.355 prior to their release from prison by reason of parole, accumulation of gain-time credits, or expiration of sentence.

~~c.~~ Testing for HIV by a medical examiner in accordance with s. 406.11.

2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041.

3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Notification of test results in accordance with paragraph (c) is required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent.

5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.

7. When an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.0032, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 765.5185 or enucleation of the eyes as authorized by s. 765.519.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is available that was taken from that individual voluntarily by medical personnel for other purposes. The term "medical personnel" includes a licensed or certified health care professional; an employee of a health care professional or health care facility; employees of a laboratory licensed under chapter 483; personnel of a blood bank or plasma center; a medical student or other student who is receiving training as a health care professional at a health care facility; and a paramedic or emergency medical technician certified by the department to perform life-support procedures under s. 401.23.

a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. Reasonable attempts to locate the individual and to obtain consent shall be made, and all attempts must be documented. If the individual cannot be found, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.

c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual; or who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. The individual's refusal to consent, and all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

12. For the performance of an HIV test by the medical examiner or attending physician upon an individual who expired or could not be resuscitated while receiving emergency medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care.

a. HIV testing may be conducted only after a licensed physician documents in the medical record of the medical personnel or nonmedical personnel that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

b. Costs of any HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person.

c. For the provisions of this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e).

13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located.

14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.

15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

Section 5. Section 944.704, Florida Statutes, is amended to read:

944.704 Staff who provide transition assistance; duties.—The department shall provide a transition assistance specialist at each of the major institutions whose duties include, but are not limited to:

- (1) Coordinating delivery of transition assistance program services at the institution and at the community correctional centers authorized pursuant to s. 945.091(1)(b).
- (2) Assisting in the development of each inmate's postrelease plan.
- (3) Obtaining job placement information.
- (4) *Providing a written medical-discharge plan and referral to a county health department.*
- (5) *For an inmate who is known to be HIV positive, providing a 30-day supply of all HIV/AIDS-related medication that the inmate is taking prior to release, if required under protocols of the Department of Corrections and treatment guidelines of the United States Department of Health and Human Services.*

(6)(4) Facilitating placement in a private transition housing program, if requested by any eligible inmate. If an inmate who is nearing his or her date of release requests placement in a contracted substance abuse transition housing program, the transition assistance specialist shall inform the inmate of program availability and assess the inmate's need and suitability for transition housing assistance. If an inmate is approved for placement, the specialist shall assist the inmate and coordinate the release of the inmate with the selected program. If an inmate requests and is approved for placement in a contracted faith-based substance abuse transition housing program, the specialist must consult with the chaplain prior to such placement. In selecting inmates who are nearing their date of release for placement in a faith-based program, the department shall ensure that an inmate's faith orientation, or lack thereof, will not be considered in determining admission to the program and that the program does not attempt to convert an inmate toward a particular faith or religious preference.

(7)(5) Providing a photo identification card to all inmates prior to their release.

The transition assistance specialist may not be a correctional officer or correctional probation officer as defined in s. 943.10.

Section 6. *The sum of \$793,244 is appropriated from the General Revenue Fund to the Department of Corrections for the 2002-2003 fiscal year for the purpose of implementing the provisions of this act.*

Section 7. This act shall take effect July 1, 2002.

And the title is amended as follows:

On page ,
remove:

and insert: An act relating to the testing of inmates for HIV; creating s. 945.355, F.S.; defining the term "HIV test"; requiring the Department of Corrections to perform an HIV test before an inmate is released if the inmate's HIV status is unknown; providing certain exceptions; requiring that the Department of Corrections notify the Department of Health and the county health department where the inmate plans to reside following release if the inmate is HIV positive; requiring the department to provide special transitional assistance to an inmate who is HIV positive; requiring the department to report to the Legislature; amending s. 945.10, F.S.; requiring that certain medical records be released to the Department of Health and the county health department where an inmate who is HIV positive plans to reside; reenacting s. 945.10(1)(a), F.S., relating to mental health, medical, or substance abuse records of an inmate; amending s. 381.004, F.S.; providing that informed consent is not required for an HIV test of an inmate prior to the inmate's release; amending s. 944.704, F.S.; providing additional duties for the department with respect to transition assistance for inmates who are HIV positive; providing an appropriation; providing an effective date.

WHEREAS, HIV and AIDS infections are one of the state's most critical challenges, with Florida having the third highest number of AIDS cases in the nation and the second highest number of pediatric AIDS cases, and

WHEREAS, the prevalence of HIV and AIDS cases in the state's prisons exceeds the prevalence of HIV and AIDS in the general population, and

WHEREAS, between 1989 and 1997, death due to AIDS accounted for over half of inmate deaths in the state's prisons, and

WHEREAS, recent advances in treatment for HIV and AIDS can potentially reduce the number of opportunistic infections and associated medical costs and delay the onset of death due to the disease, and

WHEREAS, referral to appropriate medical and social services upon the release of an inmate can play a crucial role in the treatment, care, and secondary prevention efforts, NOW THEREFORE,

Rep. Wilson moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1177—A bill to be entitled An act relating to direct-support organizations; creating ss. 20.193 and 430.065, F.S.; providing for direct-support organizations for the benefit of the Department of Children and Family Services and the Department of Elderly Affairs, respectively; providing a definition; providing purposes and objectives; authorizing certain use of state property and facilities; requiring annual audit; providing an effective date.

—was read the second time by title.

The Committee on Child & Family Security offered the following:

(Amendment Bar Code: 032553)

Amendment 1 (with title amendment)—On page 1, line 15 to page 3, line 20
remove: everything after the enacting clause

and insert:

Section 1. Section 20.193, Florida Statutes, is created to read:

20.193 Department of Children and Family Services direct-support organization.—

(1) As used in this section, the term “direct-support organization” means a not-for-profit corporation incorporated under chapter 617 and organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Department of Children and Family Services or individual programs or projects of the department.

(2) A direct support organization may be organized to accomplish the purposes and objectives set forth in subsection (3) of this section. The direct support organization will maintain donations and direct service expenditures in a bank account outside of the State Treasury. Any administrative costs of running and promoting the purposes of the corporation will be paid for by private funds or state appropriations to the extent the receipt of federal funding by the department is not jeopardized.

(3) The purposes and objectives of the direct-support organization must be consistent with the priority issues and objectives of the department and must be in the best interest of the state.

(4) Funds designated for the direct-support organization shall be used for the enhancement of programs and projects of the department.

(5) The department may permit, without charge, the appropriate use of property and facilities of the state by the direct-support organization subject to the provisions of this section. Such use must be directly in keeping with the approved purpose of the direct-support organization.

(6) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

Section 2. Subsection (10) is added to section 20.19, Florida Statutes, to read:

(10) SOLICITATION OF DONATIONS TO DIRECT-SUPPORT ORGANIZATIONS.—The secretary may designate employees of the department to solicit donations from public or private sources pursuant to s. 20.193.

Section 3. Section 430.065, Florida Statutes, is created to read:

430.065 Department of Elder Affairs direct-support organization.—

(1) As used in this section, the term “direct-support organization” means a not-for-profit corporation incorporated under chapter 617 and organized and operated to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Department of Elder Affairs or individual programs or projects of the department.

(2) The purposes and objectives of the direct-support organization must be consistent with the priority issues and objectives of the department and must be in the best interest of the state.

(3) Funds designated for the direct-support organization shall be used for the enhancement of programs and projects of the department.

(4) The department may permit, without charge, the appropriate use of property and facilities of the state by the direct-support organization subject to the provisions of this section. Such use must be directly in keeping with the approved purpose of the direct-support organization.

(5) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2 to 11,
remove: all said lines

and insert: An act relating to direct-support organizations; creating s. 20.193, F.S.; providing for direct-support organizations for the benefit of the Department of Children and Family Services; providing a definition; providing for administration of funds; providing purposes and objectives; requiring funds be used for enhancement of department programs and projects; authorizing certain use of state property and facilities; requiring annual audit; authorizing designation of employees to solicit funds; creating s. 430.065, F.S.; providing for direct-support organizations for the benefit of the Department of Elder Affairs; providing a definition; providing purposes and objectives; requiring funds be used for enhancement of department programs and projects; authorizing certain use of state property and facilities; requiring annual audit; providing an effective date.

Rep. Gottlieb moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 483 was taken up. On motion by Rep. Stansel, the rules were waived and CS for SB 560 was substituted for CS/HB 483. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 560—A bill to be entitled An act relating to the Inmate Welfare Trust Fund; amending s. 945.215, F.S.; prohibiting use of funds for certain purposes; authorizing use of funds for certain purposes; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1157—A bill to be entitled An act relating to criminal mischief; amending s. 806.13, F.S.; requiring a person who commits a criminal mischief offense related to the placement of graffiti to pay a minimum fine and perform community service; providing for the parent or legal guardian of a minor to be liable for payment of a fine; authorizing the court to decline to order payment of a fine if the court finds that the person subject to payment of the fine is indigent; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 871—A bill to be entitled An act relating to immunizations; creating s. 381.0421, F.S.; requiring that individuals enrolled in a postsecondary educational institution be provided information regarding meningococcal meningitis, diphtheria, tetanus, and hepatitis B vaccines and, if residing in on-campus housing, provide documentation of vaccination against meningococcal meningitis, diphtheria, tetanus, and hepatitis B, or a statement declining such vaccination; providing an effective date.

—was read the second time by title.

Representative(s) Hogan offered the following:

(Amendment Bar Code: 121579)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Section 381.0421, Florida Statutes, is created to read:

381.0421 Vaccination against meningococcal meningitis and hepatitis B.—

(1) A postsecondary educational institution shall provide detailed information concerning the risks associated with meningococcal meningitis and hepatitis B and the availability, effectiveness, and known contraindications of any required or recommended vaccine to every student, or to the student's parent or guardian if the student is a minor, who has been accepted for admission.

(2) *An individual enrolled in a postsecondary educational institution who will be residing in on-campus housing shall provide documentation of vaccinations against meningococcal meningitis and hepatitis B unless the individual, if the individual is 18 years of age or older, or the individual's parent or guardian, if the individual is a minor, declines the vaccinations by signing a separate waiver for each of these vaccines, provided by the institution, acknowledging receipt and review of the information provided.*

(3) *This section does not require any postsecondary educational institution to provide or pay for vaccinations against meningococcal meningitis or hepatitis B.*

And the title is amended as follows:

On page 1, lines 6-30, and on page 2, lines 1-12 ,
remove: all of said lines

and insert: meningococcal meningitis and hepatitis B vaccines and, if residing in on-campus housing, provide documentation of vaccination against meningococcal meningitis and hepatitis B, or a statement declining such vaccination; providing an effective date.

WHEREAS, meningococcal meningitis is a serious disease that can lead to death within a few hours of onset, and

WHEREAS, meningococcal meningitis is a highly contagious but largely preventable infection of the spinal-cord fluid and the fluid that surrounds the brain, and

WHEREAS, one in ten cases of meningococcal meningitis is fatal, and

WHEREAS, one in seven survivors is left with a severe handicap, such as loss of a limb, mental retardation, paralysis, deafness, or seizures, and

WHEREAS, individuals of any age can carry the disease for days, weeks, or months unknowingly or without becoming ill, and

WHEREAS, at any time, from 10 to 25 percent of the population carries meningococcal meningitis, and

WHEREAS, scientific evidence suggests that college students living in dormitory facilities are six times more likely than other individuals to contract meningococcal meningitis, and

WHEREAS, immunization against meningococcal meningitis will decrease the risk of disease, and

WHEREAS, the Centers for Disease Control and Prevention recommends that college students be vaccinated against this disease, and

WHEREAS, the Legislature urges that college freshmen residing in on-campus housing be vaccinated against meningococcal meningitis,
NOW, THEREFORE,

Rep. Hogan moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1559—A bill to be entitled An act relating to corrections; amending s. 944.02, F.S.; redefining the term “prisoner” for purposes of the state corrections code; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 653—A bill to be entitled An act relating to terrorism; creating s. 775.30, F.S.; defining the term “terrorism”; providing for the payment of restitution of costs or damages with respect to any person who commits a prank or hoax act of terrorism; providing an effective date.

—was read the second time by title.

On motion by Rep. Wishner, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Wishner offered the following:

(Amendment Bar Code: 925461)

Amendment 1—On page 2, line 3,
remove: *shall*

and insert: *may*

Rep. Wishner moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1423—A bill to be entitled An act relating to school safety; creating s. 810.0975, F.S.; defining the term “school safety zone”; prohibiting certain persons from entering or loitering within a school safety zone; providing a penalty; providing an effective date.

—was read the second time by title.

THE SPEAKER IN THE CHAIR

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 362257)

Amendment 1—On page 1, line 18,
remove: all said line

and insert: *elementary, middle or high school or school board and used for elementary, middle or high school*

Rep. Ryan moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 163—A bill to be entitled An act relating to sentencing for sexual offenses; amending s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code; providing a change in ranking for a second degree felony conviction for lewd or lascivious battery upon an elderly person or disabled adult; providing an effective date.

—was taken up, having been read the second time earlier today; now pending on motion by Rep. Paul to adopt Amendment 1.

The question recurred on the adoption of **Amendment 1**, which was adopted.

Reconsideration

The House reconsidered the vote by which **Amendment 1** was adopted. The question recurred on the adoption of the amendment.

On motion by Rep. Seiler, under Rule 12.2(c), the following late-filed substitute amendment was considered.

Representative(s) Seiler and Farkas offered the following:

(Amendment Bar Code: 233087)

Substitute Amendment 1 (with title amendment)—On page 1, between lines 12 and 13, of the bill

insert:

Section 1. Subsection (11) is added to section 794.011, Florida Statutes, to read:

794.011 Sexual battery.—

(11) *When mental defect or mental incapacity of the victim is in issue, an expert witness who is licensed pursuant to chapter 490, chapter 458, or chapter 459, may be utilized to testify to such issue.*

Section 2. Paragraph (b) of subsection (1) of section 458.303, Florida Statutes, is amended to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(1) The provisions of ss. 458.301, 458.303, 458.305, 458.307, 458.309, 458.311, 458.313, 458.315, 458.317, 458.319, 458.321, 458.327, 458.329, 458.331, 458.337, 458.339, 458.341, 458.343, 458.345, and 458.347 shall have no application to:

(b) Any physician lawfully licensed in another state or territory or foreign country, when meeting duly licensed physicians of this state in consultation or *when testifying or preparing to testify as a witness in any civil or criminal case, provide that such physician may not perform any medical procedure on or render treatment to the patient.*

Section 3. Paragraph (b) of subsection (1) of section 459.002, Florida Statutes, is amended to read:

459.002 Chapter not applicable to practice of medicine, surgery, chiropractic medicine, etc.—

(1) The provisions of this chapter shall have no application to:

(b) Any physician lawfully licensed in another state or territory or foreign country when meeting duly licensed physicians of this state in consultation or *when testifying or preparing to testify as a witness in any civil or criminal case, provide that such physician may not perform any medical procedure on or render treatment to the patient.*

Section 4. Paragraph (g) is added to subsection (2) of section 490.014, Florida Statutes, to read:

490.014 Exemptions.—

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

(g) *Is lawfully licensed or certified by a state or territory of the United States, or by a foreign country or province and examines, evaluates, interviews, tests, or diagnoses a person solely for the purpose of testifying or preparing to testify as an expert witness in any civil or criminal case.*

And the title is amended as follows:

On page 1, line 3 after “offenses;” remove:

and insert: amending s. 794.011, providing for use of expert witnesses; amending ss. 458.303, 459.002, and 490.014, F.S.; providing for use of expert witnesses;

Rep. Seiler moved the adoption of the substitute amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 507—A bill to be entitled An act relating to responsiveness to emergencies and disasters; providing legislative findings; amending s. 381.0011, F.S.; revising duties of the Department of Health; authorizing the State Health Officer to take specified emergency actions to protect the public health; amending s. 381.0034, F.S.; providing a requirement for instruction of certain health care licensees on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as a condition of relicensure; amending s. 381.0035, F.S.; providing a requirement for instruction of employees at certain health care facilities on conditions caused by nuclear, biological, and chemical terrorism, upon initial employment, and, in lieu of the requirement of instruction on HIV and AIDS, as biennial continuing education; providing an exception; creating s. 381.0421, F.S.; requiring postsecondary education institutions to provide information on hepatitis B; requiring individuals residing in on-campus housing to document vaccinations against hepatitis B or sign a waiver; amending ss. 395.1027 and 401.245, F.S.; correcting cross references; amending s. 401.23, F.S.; revising definitions of “advanced life support” and “basic life support” and defining “emergency medical condition”; amending s. 401.252, F.S.; authorizing physician assistants to conduct interfacility transfers in a permitted ambulance under certain circumstances; amending s. 401.27,

F.S.; providing that the course on conditions caused by nuclear, biological, and chemical terrorism shall count toward the total required hours for biennial recertification of emergency medical technicians and paramedics; amending s. 456.033, F.S.; providing a requirement for instruction of certain health care practitioners on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as part of biennial relicensure; creating s. 456.0345, F.S.; providing continuing education credits to health care practitioners for certain life support training; amending s. 456.072, F.S.; conforming provisions relating to grounds for disciplinary actions to changes in health care practitioners’ course requirements; amending s. 456.38, F.S.; revising provisions relating to the health care practitioner registry for disasters and emergencies; prohibiting certain termination of or discrimination against a practitioner providing disaster medical assistance; amending ss. 458.319 and 459.008, F.S.; conforming provisions relating to exceptions to continuing education requirements for physicians and osteopathic physicians; providing an effective date.

—was read the second time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 912117)

Technical Amendment 1—On page 17, line 31, remove: (14)

and insert: (15) ~~(14)~~

Rep. Fasano moved the adoption of the amendment, which was adopted.

Representative(s) Farkas and Fasano offered the following:

(Amendment Bar Code: 121137)

Amendment 2 (with title amendment)—Remove everything after the enacting clause

and insert:

Section 1. (1) *Effective July 1, 2002, all powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Agency for Health Care Administration that relate to consumer complaint services, investigations, and prosecutorial services currently provided by the Agency for Health Care Administration under a contract with the Department of Health are transferred to the Department of Health by a type two transfer, as defined in s. 20.06(2), Florida Statutes. This transfer of funds shall include all advance payments made from the Medical Quality Assurance Trust Fund to the Agency for Health Care Administration.*

(2)(a) *Effective July 1, 2002, 279 full-time equivalent positions are eliminated from the Agency for Health Care Administration’s total number of authorized positions. Effective July 1, 2002, 279 full-time equivalent positions are authorized for the Department of Health, to be added to the department’s total number of authorized positions. However, should the General Appropriations Act for fiscal year 2002-2003 reduce the number of positions from the practitioner regulation component at the Agency for Health Care Administration, that provision shall be construed to eliminate the full-time equivalent positions from the practitioner regulation component which is hereby transferred to the Department of Health, thereby resulting in no more than 279 positions being eliminated from the agency and no more than 279 positions being authorized to the department.*

(b) *All records, personnel, and funds of the consumer complaint and investigative services units of the agency are transferred and assigned to the Division of Medical Quality Assurance of the Department of Health.*

(c) *All records, personnel, and funds of the health care practitioner prosecutorial unit of the agency are transferred and assigned to the Office of the General Counsel of the Department of Health.*

(3) *The Department of Health is deemed the successor in interest in all legal proceedings and contracts currently involving the Agency for Health Care Administration and relating to health care practitioner regulation. Except as provided herein, no legal proceeding shall be dismissed, nor any contract terminated, on the basis of this type two transfer. The interagency agreement between the Department of Health and the Agency for Health Care Administration shall terminate on June 30, 2002.*

Section 2. Paragraph (g) of subsection (3) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(g) Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. The Board of Acupuncture, created under chapter 457.
2. The Board of Medicine, created under chapter 458.
3. The Board of Osteopathic Medicine, created under chapter 459.
4. The Board of Chiropractic Medicine, created under chapter 460.
5. The Board of Podiatric Medicine, created under chapter 461.
6. Naturopathy, as provided under chapter 462.
7. The Board of Optometry, created under chapter 463.
8. The Board of Nursing, created under part I of chapter 464.
9. Nursing assistants, as provided under part II of chapter 464.
10. The Board of Pharmacy, created under chapter 465.
11. The Board of Dentistry, created under chapter 466.
12. Midwifery, as provided under chapter 467.
13. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.
14. The Board of Nursing Home Administrators, created under part II of chapter 468.
15. The Board of Occupational Therapy, created under part III of chapter 468.
16. *The Board of Respiratory Care therapy, as created provided under part V of chapter 468.*
17. Dietetics and nutrition practice, as provided under part X of chapter 468.
18. The Board of Athletic Training, created under part XIII of chapter 468.
19. The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.
20. Electrolysis, as provided under chapter 478.
21. The Board of Massage Therapy, created under chapter 480.
22. The Board of Clinical Laboratory Personnel, created under part III of chapter 483.
23. Medical physicists, as provided under part IV of chapter 483.
24. The Board of Opticianry, created under part I of chapter 484.
25. The Board of Hearing Aid Specialists, created under part II of chapter 484.
26. The Board of Physical Therapy Practice, created under chapter 486.

27. The Board of Psychology, created under chapter 490.

28. School psychologists, as provided under chapter 490.

29. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

~~The department may contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.~~

Section 3. *The Office of Legislative Services shall contract for a business case study of the feasibility of outsourcing the administrative, investigative, legal, and prosecutorial functions and other tasks and services that are necessary to carry out the regulatory responsibilities of the Board of Dentistry; employing its own executive director and other staff; and obtaining authority over collections and expenditures of funds paid by professions regulated by the board of Dentistry into the Medical Quality Assurance Trust Fund. This feasibility study must include a business plan and an assessment of the direct and indirect costs associated with outsourcing these functions. The sum of \$50,000 is appropriated from the Board of Dentistry account within the Medical Quality Assurance Trust Fund to the Office of Legislative Services for the purpose of contracting for the study. The Office of Legislative Services shall submit the completed study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2003.*

Section 4. (1) *On or before October 1, 2002, the Department of Health shall contract with one or more private entities to implement the electronic continuing education tracking system required under s. 456.025(7), Florida Statutes. The electronic continuing education tracking system or systems must be compatible with the Department of Health's licensure and renewal system no later than March 1, 2003. On or before July 1, 2003, the Department of Health shall integrate such system or systems into the Department of Health's licensure and renewal system.*

(2) *The continuing education tracking system shall provide access for a licensee to review the licensee's continuing education credits or courses which have been reported by providers of continuing education and shall provide a mechanism for a licensee to self-report courses or credits which have not yet been reported by a provider of continuing education.*

(3) *The private entities under contract with the Department of Health may fund the development and operation of the continuing education tracking system through private grants or funds or through funds paid by a provider of continuing education courses. The Department of Health is authorized to use continuing education provider fees and licensure renewal fees to fund the operation of the continuing education tracking system, subject to legislative appropriation.*

(4) *The Department of Health may enter into more than one contract if the department determines that it would be more efficient, practical, or cost-effective to use one vendor for professions which use board-approved providers and one vendor for professions which allow licensees to take courses approved by other entities.*

Section 5. Subsection (19) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(19) *The board, or department when there is no board, may temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The custodian appointed shall comply with all provisions of this section, including the release of patient records. Any person or entity having possession or physical control of the medical records may release them to the custodian upon presentment of an order signed by the board giving the custodian access to the records. A person or entity is not liable in tort or contract for providing the records to a validly appointed custodian.*

Section 6. Subsection (7) is added to section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(7) *In addition to any other discipline imposed through final order or citation entered on or after July 1, 2002, pursuant to this section or for a violation of any practice act, the board, or the department when there is no board, shall require, in appropriate cases, any licensee who is a records owner, as defined in s. 456.057, to notify his or her patients of the requirements imposed by s. 456.057(11).*

Section 7. Paragraph (a) of subsection (3) of section 456.076, Florida Statutes, is amended to read:

456.076 Treatment programs for impaired practitioners.—

(3)(a) Whenever the department receives a written or oral legally sufficient complaint alleging that a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department is impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition which could affect the licensee's ability to practice with skill and safety, and no complaint against the licensee other than impairment exists, the reporting of such information shall not constitute grounds for discipline pursuant to s. 456.072 or the corresponding grounds for discipline within the applicable practice act if the probable cause panel of the appropriate board, or the department when there is no board, finds:

1. The licensee has acknowledged the impairment problem.
2. The licensee has voluntarily enrolled in an appropriate, approved treatment program.
3. The licensee has voluntarily withdrawn from practice or limited the scope of practice as required by the consultant, in each case, until such time as the panel, or the department when there is no board, is satisfied the licensee has successfully completed an approved treatment program.
4. The licensee has executed releases for medical records, authorizing the release of all records of evaluations, diagnoses, and treatment of the licensee, including records of treatment for emotional or mental conditions, to the consultant. The consultant shall make no copies or reports of records that do not regard the issue of the licensee's impairment and his or her participation in a treatment program.

5. *The licensee has voluntarily notified his or her patients of the requirements imposed by s. 456.057(11) on a records owner who is terminating practice, retiring, or relocating and is no longer available to patients.*

Section 8. Paragraph (b) of subsection (1) of section 456.0375, Florida Statutes, is amended to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)

(b) For purposes of this section, the term "clinic" does not include and the registration requirements herein do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, ~~chapter 480~~, or chapter 484.
2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3), as well as all public college and university clinics.
3. Sole proprietorships, group practices, partnerships, or corporations that provide health care services by licensed health care practitioners pursuant to chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 480, 484, 486, 490, 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are wholly owned by licensed health care practitioners or the licensed health care practitioner and the spouse, parent, or child of a licensed health care

practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise the *delivery of health care services* beyond the scope of the practitioner's license. *Nothing in this section shall be construed to prohibit a health care practitioner from providing administrative or managerial supervision for personnel purposes.*

4. *Massage establishments licensed pursuant to s. 480.043 so long as the massage establishment is only providing massage as defined in s. 480.033(3) and no other medical or health care service.*

Section 9. Paragraphs (aa) and (bb) of subsection (1) of section 456.072, Florida Statutes, are amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(aa) ~~Performing or attempting to perform~~ health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, ~~performing or attempting to perform~~ health care services includes the preparation of the patient.

(bb) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures, *unless leaving the foreign body is medically indicated and documented in the patient record.* For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, *unless medically indicated and documented in the patient record regardless of the intent of the professional.*

Section 10. Subsection (7) is added to section 631.57, Florida Statutes, to read:

631.57 Powers and duties of the association.—

(7) *Notwithstanding any other provision of law, the net direct written premiums of medical malpractice insurance are not subject to assessment under this section to cover claims and administrative costs for the type of insurance defined in s. 624.604.*

Section 11. Subsections (22) through (33) of section 395.002, Florida Statutes, are renumbered as subsections (23) through (34), respectively, and a new subsection (22) is added to said section to read:

395.002 Definitions.—As used in this chapter:

(22) *"Medically unnecessary procedure" means a surgical or other invasive procedure that a reasonable physician, in light of the patient's history and available diagnostic information, would not deem to be indicated in order to treat, cure, or palliate the patient's condition or disease.*

Section 12. Subsection (7) of section 394.4787, Florida Statutes, is amended to read:

394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and 394.4789.—As used in this section and ss. 394.4786, 394.4788, and 394.4789:

(7) "Specialty psychiatric hospital" means a hospital licensed by the agency pursuant to s. 395.002(30)(29) as a specialty psychiatric hospital.

Section 13. Subsection (5) is added to section 395.0161, Florida Statutes, to read:

395.0161 Licensure inspection.—

(5)(a) *The agency shall adopt rules governing the conduct of inspections or investigations it initiates in response to:*

1. Reports filed pursuant to s. 395.0197.
2. Complaints alleging violations of state or federal emergency access laws.
3. Complaints made by the public alleging violations of law by licensed facilities or personnel.

(b) *Such rules shall set forth the procedures to be used in such investigations or inspections in order to protect the due process rights of licensed facilities and personnel and to minimize, to the greatest reasonable extent possible, the disruption of facility operations and the cost to facilities resulting from such investigations.*

Section 14. Subsections (2), (14), and (16) of section 395.0197, Florida Statutes, are amended to read:

395.0197 Internal risk management program.—

(2) The internal risk management program is the responsibility of the governing board of the health care facility. Each licensed facility shall utilize the services of ~~hire~~ a risk manager, licensed under s. 395.10974, who is responsible for implementation and oversight of such facility's internal risk management program as required by this section. ~~A risk manager must not be made responsible for more than four internal risk management programs in separate licensed facilities, unless the facilities are under one corporate ownership or the risk management programs are in rural hospitals.~~

(14) The agency shall have access, *as set forth in rules adopted pursuant to s. 395.0161(5)*, to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection (10) are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(16) The agency shall review, as part of its licensure inspection process, the internal risk management program at each licensed facility regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under this section. *Only a risk manager licensed under s. 395.10974 and employed by or under contract with the agency may conduct inspections to determine whether a program meets the requirements of this section. Such determination shall be based on that level of care, skill, and judgment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar licensed risk managers. By July 1, 2004, the Agency for Health Care Administration shall employ or contract with a minimum of three licensed risk managers in each district to conduct inspections pursuant to this section.*

Section 15. Paragraph (b) of subsection (2) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(b) "Class II institutional pharmacies" are those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution *and to patients receiving care in a hospice licensed under part VI of chapter 400 which is located or providing services on the premises*

of that institution, for use on the premises of that institution. However, an institutional pharmacy located in an area or county included in an emergency order or proclamation of a state of emergency declared by the Governor may provide dispensing and consulting services to individuals who are not patients of the institution. However, a single dose of a medicinal drug may be obtained and administered to a patient on a valid physician's drug order under the supervision of a physician or charge nurse, consistent with good institutional practice procedures. The obtaining and administering of such single dose of a medicinal drug shall be pursuant to drug-handling procedures established by a consultant pharmacist. Medicinal drugs may be dispensed in a Class II institutional pharmacy, but only in accordance with the provisions of this section.

Section 16. *Responsiveness to emergencies and disasters; legislative findings.—The Legislature finds that it is critical that Florida be prepared to respond appropriately to a health crisis and injuries in the event of an emergency or disaster. The Legislature finds that there is a need to better educate health care practitioners on diseases and conditions that might be caused by nuclear, biological, and chemical terrorism so that health care practitioners can more effectively care for patients and better educate patients as to prevention and treatment. Additionally, the Legislature finds that not all health care practitioners have been recently trained in life support and first aid and that all health care practitioners should be encouraged to obtain such training. The Legislature finds that health care practitioners who are willing to respond in emergencies or disasters should not be penalized for providing their assistance.*

Section 17. Section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health; *authority of State Health Officer.—*

(1) It is the duty of the Department of Health to:

(a)(1) Assess the public health status and needs of the state through statewide data collection and other appropriate means, with special attention to future needs that may result from population growth, technological advancements, new societal priorities, or other changes.

(b)(2) Formulate general policies affecting the public health of the state.

(c)(3) Include in the department's strategic plan developed under s. 186.021 a summary of all aspects of the public health mission and health status objectives to direct the use of public health resources with an emphasis on prevention.

(d)(4) Administer and enforce laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and the general health of the people of the state.

(e)(5) Cooperate with and accept assistance from federal, state, and local officials for the prevention and suppression of communicable and other diseases, illnesses, injuries, and hazards to human health.

(f)(6) Declare, enforce, modify, and abolish quarantine of persons, animals, and premises as the circumstances indicate for controlling communicable diseases or providing protection from unsafe conditions that pose a threat to public health, except as provided in ss. 384.28 and 392.545-392.60.

1.(a) The department shall adopt rules to specify the conditions and procedures for imposing and releasing a quarantine. The rules must include provisions related to:

a.1- The closure of premises.

b.2- The movement of persons or animals exposed to or infected with a communicable disease.

c.3- The tests or prophylactic treatment, *including vaccination*, for communicable disease required prior to employment or admission to the premises or to comply with a quarantine.

d.4. Testing or destruction of animals with or suspected of having a disease transmissible to humans.

e.5. Access by the department to quarantined premises.

f.6. The disinfection of quarantined animals, persons, or premises.

g. *Methods of quarantine.*

2.(b) Any health regulation that restricts travel or trade within the state may not be adopted or enforced in this state except by authority of the department.

(g)(7) Provide for a thorough investigation and study of the incidence, causes, modes of propagation and transmission, and means of prevention, control, and cure of diseases, illnesses, and hazards to human health.

(h)(8) Provide for the dissemination of information to the public relative to the prevention, control, and cure of diseases, illnesses, and hazards to human health. The department shall conduct a workshop before issuing any health alert or advisory relating to food-borne illness or communicable disease in public lodging or food service establishments in order to inform persons, trade associations, and businesses of the risk to public health and to seek the input of affected persons, trade associations, and businesses on the best methods of informing and protecting the public, except in an emergency, in which case the workshop must be held within 14 days after the issuance of the emergency alert or advisory.

(i)(9) Act as registrar of vital statistics.

(j)(10) Cooperate with and assist federal health officials in enforcing public health laws and regulations.

(k)(11) Cooperate with other departments, local officials, and private boards and organizations for the improvement and preservation of the public health.

(l)(12) Cooperate with other departments, local officials, and private organizations in developing and implementing a statewide injury control program.

(m)(13) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it. This paragraph subsection does not authorize the department to require a permit or license unless such requirement is specifically provided by law.

(n)(14) Perform any other duties prescribed by law.

(2) *The State Health Officer is authorized to take the following actions to protect the public health:*

(a) *Notwithstanding chapters 465 and 499 and rules adopted thereunder, the State Health Officer may direct pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to county health department physicians, physician assistants, and nurses for administration to persons as part of a prophylactic or treatment regimen when there is a significant risk to the public health from a disease, an environmental contaminant, or a suspected act of nuclear, biological, or chemical terrorism.*

(b) *The State Health Officer, upon declaration of a public health emergency pursuant to s. 381.00315, may take such actions as are necessary to protect the public health. Such actions shall include, but are not limited to:*

1. *Directing Florida manufacturers and wholesalers of prescription and over-the-counter drugs permitted under chapter 499 to give priority to shipping such drugs to pharmacies and health care providers located in geographic areas identified by the State Health Officer. Florida manufacturers and wholesalers must respond to the State Health Officer's priority shipping directive before shipping the specified drugs to other pharmacies or health care providers in Florida.*

2. *Notwithstanding s. 456.036, temporarily reactivating the inactive licenses of physicians licensed under chapter 458 or chapter 459;*

physician assistants licensed under chapter 458 or chapter 459; licensed practical nurses, registered nurses, and advanced registered nurse practitioners licensed under chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics licensed under chapter 401 when such practitioners are needed to respond to the public health emergency. Only those licensees referenced in this subparagraph who request reactivation and have unencumbered inactive licenses are eligible for reactivation. Any inactive license reactivated pursuant to this subparagraph shall return to inactive status when the public health emergency ends or prior to the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the emergency. The license may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401. If a physician assistant or advanced registered nurse practitioner requests reactivation and volunteers during the declared public health emergency, the county health department medical director, if appropriate, shall serve as the supervising physician for the physician assistant and shall be authorized to delegate acts of medical diagnosis and treatment to the advanced registered nurse practitioner.

3. *Notwithstanding any law to the contrary, compelling an individual to be examined, tested, vaccinated, treated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Prior to taking action under this subparagraph, the State Health Officer shall, to the extent possible, consult with the Governor.*

a. *Examination, testing, or treatment may be performed by any qualified person authorized by the State Health Officer. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to quarantine.*

b. *If the individual poses a danger to public health, the State Health Officer may subject the individual to quarantine. If there is no practicable method to quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.*

c. *Any order of the State Health Officer given to effectuate this subparagraph shall be immediately enforceable by law enforcement.*

Individuals who assist the State Health Officer at his or her request on a volunteer basis during a public health emergency declared pursuant to s. 381.00315 shall be entitled to the benefits in s. 110.504(2), (3), (4), and (5).

Section 18. Section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on conditions caused by nuclear, biological, and chemical terrorism and on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) ~~As of July 1, 1991,~~ The Department of Health shall require each person licensed or certified under chapter 401, chapter 467, part IV of chapter 468, or chapter 483, as a condition of biennial relicensure, to complete an educational course approved by the department on conditions caused by nuclear, biological, and chemical terrorism. The course shall consist of education on diagnosis and treatment, the modes of transmission, infection control procedures, and clinical management. Such course shall also include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities, ~~and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients.~~ Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form provided by the department, when submitting fees or application for each biennial renewal.

(2) Failure to complete the requirements of this section shall be grounds for disciplinary action contained in the chapters specified in subsection (1). In addition to discipline by the department, the licensee or certificateholder shall be required to complete the required said course or courses.

(3) The department shall require, as a condition of granting a license under the chapters specified in subsection (1), that an applicant making initial application for licensure complete *respective an educational courses course* acceptable to the department on *conditions caused by nuclear, biological, and chemical terrorism and on human immunodeficiency virus and acquired immune deficiency syndrome*. An applicant who has not taken *such courses a course* at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(4) The department shall have the authority to adopt rules to carry out the provisions of this section.

(5) Any professional holding two or more licenses or certificates subject to the provisions of this section shall be permitted to show proof of having taken one department-approved course on *conditions caused by nuclear, biological, and chemical terrorism human immunodeficiency virus and acquired immune deficiency syndrome*, for purposes of relicensure or recertification for the additional licenses.

Section 19. Section 381.0035, Florida Statutes, is amended to read:

381.0035 Educational courses ~~course~~ on human immunodeficiency virus and acquired immune deficiency syndrome *and on conditions caused by nuclear, biological, and chemical terrorism*; employees and clients of certain health care facilities.—

(1)(a) The Department of Health shall require all ~~employees and clients of facilities licensed under chapters 393, 394, and 397 and employees of facilities licensed under chapter 395 and parts II, III, IV, and VI of chapter 400~~ to complete, biennially, a continuing educational course on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change. Such instruction shall include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to human immunodeficiency counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

(b) *The department shall require all employees of facilities licensed under chapters 393, 394, 395, and 397 and parts II, III, IV, and VI of chapter 400 to complete, biennially, a continuing educational course on conditions caused by nuclear, biological, and chemical terrorism. The course shall consist of education on diagnosis and treatment, modes of transmission, infection control procedures, and clinical management. Such course shall also include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities.*

(2) New employees of facilities licensed under chapters 393, 394, 395, and 397 and parts II, III, IV, and VI of chapter 400 shall be required to complete a course on human immunodeficiency virus and acquired immune deficiency syndrome, with instruction to include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. *New employees of such facilities shall also be required to complete a course on conditions caused by nuclear, biological, and chemical terrorism, with instruction to include information on reporting suspected cases to the appropriate health and law enforcement authorities.*

(3) Facilities licensed under chapters 393, 394, 395, and 397, and parts II, III, IV, and VI of chapter 400 shall maintain a record of employees and dates of attendance at ~~human immunodeficiency virus and acquired immune deficiency syndrome~~ educational courses on *human immunodeficiency virus and acquired immune deficiency syndrome and on conditions caused by nuclear, biological, and chemical terrorism*.

(4) The department shall have the authority to review the records of each facility to determine compliance with the requirements of this section. The department may adopt rules to carry out the provisions of this section.

(5) *In lieu of completing a course as required in paragraph (1)(b), the employee may complete a course on end-of-life care and palliative health care or a course on HIV/AIDS so long as the employee completed an approved course on conditions caused by nuclear, biological, and chemical terrorism in the immediately preceding biennium.*

Section 20. Section 381.0421, Florida Statutes, is created to read:

381.0421 Vaccination against meningococcal meningitis and hepatitis B.—

(1) *A postsecondary educational institution shall provide detailed information concerning the risks associated with meningococcal meningitis and hepatitis B and the availability, effectiveness, and known contraindications of any required or recommended vaccine against meningococcal meningitis and hepatitis B to every student, or to the student's parent or guardian if the student is a minor, who has been accepted for admission.*

(2) *An individual enrolled in a postsecondary educational institution who will be residing in on-campus housing shall provide documentation of vaccinations against meningococcal meningitis and hepatitis B unless the individual, if the individual is 18 years of age or older, or the individual's parent or guardian, if the individual is a minor, declines the vaccinations by signing a separate waiver for each of these vaccines provided by the institution acknowledging receipt and review of the information provided.*

(3) *This section does not require any postsecondary educational institution to provide or pay for vaccinations against meningococcal meningitis or hepatitis B.*

Section 21. Subsection (4) of section 395.1027, Florida Statutes, is amended to read:

395.1027 Regional poison control centers.—

(4) By October 1, 1999, each regional poison control center shall develop a prehospital emergency dispatch protocol with each licensee defined by s. 401.23(14)(13) in the geographic area covered by the regional poison control center. The prehospital emergency dispatch protocol shall be developed by each licensee's medical director in conjunction with the designated regional poison control center responsible for the geographic area in which the licensee operates. The protocol shall define toxic substances and describe the procedure by which the designated regional poison control center may be consulted by the licensee. If a call is transferred to the designated regional poison control center in accordance with the protocol established under this section and s. 401.268, the designated regional poison control center shall assume responsibility and liability for the call.

Section 22. Section 401.23, Florida Statutes, is amended to read:

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

(1) "Advanced life support" means *the use of skills and techniques described in the most recent United States Department of Transportation National Standard Paramedic Curriculum by a paramedic under the supervision of a licensee's medical director as required by rules of the department. The term "advanced life support" also includes other techniques that have been approved and are performed under conditions specified by rules of the department. The term "advanced life support" also includes provision of care by a paramedic under the supervision of a licensee's medical director to a person experiencing an emergency medical condition as defined in subsection (11) treatment of life-threatening medical emergencies through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, and cardiac defibrillation by a qualified person, pursuant to rules of the department.*

(2) "Advanced life support service" means any emergency medical transport or nontransport service which uses advanced life support techniques.

(3) "Air ambulance" means any fixed-wing or rotary-wing aircraft used for, or intended to be used for, air transportation of sick or injured

persons requiring or likely to require medical attention during transport.

(4) "Air ambulance service" means any publicly or privately owned service, licensed in accordance with the provisions of this part, which operates air ambulances to transport persons requiring or likely to require medical attention during transport.

(5) "Ambulance" or "emergency medical services vehicle" means any privately or publicly owned land or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for, and is used for, or intended to be used for, land or water transportation of sick or injured persons requiring or likely to require medical attention during transport.

(6) "Ambulance driver" means any person who meets the requirements of s. 401.281.

(7) "Basic life support" means *the use of skills and techniques described in the most recent United States Department of Transportation National Standard EMT-Basic Curriculum by an emergency medical technician or paramedic under the supervision of a licensee's medical director as required by rules of the department. The term "basic life support" also includes other techniques that have been approved and are performed under conditions specified by rules of the department. The term "basic life support" also includes provision of care by a paramedic or emergency medical technician under the supervision of a licensee's medical director to a person experiencing an emergency medical condition as defined in subsection (11) treatment of medical emergencies by a qualified person through the use of techniques such as patient assessment, cardiopulmonary resuscitation (CPR), splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical antishock trousers, administration of a subcutaneous injection using a premeasured autoinjector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation. The term "basic life support" also includes other techniques which have been approved and are performed under conditions specified by rules of the department.*

(8) "Basic life support service" means any emergency medical service which uses only basic life support techniques.

(9) "Certification" means any authorization issued pursuant to this part to a person to act as an emergency medical technician or a paramedic.

(10) "Department" means the Department of Health.

(11) "Emergency medical condition" means:

(a) *A medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain, psychiatric disturbances, symptoms of substance abuse, or other acute symptoms, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:*

1. *Serious jeopardy to the health of a patient, including a pregnant woman or fetus.*

2. *Serious impairment to bodily functions.*

3. *Serious dysfunction of any bodily organ or part.*

(b) *With respect to a pregnant woman, that there is evidence of the onset and persistence of uterine contractions or rupture of the membranes.*

(c) *With respect to a person exhibiting acute psychiatric disturbance or substance abuse, that the absence of immediate medical attention could reasonably be expected to result in:*

1. *Serious jeopardy to the health of a patient; or*

2. *Serious jeopardy to the health of others.*

(12)(11) "Emergency medical technician" means a person who is certified by the department to perform basic life support pursuant to this part.

(13)(12) "Interfacility transfer" means the transportation by ambulance of a patient between two facilities licensed under chapter 393, chapter 395, or chapter 400, pursuant to this part.

(14)(13) "Licensee" means any basic life support service, advanced life support service, or air ambulance service licensed pursuant to this part.

(15)(14) "Medical direction" means direct supervision by a physician through two-way voice communication or, when such voice communication is unavailable, through established standing orders, pursuant to rules of the department.

(16)(15) "Medical director" means a physician who is employed or contracted by a licensee and who provides medical supervision, including appropriate quality assurance but not including administrative and managerial functions, for daily operations and training pursuant to this part.

(17)(16) "Mutual aid agreement" means a written agreement between two or more entities whereby the signing parties agree to lend aid to one another under conditions specified in the agreement and as sanctioned by the governing body of each affected county.

(18)(17) "Paramedic" means a person who is certified by the department to perform basic and advanced life support pursuant to this part.

(19)(18) "Permit" means any authorization issued pursuant to this part for a vehicle to be operated as a basic life support or advanced life support transport vehicle or an advanced life support nontransport vehicle providing basic or advanced life support.

(20)(19) "Physician" means a practitioner who is licensed under the provisions of chapter 458 or chapter 459. For the purpose of providing "medical direction" as defined in subsection (15) (14) for the treatment of patients immediately prior to or during transportation to a United States Department of Veterans Affairs medical facility, "physician" also means a practitioner employed by the United States Department of Veterans Affairs.

(21)(20) "Registered nurse" means a practitioner who is licensed to practice professional nursing pursuant to part I of chapter 464.

(22)(21) "Secretary" means the Secretary of Health.

(23)(22) "Service location" means any permanent location in or from which a licensee solicits, accepts, or conducts business under this part.

Section 23. Paragraph (b) of subsection (2) of section 401.245, Florida Statutes, is amended to read:

401.245 Emergency Medical Services Advisory Council.—

(2)

(b) Representation on the Emergency Medical Services Advisory Council shall include: two licensed physicians who are "medical directors" as defined in s. 401.23(16)(15) or whose medical practice is closely related to emergency medical services; two emergency medical service administrators, one of whom is employed by a fire service; two certified paramedics, one of whom is employed by a fire service; two certified emergency medical technicians, one of whom is employed by a fire service; one emergency medical services educator; one emergency nurse; one hospital administrator; one representative of air ambulance services; one representative of a commercial ambulance operator; and two laypersons who are in no way connected with emergency medical services, one of whom is a representative of the elderly. Ex officio members of the advisory council from state agencies shall include, but shall not be limited to, representatives from the Department of Education, the Department of Management Services, the Department of Insurance, the Department of Highway Safety and Motor Vehicles, the Department of Transportation, and the Department of Community Affairs.

Section 24. Subsection (1) of section 401.252, Florida Statutes, is amended to read:

401.252 Interfacility transfer.—

(1) A licensed basic or advanced life support ambulance service may conduct interfacility transfers in a permitted ambulance, using a registered nurse or *physician assistant* in place of an emergency medical technician or paramedic, if:

(a) The registered nurse or *physician assistant* holds a current certificate of successful course completion in advanced cardiac life support;

(b) The physician in charge has granted permission for such a transfer, has designated the level of service required for such transfer, and has deemed the patient to be in such a condition appropriate to this type of ambulance staffing; and

(c) The registered nurse operates within the scope of part I of chapter 464 or the *physician assistant* operates within the *physician assistant's* scope of practice under chapter 458 or chapter 459.

Section 25. Subsection (6) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(6)(a) The department shall establish by rule a procedure for biennial renewal certification of emergency medical technicians. Such rules must require a United States Department of Transportation refresher training program of at least 30 hours as approved by the department every 2 years. *Completion of the course required by s. 381.0034(1) shall count toward the 30 hours.* The refresher program may be offered in multiple presentations spread over the 2-year period. The rules must also provide that the refresher course requirement may be satisfied by passing a challenge examination.

(b) The department shall establish by rule a procedure for biennial renewal certification of paramedics. Such rules must require candidates for renewal to have taken at least 30 hours of continuing education units during the 2-year period. *Completion of the course required by s. 381.0034(1) shall count toward the 30 hours.* The rules must provide that the continuing education requirement may be satisfied by passing a challenge examination.

Section 26. Section 456.033, Florida Statutes, is amended to read:

456.033 Requirement for instruction for certain licensees on *conditions caused by nuclear, biological, and chemical terrorism and on HIV and AIDS.*—

(1) The appropriate board shall require each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; part I of chapter 464; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; or chapter 486 to complete a continuing educational course, approved by the board, on *conditions caused by nuclear, biological, and chemical terrorism* ~~human immunodeficiency virus and acquired immune deficiency syndrome~~ as part of biennial relicensure or recertification. The course shall consist of education on *diagnosis and treatment, the modes of transmission, infection control procedures, and clinical management.* *Such course shall also include information on reporting suspected cases of conditions caused by nuclear, biological, or chemical terrorism to the appropriate health and law enforcement authorities, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome.* ~~Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.~~

(2) Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form as provided by the board, when submitting fees for each biennial renewal.

(3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in

subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law.

(4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on *conditions caused by nuclear, biological, and chemical terrorism* ~~human immunodeficiency virus and acquired immune deficiency syndrome~~, for purposes of relicensure or recertification for additional licenses.

(5) Failure to comply with the ~~above~~ requirements of *this section* shall constitute grounds for disciplinary action under each respective licensing chapter and s. 456.072(1)(e). In addition to discipline by the board, the licensee shall be required to complete the *required course or courses.*

(6) The board shall require as a condition of granting a license under the chapters and parts specified in subsection (1) that an applicant making initial application for licensure complete *respective an educational courses* ~~course~~ acceptable to the board on *conditions caused by nuclear, biological, and chemical terrorism and on human immunodeficiency virus and acquired immune deficiency syndrome.* An applicant who has not taken *such courses a course* at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(7) The board shall have the authority to adopt rules to carry out the provisions of this section.

(8) The board shall report to the Legislature by March 1 of each year as to the implementation and compliance with the requirements of this section.

(9)(a) In lieu of completing a course as required in subsection (1), the licensee may complete a course on ~~in~~ end-of-life care and palliative health care or a course on HIV/AIDS, so long as the licensee completed an approved AIDS/HIV course on *conditions caused by nuclear, biological, and chemical terrorism* in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 ~~who has completed an approved AIDS/HIV course in the immediately preceding 2 years~~ may complete a course approved by the Board of Dentistry.

Section 27. Section 456.0345, Florida Statutes, is created to read:

456.0345 *Life support training.*—*Health care practitioners who obtain training in advanced cardiac life support, cardiopulmonary resuscitation, or emergency first aid shall receive an equivalent number of continuing education course credits which may be applied toward licensure renewal requirements.*

Section 28. Paragraph (e) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(e) Failing to comply with the educational course requirements for *conditions caused by nuclear, biological, and chemical terrorism* or for human immunodeficiency virus and acquired immune deficiency syndrome.

Section 29. Section 456.38, Florida Statutes, is amended to read:

456.38 Practitioner registry for disasters and emergencies.—The Department of Health ~~shall~~ ~~may~~ include on its *application and renewal* forms for the licensure or certification of health care practitioners licensed pursuant to chapter 458, chapter 459, chapter 464, or part V of chapter 468, ~~as defined in s. 456.001,~~ who could assist the department in the event of a disaster a question asking if the practitioner would be available to provide health care services in special needs shelters or to

help staff disaster medical assistance teams during times of emergency or major disaster. The names of practitioners who answer affirmatively shall be maintained by the department as a health care practitioner registry for disasters and emergencies. *A health care practitioner who volunteers his or her services in a special needs shelter or as part of a disaster medical assistance team during a time of emergency or disaster shall not be terminated or discriminated against by his or her employer for such volunteer work, provided that the health care practitioner returns to his or her regular employment within 2 weeks or within a longer period that has been previously approved by the employer in writing.*

Section 30. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(4) Notwithstanding the provisions of s. 456.033, a physician may complete continuing education on end-of-life care and palliative care in lieu of continuing education in *conditions caused by nuclear, biological, and chemical terrorism AIDS/HIV*, if that physician has completed the ~~AIDS/HIV~~ continuing education in *conditions caused by nuclear, biological, and chemical terrorism* in the immediately preceding biennium.

Section 31. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(5) Notwithstanding the provisions of s. 456.033, an osteopathic physician may complete continuing education on end-of-life and palliative care in lieu of continuing education in *conditions caused by nuclear, biological, and chemical terrorism AIDS/HIV*, if that physician has completed the ~~AIDS/HIV~~ continuing education in *conditions caused by nuclear, biological, and chemical terrorism* in the immediately preceding biennium.

Section 32. Subsections (1), (2), and (6) of section 765.512, Florida Statutes, are amended to read:

765.512 Persons who may make an anatomical gift.—

(1) Any person who may make a will may give all or part of his or her body for any purpose specified in s. 765.510, the gift to take effect upon death. An anatomical gift made by an adult donor and not revoked by the donor as provided in s. 765.516 is irrevocable ~~and does not require the consent or concurrence of any person~~ after the donor's death. *A family member, guardian, representative ad litem, or health care surrogate of a decedent who has made an anatomical gift may not modify the decedent's wishes or deny or prevent the anatomical gift from being made.*

(2) If the decedent has executed an agreement concerning an anatomical gift, by ~~including~~ signing an organ and tissue donor card, by expressing his or her wish to donate in a living will or advance directive, or by signifying his or her intent to donate on his or her driver's license or in some other written form has indicated his or her wish to make an anatomical gift, and in the absence of actual notice of contrary indications by the decedent, *the document is evidence of legally sufficient informed consent to donate an anatomical gift and is legally binding. Any surrogate designated by the decedent pursuant to part II of this chapter may give all or any part of the decedent's body for any purpose specified in s. 765.510.*

(6) A gift of all or part of a body authorizes:

(a) Any examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) *The decedent's medical provider, family, or a third party to furnish medical records requested concerning the decedent's medical and social history.*

Section 33. Subsection (1) of section 765.516, Florida Statutes, is amended to read:

765.516 Amendment of the terms of or the revocation of the gift.—

(1) A donor may amend *the terms of* or revoke an anatomical gift by:

(a) The execution and delivery to the donee of a signed statement.

(b) An oral statement that is:

1. ~~Made to the donor's spouse; or~~

2. *made in the presence of two persons, other than the donor's spouse, and communicated to the donor's family or attorney or to the donee.*

(c) A statement during a terminal illness or injury addressed to an attending physician, who must communicate the revocation of the gift to the procurement organization that is certified by the state.

(d) A signed document found on *or about* the donor's person ~~or in the donor's effects~~.

Section 34. Subsection (5) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(5)(a) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact raised *within 60 days after service of the administrative complaint*. The administrative law judge shall issue a recommended order pursuant to chapter 120. ~~If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.~~

(b) *Notwithstanding s. 120.569(2), the department shall notify the division within 45 days after receipt of a petition or request for a hearing that the department has determined requires a formal hearing before an administrative law judge.*

Section 35. *The Office of Program Policy Analysis and Government Accountability and the Auditor General shall conduct a joint audit of all hearings and billings therefor conducted by the Division of Administrative Hearings for all state agencies and nonstate agencies and shall present a report to the President of the Senate and the Speaker of the House of Representatives on or before January 1, 2003, which contains findings and recommendations regarding the manner in which the division charges for its services. The report shall recommend alternative billing formulas.*

Section 36. Subsection (7) is added to section 456.076, Florida Statutes, to read:

456.076 Treatment programs for impaired practitioners.—

(7) *Each licensee participating in an impaired practitioner program pursuant to this section shall pay a portion of the costs of the consultant and impaired practitioner program, as determined by rule of the department, incurred as a result of that licensee, unless the consultant finds the licensee to be financially unable to pay in accordance with rules set forth by the department. Payment of these costs shall be a condition of the contract between the impaired practitioner program and the impaired practitioner. Failure to pay the required costs shall be a violation of the contract, unless prior arrangements have been made with the impaired practitioner program. If the licensee has entered the impaired practitioner program as a result of a disciplinary investigation, such payment shall be included in the final order imposing discipline. The remaining costs shall be paid out of the Medical Quality Assurance Trust Fund or other federal, state, or private program funds. Each licensee shall pay the full cost of the approved treatment program or other treatment plan required by the impaired practitioner program, unless private funds are available to assist with such payment.*

Section 37. *Section 456.047, Florida Statutes, is repealed.*

Section 38. *All revenues associated with s. 456.047, Florida Statutes, and collected by the Department of Health on or before July 1, 2002, shall*

remain in the Medical Quality Assurance Trust Fund, and no refunds shall be given.

Section 39. Paragraph (d) of subsection (4) of section 456.039, Florida Statutes, is amended to read:

456.039 Designated health care professionals; information required for licensure.—

(4)

(d) Any applicant for initial licensure or renewal of licensure as a health care practitioner who submits to the Department of Health a set of fingerprints or information required for the criminal history check required under this section shall not be required to provide a subsequent set of fingerprints or other duplicate information required for a criminal history check to the Agency for Health Care Administration, the Department of Juvenile Justice, or the Department of Children and Family Services for employment or licensure with such agency or department if the applicant has undergone a criminal history check as a condition of initial licensure or licensure renewal as a health care practitioner with the Department of Health or any of its regulatory boards, notwithstanding any other provision of law to the contrary. In lieu of such duplicate submission, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Children and Family Services shall obtain criminal history information for employment or licensure of health care practitioners by such agency and departments from the Department of Health Health's health care practitioner credentialing system.

Section 40. Paragraph (d) of subsection (4) of section 456.0391, Florida Statutes, is amended to read:

456.0391 Advanced registered nurse practitioners; information required for certification.—

(4)

(d) Any applicant for initial certification or renewal of certification as an advanced registered nurse practitioner who submits to the Department of Health a set of fingerprints and information required for the criminal history check required under this section shall not be required to provide a subsequent set of fingerprints or other duplicate information required for a criminal history check to the Agency for Health Care Administration, the Department of Juvenile Justice, or the Department of Children and Family Services for employment or licensure with such agency or department, if the applicant has undergone a criminal history check as a condition of initial certification or renewal of certification as an advanced registered nurse practitioner with the Department of Health, notwithstanding any other provision of law to the contrary. In lieu of such duplicate submission, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Children and Family Services shall obtain criminal history information for employment or licensure of persons certified under s. 464.012 by such agency or department from the Department of Health Health's health care practitioner credentialing system.

Section 41. Paragraph (v) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(v) Failing to comply with the requirements for profiling ~~and credentialing~~, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, ~~credentialing~~, or initial or renewal licensure application.

Section 42. Subsection (2) of section 456.077, Florida Statutes, is amended to read:

456.077 Authority to issue citations.—

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. Violations for which a citation may be issued shall include violations of continuing education requirements; failure to timely pay required fees and fines; failure to comply with the requirements of ss. 381.026 and 381.0261 regarding the dissemination of information regarding patient rights; failure to comply with advertising requirements; failure to timely update practitioner profile ~~and credentialing~~ files; failure to display signs, licenses, and permits; failure to have required reference books available; and all other violations that do not pose a direct and serious threat to the health and safety of the patient.

Section 43. Subsection (3) of section 458.309, Florida Statutes, is amended to read:

458.309 Authority to make rules.—

(3) All physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. ~~Each office that is required under this subsection to be registered must be The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency approved by the Board of Medicine by rule or an accrediting organization subsequently approved by the Board of Medicine by rule. Each office registered but not accredited as required by this subsection must achieve full and unconditional accreditation no later than July 1, 2003, and must maintain unconditional accreditation as long as procedures described in this subsection that require the office to be registered and accredited are performed. Accreditation reports shall be submitted to the department. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed. The board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.~~

Section 44. Subsection (2) of section 459.005, Florida Statutes, is amended to read:

459.005 Rulemaking authority.—

(2) All *osteopathic* physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. ~~Each office that is required under this subsection to be registered must be The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency approved by the Board of Medicine or the Board of Osteopathic Medicine by rule or an accrediting organization subsequently approved by the Board of Medicine or the Board of Osteopathic Medicine by rule. Each office registered but not accredited as required by this subsection must achieve full and unconditional accreditation no later than July 1, 2003, and must maintain unconditional accreditation as long as procedures described in this subsection that require the office to be registered and accredited are performed. Accreditation reports shall be submitted to the department. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed. The Board of Osteopathic Medicine may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.~~

Section 45. Subsections (11) and (12) are added to section 456.004, Florida Statutes, to read:

456.004 Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(11) Require objective performance measures for all bureaus, units, boards, contracted entities, and board executive directors that reflect the expected quality and quantity of services.

(12) Consider all board requests to use private vendors for particular regulatory functions. In considering a board request, the department

shall conduct an analysis to determine if the function could be appropriately and successfully performed by a private entity at a lower cost or with improved efficiency. If after reviewing the department's analysis the board desires to contract with a vendor for a particular regulatory function and the board has a positive cash balance, the department shall enter into a contract for the service. The contract shall include objective performance measures that reflect the expected quality and quantity of the service and shall include a provision that terminates the contract if the service falls below expected levels. For purposes of this subsection, a "regulatory function" shall be defined to include licensure, licensure renewal, examination, complaint analysis, investigation, or prosecution.

Section 46. Subsection (1) of section 456.009, Florida Statutes, is amended to read:

456.009 Legal and investigative services.—

(1) The department shall provide board counsel for boards within the department by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The primary responsibility of board counsel shall be to represent the interests of the citizens of the state. A board shall provide for the periodic review and evaluation of the services provided by its board counsel. Fees and costs of such counsel shall be paid from a trust fund used by the department to implement this chapter, subject to the provisions of s. 456.025. All contracts for independent counsel shall provide for periodic review and evaluation by the board and the department of services provided. *All legal and investigative services shall be reviewed by the department annually to determine if such services are meeting the performance measures specified in law and in the contract. All contracts for legal and investigative services must include objective performance measures that reflect the expected quality and quantity of the contracted services.*

Section 47. Subsection (6) is added to section 456.011, Florida Statutes, to read:

456.011 Boards; organization; meetings; compensation and travel expenses.—

(6) *Meetings of board committees, including probable cause panels, shall be conducted electronically unless held concurrently with, or on the day immediately before or after, a regularly scheduled in-person board meeting. However, if a particular committee meeting is expected to last more than 5 hours and cannot be held before or after the in-person board meeting, the chair of the committee may request special permission from the director of the Division of Medical Quality Assurance to hold an in-person committee meeting. The meeting shall be held in Tallahassee unless the chair of the committee determines that another location is necessary due to the subject matter to be discussed at the meeting and the director authorizes the additional costs, if any.*

Section 48. Subsection (11) is added to section 456.026, Florida Statutes, to read:

456.026 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(11) *The performance measures for all bureaus, units, boards, and contracted entities required by the department to reflect the expected quality and quantity of services, and a description of any effort to improve the performance of such services.*

Section 49. Section 458.3093, Florida Statutes, is created to read:

458.3093 *Licensure credentials verification.—All applicants for initial physician licensure pursuant to this chapter must submit their credentials to the Federation of State Medical Boards. Effective January 1, 2003, the board and the department shall only consider applications*

for initial physician licensure pursuant to this chapter that have been verified by the Federation of State Medical Boards Credentials Verification Service or an equivalent program approved by the board.

Section 50. Section 459.0053, Florida Statutes, is created to read:

459.0053 *Licensure credentials verification.—All applicants for initial osteopathic physician licensure pursuant to this chapter must submit their credentials to the Federation of State Medical Boards. Effective January 1, 2003, the board and the department shall only consider applications for initial osteopathic physician licensure pursuant to this chapter that have been verified by the Federation of State Medical Boards Credentials Verification Service, the American Osteopathic Association, or an equivalent program approved by the board.*

Section 51. Paragraph (t) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of \$50,000 ~~\$25,000~~ each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

Section 52. Paragraph (x) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of \$50,000 ~~\$25,000~~ each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, "gross malpractice" or "the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized

as being acceptable under similar conditions and circumstances,” or any combination thereof, and any publication by the board shall so specify.

Section 53. Subsection (1) of section 627.912, Florida Statutes, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed under chapter 458, to a practitioner of osteopathic medicine licensed under chapter 459, to a podiatric physician licensed under chapter 461, to a dentist licensed under chapter 466, to a hospital licensed under chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured’s professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

- (a) A final judgment in any amount.
- (b) A settlement in any amount.

Reports shall be filed with the Department of Insurance. ~~and, If the insured party is licensed under chapter 458, chapter 459, or chapter 461, or chapter 466, with the Department of Health, and the final judgment or settlement was in an amount exceeding \$50,000, the report shall also be filed with the Department of Health. If the insured is licensed under chapter 466 and the final judgment or settlement was in an amount exceeding \$25,000, the report shall also be filed with the Department of Health. Reports must be filed no later than 30 days following the occurrence of any event listed in this subsection paragraph (a) or paragraph (b).~~ The Department of Health shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply. The Department of Health, as part of the annual report required by s. 456.026, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the Department of Health or the appropriate regulatory board.

Section 54. Subsections (14) and (15) are added to section 456.073, Florida Statutes, to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(14) *When the probable cause panel determines that probable cause exists that a violation of law occurred but decides to issue a letter of guidance in lieu of finding probable cause as a result of mitigating circumstances, the probable cause panel may require the subject to pay up to \$300 of the costs of the investigation and prosecution of the case within a time certain but not less than 30 days after the execution of the closing order. If the subject fails to pay the costs within the time set by the probable cause panel, the case may be reopened and the department may file an administrative complaint against the subject based on the underlying case. No additional charges may be added as a result of the subject failing to pay the costs. The issuance of a letter of guidance and the assessment of costs under this subsection shall not be considered discipline, nor shall it be considered a final order of discipline.*

(15) *All cases in which no probable cause is found shall be closed within 14 days following the probable cause panel meeting at which such determination was made. The department shall mail a copy of the closing order to the subject within 14 days after such probable cause panel meeting.*

Section 55. *The Office of Program Policy Analysis and Governmental Accountability shall review the investigative field office structure and*

organization of the Agency for Health Care Administration to determine the feasibility of eliminating all or some field offices, the feasibility of combining field offices, and the feasibility of requiring field inspectors and investigators to telecommute from home in lieu of paying for office space. The review shall include all agency programs that have field offices, including health practitioner regulation even if health practitioner regulation is transferred to the Department of Health. The review shall be completed and a report issued to the President of the Senate and the Speaker of the House of Representatives no later than January 1, 2003.

Section 56. Subsection (1) of section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

- (a) Shall be based on revenue projections prepared using generally accepted accounting procedures;
- (b) Shall be adequate to cover all expenses relating to that board identified in the department’s long-range policy plan, as required by s. 456.005;
- (c) Shall be reasonable, fair, and not serve as a barrier to licensure;
- (d) Shall be based on potential earnings from working under the scope of the license;
- (e) Shall be similar to fees imposed on similar licensure types; *and*
- ~~(f) Shall not be more than 10 percent greater than the fee imposed for the previous biennium;~~
- ~~(g) Shall not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium; and~~
- ~~(f)(h)~~ Shall be subject to challenge pursuant to chapter 120.

Section 57. Section 456.0165, Florida Statutes, is created to read:

456.0165 *Examination location.—A college, university, or vocational school in this state may serve as the host school for a health care practitioner licensure examination. However, the college, university, or vocational school may not charge the department for rent, space, reusable equipment, utilities, or janitorial services. The college, university, or vocational school may only charge the department the actual cost of nonreusable supplies provided by the school at the request of the department.*

Section 58. *Effective July 1, 2002, all licensure and licensure renewal fees for professions within the Division of Medical Quality Assurance shall be set at a level equal to at least 85 percent of the profession’s statutory fee cap or at a level equal to at least 85 percent of the actual per licensee cost to regulate that profession, whichever is less. Effective July 1, 2005, all licensure and licensure renewal fees shall be set at the profession’s statutory fee cap or at a level equal to 100 percent of the actual per licensee cost to regulate that profession, whichever is less.*

Section 59. Subsection (6) of section 468.301, Florida Statutes, is amended to read:

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

(6) “Direct supervision” means supervision and control by a licensed practitioner who assumes legal liability for the services rendered. ~~by the basic X-ray machine operator or basic X-ray machine operator podiatric medicine, which~~ Supervision requires the physical presence of the

licensed practitioner for consultation and direction of the actions of the basic X-ray machine operator or basic X-ray machine operator podiatric medicine.

Section 60. Paragraph (g) of subsection (3) and paragraph (c) of subsection (6) of section 468.302, Florida Statutes, are amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(3)

(g) A person holding a certificate as a nuclear medicine technologist may only:

1. Conduct in vivo and in vitro measurements of radioactivity and administer radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

2. Administer X radiation from a combination nuclear medicine-computed tomography device if that radiation is administered as an integral part of a nuclear medicine procedure that uses an automated computed tomography protocol and the person has received device-specific training on the combination device.

However, the authority of a nuclear medicine technologist under this paragraph excludes radioimmunoassay and other clinical laboratory testing regulated pursuant to chapter 483.

(6) Requirement for certification does not apply to:

(c) A person who is a registered nurse licensed under part I of chapter 464, a respiratory therapist licensed under part V of chapter 468, or a cardiovascular technologist or cardiopulmonary technologist with active certification as a registered cardiovascular invasive specialist from a nationally recognized credentialing organization, or future equivalent should such credentialing be subsequently modified, each of whom is trained and skilled in invasive cardiovascular ~~cardiopulmonary~~ technology, including the radiologic technology duties associated with such procedures, and who provides invasive cardiovascular ~~cardiopulmonary~~ technology services at the direction, and under the direct supervision, of a licensed practitioner. A person requesting this exemption must have successfully completed a didactic and clinical training program in the following areas before performing radiologic technology duties under the direct supervision of a licensed practitioner:

1. Principles of X-ray production and equipment operation.
2. Biological effects of radiation.
3. Radiation exposure and monitoring.
4. Radiation safety and protection.
5. Evaluation of radiographic equipment and accessories.
6. Radiographic exposure and technique factors.
7. Film processing.
8. Image quality assurance.
9. Patient positioning.
10. Administration and complications of contrast media.
11. Specific fluoroscopic and digital X-ray imaging procedures related to invasive cardiovascular technology.

Section 61. Section 468.352, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.352, F.S., for present text.)

468.352 Definitions.—As used in this part the term:

- (1) “Board” means the Board of Respiratory Care.
- (2) “Certified respiratory therapist” means any person licensed pursuant to this part who is certified by the National Board for

Respiratory Care or its successor, who is employed to deliver respiratory care services, under the order of a physician licensed pursuant to chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(3) “Critical care” means care given to a patient in any setting involving a life-threatening emergency.

(4) “Department” means the Department of Health.

(5) “Direct supervision” means practicing under the direction of a licensed, registered, or certified respiratory therapist who is physically on the premises and readily available, as defined by the board.

(6) “Physician supervision” means supervision and control by a physician licensed under chapter 458 or chapter 459 who assumes the legal liability for the services rendered by the personnel employed in his or her office. Except in the case of an emergency, physician supervision requires the easy availability of the physician within the office or the physical presence of the physician for consultation and direction of the actions of the persons who deliver respiratory care services.

(7) “Practice of respiratory care” or “respiratory therapy” means the allied health specialty associated with the cardiopulmonary system that is practiced under the orders of a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board, including the assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education, and care of patients.

(8) “Registered respiratory therapist” means any person licensed under this part who is registered by the National Board for Respiratory Care or its successor, and who is employed to deliver respiratory care services under the order of a physician licensed under chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) “Respiratory care practitioner” means any person licensed under this part who is employed to deliver respiratory care services, under direct supervision, pursuant to the order of a physician licensed under chapter 458 or chapter 459.

(10) “Respiratory care services” includes:

- (a) Evaluation and disease management.
- (b) Diagnostic and therapeutic use of respiratory equipment, devices, or medical gas.
- (c) Administration of drugs, as duly ordered or prescribed by a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board.

(d) Initiation, management, and maintenance of equipment to assist and support ventilation and respiration.

(e) Diagnostic procedures, research, and therapeutic treatment and procedures, including measurement of ventilatory volumes, pressures, and flows; specimen collection and analysis of blood for gas transport and acid/base determinations; pulmonary-function testing; and other related physiological monitoring of cardiopulmonary systems.

(f) Cardiopulmonary rehabilitation.

(g) Cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions.

(h) Insertion and maintenance of artificial airways and intravascular catheters.

(i) Performing sleep-disorder studies.

(j) *Education of patients, families, the public, or other health care providers, including disease process and management programs and smoking prevention and cessation programs.*

(k) *Initiation and management of hyperbaric oxygen.*

Section 62. Section 468.355, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.355, F.S., for present text.)

468.355 Licensure requirements.—*To be eligible for licensure by the board, an applicant must be certified as a “Certified Respiratory Therapist” or be registered as a “Registered Respiratory Therapist” by the National Board for Respiratory Care, or its successor.*

Section 63. Section 468.368, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.368, F.S., for present text.)

468.368 Exemptions.—*This part may not be construed to prevent or restrict the practice, service, or activities of:*

(1) *Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed.*

(2) *Any legally qualified person in the state or another state or territory who is employed by the United States Government or any agency thereof while such person is discharging his or her official duties.*

(3) *A friend or family member who is providing respiratory care services to an ill person and who does not represent himself or herself to be a respiratory care practitioner or respiratory therapist.*

(4) *An individual providing respiratory care services in an emergency who does not represent himself or herself as a respiratory care practitioner or respiratory therapist.*

(5) *Any individual employed to deliver, assemble, set up, or test equipment for use in a home, upon the order of a physician licensed pursuant to chapter 458 or chapter 459. This subsection does not, however, authorize the practice of respiratory care without a license.*

(6) *Any individual credentialed by the Board of Registered Polysomnographic Technologists, as a registered polysomnographic technologist, as related to the diagnosis and evaluation of treatment for sleep disorders.*

(7) *Any individual certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care from performing cardiopulmonary diagnostic studies.*

(8) *Any student who is enrolled in an accredited respiratory care program approved by the board, while performing respiratory care as an integral part of a required course.*

(9) *The delivery of incidental respiratory care to noninstitutionalized persons by surrogate family members who do not represent themselves as registered or certified respiratory care therapists.*

(10) *Any individual credentialed by the Underseas Hyperbaric Society in hyperbaric medicine or its equivalent as determined by the board, while performing related duties. This subsection does not, however, authorize the practice of respiratory care without a license.*

Section 64. Sections 468.356 and 468.357, Florida Statutes, are repealed.

Section 65. (1) *Beginning July 1, 2003, application forms for initial licensure and licensure renewal for the professions regulated by the Department of Health, Division of Medical Quality Assurance, shall be submitted electronically through the World Wide Web unless the applicant states on the application form that he or she does not have access to the World Wide Web, in which case a paper application may be submitted. The department shall issue the license or renew a license only if the licensee provides satisfactory evidence that all conditions and requirements of licensure or renewal have been met, including, but not*

limited to, the payment of required fees, the completion of required continuing education coursework, and, if applicable, the maintenance of financial responsibility. This section shall not be construed to reduce or eliminate any requirement set forth in chapter 456, Florida Statutes, or the applicable practice act.

(2) *In order to maximize the state’s return on investment, to increase the efficiency and timeliness of the conversion, and to promote fiscal responsibility during the transition to electronic licensure, the Department of Health shall redirect its current resources and contracts which support the existing practitioner credentialing system towards the development and operation of an electronic licensure and licensure renewal system effective upon this bill becoming law.*

Section 66. (1) *Effective July 1, 2004, and each July 1 thereafter, the fee caps established in the following sections are increased by 2.5 percent: ss. 456.025, 457.105, 457.107, 458.313, 458.3135, 458.3145, 458.317, 458.319, 458.347, 459.0092, 459.022, 460.406, 460.407, 460.4165, 460.4166, 461.006, 461.007, 462.16, 462.19, 463.0057, 463.006, 463.007, 464.008, 464.009, 464.012, 464.019, 465.007, 465.0075, 465.008, 465.0125, 465.0126, 465.022, 465.0276, 466.006, 466.007, 466.008, 466.013, 466.032, 467.0125, 467.0135, 468.1145, 468.1695, 468.1705, 468.1715, 468.1735, 468.221, 468.364, 468.508, 468.709, 468.803, 468.806, 478.55, 480.043, 480.044, 483.807, 483.901, 484.002, 484.007, 484.008, 484.009, 484.0447, 486.041, 486.061, 486.081, 486.085, 486.103, 486.106, 486.107, 486.108, 490.005, 490.0051, 490.007, 491.0045, 491.0046, 491.005, 491.007, 491.008, 491.0085, and 491.0145, Florida Statutes.*

(2) *The increases in fees provided in this section are in addition to any other change in the fees which are enacted into law. The actual amount of a fee shall be rounded to the nearest dollar.*

Section 67. Sections 381.0602, 381.6021, 381.6022, 381.6023, 381.6024, and 381.6026, Florida Statutes, are renumbered as sections 765.53, 765.541, 765.542, 765.544, 765.545, and 765.547, Florida Statutes, respectively.

Section 68. Section 381.60225, Florida Statutes, is renumbered as section 765.543, Florida Statutes, and subsection (2) of said section is amended to read:

765.543 ~~381.60225~~ Background screening.—

(2) *An organ procurement organization, tissue bank, or eye bank certified by the Agency for Health Care Administration in accordance with ss. 381.6021 and 765.542 ~~381.6022~~ is not subject to the requirements of this section if the entity has no direct patient care responsibilities and does not bill patients or insurers directly for services under the Medicare or Medicaid programs, or for privately insured services.*

Section 69. Section 381.6025, Florida Statutes, is renumbered as section 765.546, Florida Statutes, and amended to read:

765.546 ~~381.6025~~ Physician supervision of cadaveric organ and tissue procurement coordinators.—*Organ procurement organizations, tissue banks, and eye banks may employ coordinators, who are registered nurses, physician’s assistants, or other medically trained personnel who meet the relevant standards for organ procurement organizations, tissue banks, or eye banks as adopted by the Agency for Health Care Administration under s. 765.541 ~~381.6021~~, to assist in the medical management of organ donors or in the surgical procurement of cadaveric organs, tissues, or eyes for transplantation or research. A coordinator who assists in the medical management of organ donors or in the surgical procurement of cadaveric organs, tissues, or eyes for transplantation or research must do so under the direction and supervision of a licensed physician medical director pursuant to rules and guidelines to be adopted by the Agency for Health Care Administration. With the exception of organ procurement surgery, this supervision may be indirect supervision. For purposes of this section, the term “indirect supervision” means that the medical director is responsible for the medical actions of the coordinator, that the coordinator is operating under protocols expressly approved by the medical director, and that the medical director or his or her physician*

designee is always available, in person or by telephone, to provide medical direction, consultation, and advice in cases of organ, tissue, and eye donation and procurement. Although indirect supervision is authorized under this section, direct physician supervision is to be encouraged when appropriate.

Section 70. Subsection (2) of section 395.2050, Florida Statutes, is amended to read:

395.2050 Routine inquiry for organ and tissue donation; certification for procurement activities.—

(2) Every hospital licensed under this chapter that is engaged in the procurement of organs, tissues, or eyes shall comply with the certification requirements of ss. 765.541-765.547 ~~381.6021-381.6026~~.

Section 71. Paragraph (e) of subsection (2) of section 409.815, Florida Statutes, is amended to read:

409.815 Health benefits coverage; limitations.—

(2) BENCHMARK BENEFITS.—In order for health benefits coverage to qualify for premium assistance payments for an eligible child under ss. 409.810-409.820, the health benefits coverage, except for coverage under Medicaid and Medikids, must include the following minimum benefits, as medically necessary.

(e) Organ transplantation services.—Covered services include pretransplant, transplant, and postdischarge services and treatment of complications after transplantation for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council under s. 765.53 ~~381.0602~~ or the Bone Marrow Transplant Advisory Panel under s. 627.4236.

Section 72. Subsection (2) of section 765.5216, Florida Statutes, is amended to read:

765.5216 Organ and tissue donor education panel.—

(2) There is created within the Agency for Health Care Administration a statewide organ and tissue donor education panel, consisting of 12 members, to represent the interests of the public with regard to increasing the number of organ and tissue donors within the state. The panel and the Organ and Tissue Procurement and Transplantation Advisory Board established in s. 765.544 ~~381.6023~~ shall jointly develop, subject to the approval of the Agency for Health Care Administration, education initiatives pursuant to s. 732.9215, which the agency shall implement. The membership must be balanced with respect to gender, ethnicity, and other demographic characteristics so that the appointees reflect the diversity of the population of this state. The panel members must include:

(a) A representative from the Agency for Health Care Administration, who shall serve as chairperson of the panel.

(b) A representative from a Florida licensed organ procurement organization.

(c) A representative from a Florida licensed tissue bank.

(d) A representative from a Florida licensed eye bank.

(e) A representative from a Florida licensed hospital.

(f) A representative from the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles, who possesses experience and knowledge in dealing with the public.

(g) A representative from the family of an organ, tissue, or eye donor.

(h) A representative who has been the recipient of a transplanted organ, tissue, or eye, or is a family member of a recipient.

(i) A representative who is a minority person as defined in s. 381.81.

(j) A representative from a professional association or public relations or advertising organization.

(k) A representative from a community service club or organization.

(l) A representative from the Department of Education.

Section 73. Subsection (5) of section 765.522, Florida Statutes, is amended to read:

765.522 Duty of certain hospital administrators; liability of hospital administrators, organ procurement organizations, eye banks, and tissue banks.—

(5) There shall be no civil or criminal liability against any organ procurement organization, eye bank, or tissue bank certified under s. 765.542 ~~381.6022~~, or against any hospital or hospital administrator or designee, when complying with the provisions of this part and the rules of the Agency for Health Care Administration or when, in the exercise of reasonable care, a request for organ donation is inappropriate and the gift is not made according to this part and the rules of the Agency for Health Care Administration.

Section 74. *Subject to the availability of funds and subject to any limitations or directions provided for in the General Appropriations Act or chapter 216, Florida Statutes, the Medicaid program of the Agency for Health Care Administration shall pay for medically necessary lung transplant services for Medicaid recipients.*

Section 75. Subsection (1) 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.

(1) Each county shall participate in the following items of care and service:

(a) For both health maintenance members and fee-for-service beneficiaries, payments for inpatient hospitalization in excess of 10 days, but not in excess of 45 days, with the exception of *payments for:*

1. Pregnant women and children whose income is in excess of the federal poverty level and who do not participate in the Medicaid medically needy program.

2. *Adult lung transplant services.*

(b) Payments for nursing home or intermediate facilities care in excess of \$170 per month, with the exception of skilled nursing care for children under age 21.

Section 76. Effective upon becoming law and applicable to any loan or scholarship that is in default on or after the effective date, subsection (4) is added to section 456.074, Florida Statutes, to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(4) *Upon receipt of information that a Florida-licensed health care practitioner has defaulted on a student loan issued or guaranteed by the state or the Federal Government, the department shall notify the licensee by certified mail that he or she shall be subject to immediate suspension of license unless, within 45 days after the date of mailing, the licensee provides proof that new payment terms have been agreed upon by all parties to the loan. The department shall issue an emergency order suspending the license of any licensee who, after 45 days following the date of mailing from the department, has failed to provide such proof. Production of such proof shall not prohibit the department from proceeding with disciplinary action against the licensee pursuant to s. 456.073.*

Section 77. Effective upon becoming law and applicable to any loan or scholarship that is in default on or after the effective date, paragraph (k) of subsection (1) of section 456.072, Florida Statutes, is amended, and subsection (2) of said section is reenacted, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(k) Failing to perform any statutory or legal obligation placed upon a licensee. *For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.*

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d) Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of \$10,000 per count or offense.

(e) Issuance of a reprimand or letter of concern.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

Section 78. *The Department of Health shall obtain from the United States Department of Health and Human Services information necessary to investigate and prosecute health care practitioners for failing to repay a student loan or comply with scholarship service obligations pursuant to s. 456.072(1)(k), Florida Statutes. The department shall obtain from*

the United States Department of Health and Human Services a list of default health care practitioners each month, along with the information necessary to investigate a complaint in accordance with s. 456.073, Florida Statutes. The department may obtain evidence to support the investigation and prosecution from any financial institution or educational institution involved in providing the loan or education to the practitioner. The department shall report to the Legislature as part of the annual report required by s. 456.026, Florida Statutes, the number of practitioners in default, along with the results of the department's investigations and prosecutions, and the amount of fines collected from practitioners prosecuted for violating s. 456.072(1)(k), Florida Statutes.

Section 79. Section 456.026, Florida Statutes, is reenacted to read:

456.026 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The department is directed to prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

(2) The number of complaints received and investigated.

(3) The number of findings of probable cause made.

(4) The number of findings of no probable cause made.

(5) The number of administrative complaints filed.

(6) The disposition of all administrative complaints.

(7) A description of disciplinary actions taken.

(8) A description of any effort by the department to reduce or otherwise close any investigation or disciplinary proceeding not before the Division of Administrative Hearings under chapter 120 or otherwise not completed within 1 year after the initial filing of a complaint under this chapter.

(9) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 456.079.

(10) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

Section 80. Section 456.073, Florida Statutes, is reenacted to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if

it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the respective board or the chair of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section, it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense. At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department if there is no board, shall establish by rule those minor violations under this provision which do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel

may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department, in consultation with the applicable probable cause panel, must establish a plan to expedite or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(5) A formal hearing before an administrative law judge from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The administrative law judge shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, or the department when there is no board, shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed-upon settlement shall be subject to the approval of the department.

(7) The department shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the secretary of the Department of Health or his or her designee, as appropriate, who shall issue the final summary order.

(9)(a) The department shall periodically notify the person who filed the complaint, as well as the patient or the patient's legal representative, of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(b) In any disciplinary case for which probable cause has been found, the department shall provide to the person who filed the complaint a copy of the administrative complaint and:

1. A written explanation of how an administrative complaint is resolved by the disciplinary process.

2. A written explanation of how and when the person may participate in the disciplinary process.

3. A written notice of any hearing before the Division of Administrative Hearings or the regulatory board at which final agency action may be taken.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the department which may be relevant to the decision. To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential. In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the department with regard to the

incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the department about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b) in which intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

Section 81. Subsection (8) of section 400.925, Florida Statutes, is amended to read:

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

(8) "Home medical equipment" includes any product as defined by the Federal Drug Administration's Drugs, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment benefits, or any products reimbursed under the Florida Medicaid durable medical equipment program. Home medical equipment includes, but is not limited to, oxygen and related respiratory equipment; manual, motorized, or ~~home medical equipment~~ includes customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; ~~home medical equipment~~ includes assistive technology devices, including: manual wheelchairs, motorized wheelchairs, motorized scooters; ~~voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems; and specialty beds, including demonstrator,~~ for use by a person with a medical need.

Section 82. Subsections (5), (7), and (9) of section 409.91195, Florida Statutes, is amended to read:

409.91195 Medicaid Pharmaceutical and Therapeutics Committee.—There is created a Medicaid Pharmaceutical and Therapeutics Committee within the Agency for Health Care Administration for the purpose of developing a preferred drug formulary pursuant to 42 U.S.C. s. 1396r-8.

(5) Except for mental health-related drugs, antiretroviral drugs, and drugs for nursing home residents and other institutional residents, reimbursement of drugs not included in the formulary is subject to prior authorization. *If the prior authorization is approved, the approval shall be in effect for the subsequent 12 month period.*

(7) The committee shall ensure that *interested parties, including pharmaceutical manufacturers agreeing to provide a supplemental*

rebate as outlined in this chapter have an opportunity to present *public testimony to the committee with information or evidence* supporting inclusion of a product on the preferred drug list. *Such public testimony shall occur prior to any decisions being made by the Committee for inclusion or exclusion from the drugs available to the Medicaid recipients.* Upon timely notice, the agency shall ensure that any drug that has been approved or had any of its particular uses approved by the United States Food and Drug Administration under a priority review classification will be reviewed by the Medicaid Pharmaceutical and Therapeutics Committee at the next regularly scheduled meeting. To the extent possible, upon notice by a manufacturer the agency shall also schedule a product review for any new product at the next regularly scheduled Medicaid Pharmaceutical and Therapeutics Committee.

(9) The Medicaid Pharmaceutical and Therapeutics Committee shall develop its preferred drug list recommendations by considering the clinical efficacy, safety, and cost-effectiveness of a product. *In addition, recommendations shall include a review and approval by a physician who is board-certified in the specialty that most commonly treats the disease or prescribes the relevant therapeutic class of drugs.* When the preferred drug formulary is adopted by the agency, if a product on the formulary is one of the first four brand-name drugs used by a recipient in a month the drug shall not require prior authorization.

Section 83. Subsection (4) is added to section 765.104, Florida Statutes, to read:

765.104 Amendment or revocation.—

(4) *Any patient for whom a medical proxy has been recognized under s. 765.401 and for whom any previous legal disability that precluded the patient's ability to consent is removed may amend or revoke the recognition of the medical proxy and any uncompleted decision made by that proxy. The amendment or revocation takes effect when it is communicated to the proxy, the health care provider, or the health care facility in writing or, if communicated orally, in the presence of a third person.*

Section 84. Subsections (1) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.—

(1) *If an incapacitated or developmentally disabled the patient has not executed an advance directive, or designated a surrogate to execute an advance directive, or the designated or alternate surrogate is no longer available to make health care decisions, health care decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:*

(a) *The judicially appointed guardian of the patient or the guardian advocate of the person having a developmental disability as defined in s. 393.063, who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made under this subsection;*

(b) *The patient's spouse;*

(c) *An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;*

(d) *A parent of the patient;*

(e) *The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation.*

(f) *An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs;* or

(g) *A close friend of the patient.*

(3) *Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the provisions of ss. 765.205 and 765.305, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient been competent or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest. Before exercising the rights of a person who has a developmental disability as defined under s. 393.063(12) to withhold or withdraw life-prolonging procedures, a proxy must comply with s. 393.12.*

Section 85. Subsection (2) of section 457.105, Florida Statutes, is amended and subsection (3) of section 457.105, Florida Statutes, is created to read:

457.105 Licensure qualifications and fees.—

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

(a) *Is 21 years of age or older, has good moral character, and has the ability to communicate in English, which is demonstrated by having passed the national written examination in English or, if such examination was passed in a foreign language, by also having passed a nationally recognized English proficiency examination;*

(b) ~~Has completed 60 college credits from an accredited postsecondary institution~~ *received a bachelor's degree from an accredited College or University as a prerequisite to enrollment in an authorized 3-year course of study in acupuncture and oriental medicine, and has completed a 3-year course of study in acupuncture and oriental medicine, and effective July 31, 2001, a 4-year course of study in acupuncture and oriental medicine, and effective July 31, 2003, a 4 year, 3200 hour course of study in acupuncture and oriental medicine which meets standards established by the board by rule, which standards include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, western pathology, western biomedical terminology, first aid, and cardiopulmonary resuscitation (CPR). However, any person who enrolled in an authorized course of study in acupuncture before August 1, 1997, and who applies on or before July 1, 2003, must have completed only a 2-year course of study which meets standards established by the board by rule, which standards must include, but are not limited to, successful completion of academic courses in western anatomy, western physiology, and western pathology;*

(c) *Has successfully completed a board-approved national certification process, is actively licensed in a state that has examination requirements that are substantially equivalent to or more stringent than those of this state, or passes an examination administered by the department, which examination tests the applicant's competency and knowledge of the practice of acupuncture and oriental medicine. At the request of any applicant, oriental nomenclature for the points shall be used in the examination. The examination shall include a practical examination of the knowledge and skills required to practice modern and traditional acupuncture and oriental medicine, covering diagnostic and treatment techniques and procedures; and*

(d) *Has submitted to the department a set of fingerprints on a form and under procedures specified by the department along with a payment in an amount equal to the costs to be incurred by the Department of Health for the criminal background check of an applicant. The Department of Health shall submit the fingerprints provided by the applicant to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant.*

(~~d~~)e) *Pays the required fees set by the board by rule not to exceed the following amounts:*

1. *Examination fee: \$500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.*

2. Application fee: \$300.

3. Reexamination fee: \$500 plus the actual per applicant cost to the department for purchase of the written and practical portions of the examination from a national organization approved by the board.

4. Initial biennial licensure fee: \$400, if licensed in the first half of the biennium, and \$200, if licensed in the second half of the biennium.

(3) *The board may deny an applicant who within a three year period does not pass the licensing examination after five attempts.*

Section 86. Section 457.1085, Florida Statutes, is amended to read:

457.1085 Infection control.—~~Prior to November 1, 1986, the~~ *The* board shall adopt rules relating to the prevention of infection, the safe disposal of any potentially infectious materials, and other requirements to protect the health, safety, and welfare of the public. ~~Beginning October 1, 1997,~~ All acupuncture needles that are to be used on a patient must be sterile and disposable, and each needle may be used only once.

Section 87. Paragraph (y) of subsection (1) of section 457.109, Florida Statutes, is amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(y) *Using the specialty titles of “Diplomat in Acupuncture” or “National Board Certified Diplomat in Acupuncture” or “Board Certified Diplomat in Acupuncture” in conjunction with one’s name, place of business, or acupuncture practice unless the licensee holds an active license under Chapter 457, F.S., and is also an active holder of such Board Certification from the nationally recognized “Acupuncture Credentials Verification Organization”, the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).*

Section 88. Subsection (2) of section 457.116, Florida Statutes, is amended to read:

457.116 Prohibited acts; penalty.—

(2) A person who violates this section commits a ~~misdemeanor of the second degree~~ *a felony of the third degree*, punishable as provided in s. 775.082 or s. 775.083 or 775.084.

Section 89. Section 457.119, Florida Statutes, is created to read:

457.119 *Approval of Educational Programs—The board shall adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, and clinical training necessary to ensure that approved programs graduate practitioners capable of competent practice under this act.*

Section 90. Effective upon becoming law, paragraph (t) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review.—

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

(t) *For the establishment of a satellite hospital through the relocation of 100 general acute care beds from an existing hospital located in the same district, as defined in s. 408.032(5).*

Section 91. Subsections (31), (32), and (33), of section 395.002, Florida Statutes, are renumbered as subsections (32), (33), and (34) respectively, and a new subsection (31) of section 395.002, Florida Statutes, is created to read:

395.002 Definitions.—As used in this chapter:

(31) *“Surgical first assistant” means the first assistant to the surgeon during a surgical operation.*

(32)(31) *“Utilization review” means a system for reviewing the medical necessity or appropriateness in the allocation of health care*

resources of hospital services given or proposed to be given to a patient or group of patients.

(33)(32) *“Utilization review plan” means a description of the policies and procedures governing utilization review activities performed by a private review agent.*

(34)(33) *“Validation inspection” means an inspection of the premises of a licensed facility by the agency to assess whether a review by an accrediting organization has adequately evaluated the licensed facility according to minimum state standards.*

Section 92. Paragraph (b) of subsection (1) of section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes all of the following components:

(b) The development of appropriate measures to minimize the risk of adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all personnel of the licensed facility working in clinical areas and providing patient care, except those persons licensed as health care practitioners who are required to complete continuing education coursework pursuant to chapter 456 or the respective practice act.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner. *Moreover, the primary operating surgeon may select a surgical first assistant from among available individuals who are approved or credentialed by the facility.*

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of the planned procedure so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient’s diagnosis or medical condition.

Section 93. Subsection (5) is added to section 408.043, Florida Statutes, to read:

408.043 Special provisions.—

(5) *SOLE ACUTE CARE HOSPITAL IN A HIGH GROWTH COUNTY.—Notwithstanding any other provision of law, an acute care hospital licensed under chapter 395 may add up to 180 additional beds without agency review, provided such hospital is located in a county that has experienced at least a 60-percent growth rate since 1990, is under*

construction on January 1, 2002, is the sole acute care hospital in the county, and is located such that there is no other acute care hospital within a 10-mile radius of such hospital.

Section 94. Effective upon becoming law, paragraphs (a) and (b) of subsection (2) of section 768.13, Florida Statutes, are amended to read:

768.13 Good Samaritan Act; immunity from civil liability.—

(2)(a) Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a *public health emergency declared pursuant to s. 381.00315*, a state of emergency which has been declared pursuant to s. 252.36 or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

(b)1. Any hospital licensed under chapter 395, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a sudden, unexpected situation or occurrence resulting in a serious medical condition demanding immediate medical attention, for which the patient enters the hospital through its emergency room or trauma center, or necessitated by a *public health emergency declared pursuant to s. 381.00315* shall not be held liable for any civil damages as a result of such medical care or treatment unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

2. The immunity provided by this paragraph does not apply to damages as a result of any act or omission of providing medical care or treatment:

a. Which occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the immunity provided by this paragraph applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following the surgery; or

b. Unrelated to the original medical emergency.

3. For purposes of this paragraph, "reckless disregard" as it applies to a given health care provider rendering emergency medical services shall be such conduct which a health care provider knew or should have known, at the time such services were rendered, would be likely to result in injury so as to affect the life or health of another, taking into account the following to the extent they may be present;

a. The extent or serious nature of the circumstances prevailing.

b. The lack of time or ability to obtain appropriate consultation.

c. The lack of a prior patient-physician relationship.

d. The inability to obtain an appropriate medical history of the patient.

e. The time constraints imposed by coexisting emergencies.

4. Every emergency care facility granted immunity under this paragraph shall accept and treat all emergency care patients within the operational capacity of such facility without regard to ability to pay, including patients transferred from another emergency care facility or other health care provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of an emergency care facility to comply with this subparagraph constitutes grounds for the department to initiate disciplinary action against the facility pursuant to chapter 395.

Section 95. Paragraph (k) of subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(k) Research: An additional \$5 fee shall be added to each new system construction permit issued ~~during fiscal years 1996-2002~~ to be used for onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

The funds collected pursuant to this subsection must be deposited in a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655.

Section 96. Part IV of chapter 489, Florida Statutes, consisting of sections 489.661, 489.662, 489.663, 489.664, 489.665, 489.666, 489.667, and 489.668, is created to read:

PART IV

PORTABLE RESTROOM CONTRACTING

489.661 *Definitions.—As used in this part:*

(1) "Department" means the Department of Health.

(2) "Portable restroom contractor" means a portable restroom contractor whose services are unlimited in the portable restroom trade who has had at least 3 years' experience as a Florida-registered portable restroom contractor, who has knowledge of state health code law and rules, and who has the experience, knowledge, and skills to handle, deliver, and pick up sanitary portable restrooms, to install, safely handle, and maintain portable holding tanks, and to handle, transport, and dispose of domestic portable restroom and portable holding tank wastewater.

489.662 *Registration required.—A person shall not hold himself or herself out as a portable restroom contractor in this state unless he or she is registered by the department in accordance with the provisions of this part. However, nothing in this part prohibits any person licensed pursuant to s. 489.105(3)(m) in this state from engaging in the profession for which he or she is licensed.*

489.663 *Administration of part; registration qualifications; examination.—*

(1) *Each person desiring to be registered pursuant to this part shall apply to the department in writing upon forms prepared and furnished by the department.*

(2) *The department shall administer, coordinate, and enforce the provisions of this part, provide qualifications for applicants, administer the examination for applicants, and be responsible for the granting of certificates of registration to qualified persons.*

(3) *The department shall adopt reasonable rules pursuant to ss. 120.536(1) and 120.54 to administer this part, including, but not limited to, rules that establish ethical standards of practice, requirements for registering as a contractor, requirements for obtaining an initial or renewal certificate of registration, disciplinary guidelines, and requirements for the certification of partnerships and corporations. The department may amend or repeal the rules in accordance with chapter 120, the Administrative Procedure Act.*

(4) *To be eligible for registration by the department as a portable restroom contractor, the applicant shall:*

(a) *Be of good moral character. In considering good moral character, the department may consider any matter that has a substantial connection between the good moral character of the applicant and the professional responsibilities of a registered contractor, including, but not limited to, the applicant being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any*

jurisdiction that directly relates to the practice of contracting or the ability to practice contracting, and previous disciplinary action involving portable restroom contracting, where all judicial reviews have been completed.

(b) Pass an examination approved by the department that demonstrates that the applicant has a fundamental knowledge of the state laws relating to the installation, maintenance, and wastewater disposal of portable restrooms, portable sinks, and portable holding tanks.

(c) Be at least 18 years of age.

(d) Have a total of at least 3 years of active experience serving an apprenticeship as a skilled worker under the supervision and control of a registered portable restroom contractor. Related work experience or educational experience may be substituted for no more than 2 years of active contracting experience. Each 30 hours of coursework approved by the department will substitute for 6 months of work experience. Out-of-state work experience shall be accepted on a year-for-year basis for any applicant who demonstrates that he or she holds a current license issued by another state for portable restroom contracting that was issued upon satisfactory completion of an examination and continuing education courses that are equivalent to the requirements in this state. Individuals from a state with no state certification who have successfully completed a written examination provided by the Portable Sanitation Association International shall only be required to take the written portion of the examination that includes state health code law and rules. For purposes of this section, an equivalent examination must include the topics of state health code law and rules applicable to portable restrooms and the knowledge required to handle, deliver, and pick up sanitary portable restrooms; to install, handle, and maintain portable holding tanks; and to handle, transport, and dispose of domestic portable restroom and portable holding tank wastewater. A person employed by and under the supervision of a licensed contractor shall be granted up to 2 years of related work experience.

(e) Have not had a registration revoked, the effective date of which was less than 5 years before the application.

(5) The department shall provide each applicant for registration pursuant to this part with a copy of this part and any rules adopted under this part. The department may also prepare and disseminate such other material and questionnaires as it deems necessary to effectuate the registration provisions of this part.

489.664 *Registration renewal.*—The department shall prescribe by rule the method for approval of continuing education courses and for renewal of annual registration. At a minimum, annual renewal shall include continuing education requirements of not less than 6 classroom hours annually for portable restroom contractors.

489.665 *Certification of partnerships and corporations.*—

(1) The practice of or the offer to practice portable restroom contracting services by registrants through a parent corporation, corporation, subsidiary of a corporation, or partnership offering portable restroom contracting services to the public through registrants under this chapter as agents, employers, officers, or partners is permitted, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act on its behalf as portable restroom contractors in this state are registered as provided by this part, and further provided that the corporation or partnership has been issued a certificate of authorization by the department as provided in this section. A registered contractor may not be the sole qualifying contractor for more than one business that requests a certificate of authorization. A business organization that loses its qualifying contractor has 60 days following the date the qualifier terminates his or her affiliation within which to obtain another qualifying contractor. During this period, the business organization may complete any existing contract or continuing contract, but may not undertake any new contract. This period may be extended once by the department for an additional 60 days upon a showing of good cause. Nothing in this section shall be construed to mean that a

certificate of registration to practice portable restroom contracting shall be held by a corporation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing portable restroom contracting be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering portable restroom contracting services to the public, except that when an individual is practicing portable restroom contracting in his or her own given name, he or she shall not be required to register under this section.

(3) Each certification of authorization shall be renewed every 2 years. Each partnership and corporation certified under this section shall notify the department within 1 month after any change in the information contained in the application upon which the certification is based.

(4) Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered portable restroom contractor.

(5) When a certificate of authorization has been revoked, any person authorized by law to provide portable restroom contracting services may not use the name or fictitious name of the entity whose certificate was revoked, or any other identifiers for the entity, including telephone numbers, advertisements, or logos.

489.666 *Suspension or revocation of registration.*—A certificate of registration may be suspended or revoked upon a showing that the registrant has:

(1) Violated any provision of this part.

(2) Violated any lawful order or rule rendered or adopted by the department.

(3) Obtained his or her registration or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.

(4) Been found guilty of gross misconduct in the pursuit of his or her profession.

489.667 *Fees; establishment.*—

(1) The department shall, by rule, establish fees as follows:

(a) For portable restroom contractor registration:

1. Application and examination fee: not less than \$25 nor more than \$75.

2. Initial registration fee: not less than \$50 nor more than \$100.

3. Renewal of registration fee: not less than \$50 nor more than \$100.

(b) Certification of partnerships and corporations: not less than \$100 nor more than \$250.

(2) Fees established pursuant to subsection (1) shall be based on the actual costs incurred by the department in carrying out its registration and other related responsibilities under this part.

489.668 *Penalties and prohibitions.*—

(1) Any person who violates any provision of this part commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The department may deny a registration if it determines that an applicant does not meet all requirements of this part or has violated any provision of this part. Any applicant aggrieved by such denial shall be entitled to a hearing, after reasonable notice thereof, upon filing a written request for such hearing in accordance with chapter 120.

Section 97. Subsection (1) of section 491.0057, Florida Statutes, is amended to read:

491.0057 Dual licensure as a marriage and family therapist.—The department shall license as a marriage and family therapist any person who demonstrates to the board that he or she:

(1)(a) Holds a valid, active license as a psychologist under chapter 490 or,

(b) Is as a clinical social worker or mental health counselor under this chapter, or is certified under s. 464.012 as an advanced registered nurse practitioner who has been determined by the Board of Nursing as a specialist in psychiatric mental health, and demonstrates equivalent education and training to that specified in Ch. 491.005(3)(c).

Section 98. Subsection (3) of section 627.638, Florida Statutes, is added to read:

627.638 Direct payment for hospital, medical services.—

(3) Under any health insurance policy insuring against loss or expense due to hospital confinement or to medical and related services, payment of benefits shall be made directly to any recognized hospital, doctor, or other person who provided services for the treatment of a psychological disorder or treatment for substance abuse, including drug and alcohol abuse, when the treatment is in accordance with the provisions of the policy and the insured specifically authorizes direct payment of benefits. Payments shall be made under this section, notwithstanding any contrary provisions in the health insurance contract. This subsection applies to all health insurance policies now or hereafter in force as of the effective date of this act.

Section 99. Subsection (1) of section 766.101, Florida Statutes, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term “medical review committee” or “committee” means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

i. A peer review or utilization review committee organized under chapter 440,

j. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, or

k. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465, or

l. A committee established by a university board of trustees, or

m. A committee comprised of faculty, residents, students, and administrators of an accredited college of medicine, nursing or other health care discipline.

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

(b) The term “health care providers” means physicians licensed under chapter 458, osteopathic physicians licensed under chapter 459, podiatric physicians licensed under chapter 461, optometrists licensed under chapter 463, dentists licensed under chapter 466, chiropractic physicians licensed under chapter 460, pharmacists licensed under chapter 465, or hospitals or ambulatory surgical centers licensed under chapter 395.

Section 100. Effective upon becoming law, subsection (10) of section 627.357 is amended to read:

627.357 Medical malpractice self-insurance.—

(10) An application to form a self-insurance fund under this section must be filed with the department before October 1, 2002. All self-insurance funds making application under this section between March 1, 2002 and October 1, 2002 and created after March 1, 2002 must apply for a certificate of authority to become an admitted insurance company by October 1, 2007. ~~A self-insurance fund may not be formed under this section after October 1, 1992.~~

Section 101. Except as otherwise provided herein, this act shall take effect July 1, 2002.

And the title is amended as follows:

On page ,
remove: Everything before the enacting clause

and insert: An act relating to health care and health professional responsibility; transferring to the Department of Health the powers, duties, functions, and assets that relate to the consumer complaint services, investigations, and prosecutorial services performed by the Agency for Health Care Administration under contract with the department; transferring full-time equivalent positions and the practitioner regulation component from the agency to the department; amending s. 20.43, F.S.; deleting the provision authorizing the department to enter into such contract with the agency, to conform; updating a reference to provide the name of a regulatory board under the Division of Medical Quality Assurance; requiring the Office of Legislative Services to develop a business plan for the Board of Dentistry; providing an appropriation; requiring a report to the Governor and Legislature; requiring the Department of Health to contract for the implementation of the electronic continuing education tracking system and requiring said system to be compatible and integrated with the department’s licensure and renewal system; amending s. 456.057, F.S.; authorizing specified persons to release certain medical records to a custodian upon board order; exempting such

persons from liability for the release of such records; amending s. 456.072, F.S.; providing additional penalties to be imposed on certain health care practitioners relating to notice to patients concerning availability and access to medical records; amending s. 456.076, F.S.; providing additional conditions for impaired practitioners to enroll in a treatment program as an alternative to discipline; amending s. 456.0375, F.S.; revising the definition of "clinic" to exempt public college and university clinics from medical clinic registration and to clarify when a health care practitioner may supervise another health care practitioner; amending s. 456.072, F.S.; revising grounds for disciplinary action relating to performing health care services improperly and to leaving foreign bodies in patients; amending s. 631.57, F.S.; exempting medical malpractice insurance premiums from an assessment; amending s. 395.002, F.S.; defining "medically unnecessary procedure"; amending s. 394.4787, F.S.; conforming a cross reference; amending s. 395.0161, F.S.; providing rulemaking authority relating to inspections and investigations of facilities; amending s. 395.0197, F.S.; revising requirements for internal risk management programs; amending s. 465.019, F.S.; revising the definition of "class II institutional pharmacies" to allow dispensing and consulting services to hospice patients under certain circumstances; providing legislative findings relating to responsiveness to emergencies and disasters; amending s. 381.0011, F.S.; revising duties of the Department of Health; authorizing the State Health Officer to take specified emergency actions to protect the public health; amending s. 381.0034, F.S.; providing a requirement for instruction of certain health care licensees on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as a condition of relicensure; amending s. 381.0035, F.S.; providing a requirement for instruction of employees at certain health care facilities on conditions caused by nuclear, biological, and chemical terrorism, upon initial employment, and, in lieu of the requirement of instruction on HIV and AIDS, as biennial continuing education; providing an exception; creating s. 381.0421, F.S.; requiring postsecondary education institutions to provide information on hepatitis B; requiring individuals residing in on-campus housing to document vaccinations against hepatitis B or sign a waiver; amending ss. 395.1027 and 401.245, F.S.; correcting cross references; amending s. 401.23, F.S.; revising definitions of "advanced life support" and "basic life support" and defining "emergency medical condition"; amending s. 401.252, F.S.; authorizing physician assistants to conduct interfacility transfers in a permitted ambulance under certain circumstances; amending s. 401.27, F.S.; providing that the course on conditions caused by nuclear, biological, and chemical terrorism shall count toward the total required hours for biennial recertification of emergency medical technicians and paramedics; amending s. 456.033, F.S.; providing a requirement for instruction of certain health care practitioners on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as part of biennial relicensure; creating s. 456.0345, F.S.; providing continuing education credits to health care practitioners for certain life support training; amending s. 456.072, F.S.; conforming provisions relating to grounds for disciplinary actions to changes in health care practitioners' course requirements; amending s. 456.38, F.S.; revising provisions relating to the health care practitioner registry for disasters and emergencies; prohibiting certain termination of or discrimination against a practitioner providing disaster medical assistance; amending ss. 458.319 and 459.008, F.S.; conforming provisions relating to exceptions to continuing education requirements for physicians and osteopathic physicians; amending s. 765.512, F.S., relating to anatomical gifts; prohibiting modification of a donor's intent; providing that a donor document is legally binding; authorizing specified persons to furnish donors' medical records upon request; amending s. 765.516, F.S.; revising procedures by which the terms of an anatomical gift may be amended or the gift may be revoked; amending s. 456.073, F.S.; revising procedures and timeframes for formal hearings of health care practitioner disciplinary cases; requiring a joint audit of hearings and their billing formulas and a report to the Legislature; amending s. 456.076, F.S.; requiring each impaired practitioner to pay a portion of the cost of the consultant and impaired practitioner program and the full cost of the required treatment program or plan; providing certain exceptions; repealing s. 456.047, F.S., to terminate the

standardized credentialing program for health care practitioners; prohibiting the refund of moneys collected through the credentialing program; amending ss. 456.039, 456.0391, 456.072, and 456.077, F.S.; removing references, to conform; amending s. 458.309, F.S.; requiring accreditation of physician offices in which surgery is performed; amending s. 459.005, F.S.; requiring accreditation of osteopathic physician offices in which surgery is performed; amending s. 456.004, F.S., relating to powers and duties of the department; requiring performance measures for certain entities; providing procedures for considering board requests to privatize regulatory functions; amending s. 456.009, F.S.; requiring performance measures for certain legal and investigative services and annual review of such services to determine whether such performance measures are being met; amending s. 456.011, F.S.; requiring regulatory board committee meetings, including probable cause panels, to be held electronically unless certain conditions are met; providing for determination of location of in-person meetings; amending s. 456.026, F.S.; requiring inclusion of performance measures for certain entities in the department's annual report to the Legislature; creating s. 458.3093, F.S.; requiring submission of credentials for initial physician licensure to a national licensure verification service; requiring verification of such credentials by that service or an equivalent program; creating s. 459.0053, F.S.; requiring submission of credentials for initial osteopathic physician licensure to a national licensure verification service; requiring verification of such credentials by that service, a specified association, or an equivalent program; amending ss. 458.331, 459.015, and 627.912, F.S.; raising the malpractice closed claims reporting requirement amount; amending s. 456.073, F.S.; requiring health care practitioner licensees to pay the actual costs of investigation and prosecution under certain circumstances; requiring cases in which no probable cause has been found to be closed within a specified period of time; requiring a study of the field office structure and organization of the Agency for Health Care Administration and a report to the Legislature; amending s. 456.025, F.S.; eliminating certain restrictions on the setting of licensure renewal fees for health care practitioners; creating s. 456.0165, F.S.; restricting the costs that may be charged by educational institutions hosting health care practitioner licensure examinations; requiring health care practitioner licensure and licensure renewal fees to be set at the statutory fee cap or at graduated levels equal to certain percentages of the actual regulatory costs, whichever is less; amending s. 468.301, F.S.; revising the definition of "direct supervision" applicable to the regulation of radiologic technology; amending s. 468.302, F.S.; authorizing certified nuclear medicine technologists to administer X radiation from certain devices under certain circumstances; exempting certain persons from radiologic technologist certification and providing certain training requirements for such exemption; amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination; requiring applications for health care practitioner licensure and licensure renewal to be submitted electronically beginning July 1, 2003; annually adjusting by 2.5 percent the statutory fee caps applicable to regulation of health care practitioners; renumbering ss. 381.0602, 381.6021, 381.6022, 381.6023, 381.6024, and 381.6026, F.S., and renumbering and amending ss. 381.60225 and 381.6025, F.S., to move provisions relating to organ and tissue procurement, donation, and transplantation to part V, ch. 765, F.S., relating to anatomical gifts; revising cross references, to conform; amending ss. 395.2050, 409.815, 765.5216, and 765.522, F.S.; revising cross references, to conform; providing coverage for certain organ transplant services; amending s. 409.915, F.S.; exempting counties from contributions for such services; amending s. 456.074, F.S.; providing for an emergency order suspending the license of any health care practitioner who has defaulted on a student loan issued or guaranteed by the state or the Federal Government; amending s. 456.072, F.S., and reenacting subsection (2), relating to disciplinary actions; clarifying the ground for disciplinary action for failing to perform a statutory or legal obligation to include failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan and for

failing to comply with service scholarship obligations; providing penalties; directing the Department of Health to obtain certain information from the United States Department of Health and Human Services on a monthly basis and to include certain information in its annual report to the Legislature; reenacting ss. 456.026 and 456.073, F.S., relating to the annual report and disciplinary proceedings, respectively, to conform; providing applicability; amending s. 400.925, F.S.; eliminating the regulation of certain home medical equipment by the Agency for Health Care Administration; amending s. 765.104, F.S.; authorizing a patient whose legal disability is removed to amend or revoke the recognition of a medical proxy and any uncompleted decision made by that proxy; specifying when the amendment or revocation takes effect; amending s. 408.036, F.S., to exempt satellite hospitals from certificate of need review; amends s. 395.002, F.S., to provide a definition of "surgical first assistant;" amends s. 395.0197, F.S., to allow a operating surgeon to choose the surgical first assistant under certain conditions; amending s. 408.043, F.S.; specifying that certain hospitals in certain counties may add additional beds without agency review under certain circumstances; amending s. 408.036, F.S.; revising the exemptions from certificate-of-need requirements for certain open heart surgery programs and for a satellite hospital; amending s. 768.13, F.S.; providing immunity from civil damages under the Good Samaritan Act for actions taken in response to situations during a declared public health emergency; revising the circumstances under which immunity from civil damages is extended to actions taken by persons licensed to practice medicine; amending s. 381.0066, F.S.; authorizing the continuation of permit fees for system construction permits for onsite sewage treatment and disposal systems; creating part IV of chapter 489, F.S., relating to portable restroom contracting; providing definitions; requiring registration and providing requirements therefor, including an examination; providing for administration; providing rulemaking authority; providing for renewal of registration, including continuing education; providing for certification of partnerships and corporations; providing grounds for suspension or revocation of registration; providing fees; providing penalties and prohibitions; amends s. 627.638, F.S., to require direct payments under certain circumstances; providing effective dates.

Rep. Farkas moved the adoption of the amendment.

Point of Order

Rep. Ryan raised a point of order, under Rule 12.9, that the amendment was not germane. On motion by Rep. Goodlette, further consideration of **CS/HB 507**, with pending amendment and point of order, was temporarily postponed under Rule 11.10.

CS/HB 137—A bill to be entitled An act relating to persons in a position of trust and confidence; amending s. 825.101, F.S.; defining the term "position of trust and confidence"; amending s. 772.11, F.S.; prescribing civil remedies for theft and other offenses in which the victim is an elderly or disabled person; providing that a violation of patient rights is not a cause of action under the act; providing for continuation of a cause of action upon the death of the elderly or disabled person; authorizing the court to advance a trial on the docket which involves a victim who is an elderly or disabled person; creating s. 744.1083, F.S.; providing guidelines for the registration of professional guardians; authorizing rulemaking; authorizing certain financial institutions to register; amending s. 744.309, F.S.; revising qualifications for trust companies that may be appointed guardians; amending s. 744.3135, F.S.; revising credit and background screening requirements for guardians; providing such requirements for employees of a professional guardian who have a fiduciary responsibility to the ward; amending s. 744.446, F.S.; providing for court actions to protect the ward in the event of a breach of fiduciary duty by the guardian; amending s. 744.534, F.S.; revising provisions relating to disposition of unclaimed funds; amending s. 744.703, F.S.; authorizing the establishment of public guardian offices; providing for the staffing of offices; creating s. 744.7082, F.S.; defining the term "direct-support organization"; providing for the purposes of a direct-support organization; amending s. 744.387, F.S.; increasing the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a legal guardian; amending s. 744.301, F.S.;

increasing the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a guardian ad litem; amending s. 765.104, F.S.; authorizing a patient whose legal disability is removed to amend or revoke the recognition of a medical proxy and any uncompleted decision made by that proxy; specifying when the amendment or revocation takes effect; amending s. 765.401, F.S.; clarifying provisions relating to medical proxies for incapacitated persons; providing priority of a guardian advocate who has been authorized to consent to medical treatment for a person with a developmental disability; providing an effective date.

—was read the second time by title.

REPRESENTATIVE BALL IN THE CHAIR

Representative(s) Fasano offered the following:

(Amendment Bar Code: 065233)

Amendment 1 (with title amendment)—On page 8, line 17, of the bill

after the period, insert: *This section shall not apply to a professional guardian, or to the employees of a professional guardian, that is a trust company, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state.*

And the title is amended as follows:

On page 1, line 26,

after the first semicolon, insert: providing applicability;

Rep. Fasano moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 295—A bill to be entitled An act relating to persons with disabilities; creating s. 413.402, F.S.; directing the Florida Association of Centers for Independent Living to develop a personal care attendant pilot program to serve persons with spinal cord injuries; providing for memorandums of understanding with specified entities; providing eligibility for pilot program participation; providing for selection and training of participants and personal care attendants; providing for use of a licensed nurse registry to recruit and screen participants and act as a fiscal intermediary; providing for assessment of participants for work-related training programs; providing for development of a plan for program implementation; requiring a report to the Legislature; providing for implementation on a specified date; directing the Department of Revenue to develop and implement a tax collection enforcement diversion program; providing for coordination with the Florida Association of Centers for Independent Living, the Florida Prosecuting Attorneys Association, and the state attorneys' offices; providing for deposit and use of funds collected; directing the Revenue Estimating Conference to make certain annual projections; providing an appropriation; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 751—A bill to be entitled An act relating to community mental health services; requiring that the Department of Children and Family Services use certain funds to expand the provision of crisis services and community mental health services; requiring the Department of Children and Family Services in collaboration with the Agency for Health Care Administration to develop estimates of the need for mental health services; requiring estimates to be submitted annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring that new funds for crisis services or community mental health services be appropriated in a lump-sum category; requiring a spending plan to be submitted to the Governor; requiring that the spending plan include a schedule for phasing in new

community mental health services; requiring the department to submit reports concerning its progress toward expanding community mental health services; requiring that certain crisis services and mental health services be provided by the state's community mental health system by specified dates to the extent of available appropriations; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 525—A bill to be entitled An act relating to prostate cancer; establishing a Prostate Cancer Awareness Program within the Department of Health; specifying purpose, activities, administration, and funding sources for the program; creating a prostate cancer advisory committee; providing for appointment of members; providing for reimbursement of expenses; providing an effective date.

—was read the second time by title.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 705805)

Amendment 1—On page 3, between lines 23 and 24, of the bill

insert:

4. *One person who has health education and social marketing experience.*

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 425823)

Amendment 2 (with title amendment)—On page 2, between lines 16 and 17, of the bill

insert:

Section 1. Section 385.210, Florida Statutes, is created to read:

385.210 Arthritis prevention and education.—

(1) **SHORT TITLE.**—*This act may be cited as the “Arthritis Prevention and Education Act.”*

(2) **LEGISLATIVE FINDINGS.**—*The Legislature finds the following:*

(a) *Arthritis encompasses more than 100 diseases and conditions that affect joints, the surrounding tissues, and other connective tissues.*

(b) *Arthritis is the leading cause of disability in the United States, limiting daily activities for more than 7 million citizens.*

(c) *This disease has a significant impact on quality of life, not only for the individual who experiences its painful symptoms and resulting disability, but also for family members and caregivers.*

(d) *There are enormous economic and social costs associated with treating arthritis and its complications, which are estimated at almost \$80 billion annually in the United States.*

(e) *Currently, the challenge exists to ensure delivery of effective, but often underutilized, interventions that are necessary in the prevention or reduction of arthritis-related pain and disability.*

(f) *Although there exists a large quantity of public information about arthritis, including programs that can dramatically impact early diagnosis and treatment as well as the quality of life of people with arthritis, such information remains inadequately disseminated and insufficient in addressing the needs of specific diverse populations and other underserved groups.*

(g) *The Arthritis Foundation, Florida Chapter, the Centers for Disease Control and Prevention, and the Association of State and*

Territorial Health Officials have led the development of a public health strategy, the National Arthritis Action Plan, to respond to this challenge.

(h) *Educating the public and the health care community throughout the state about this devastating disease is of paramount importance and is in every respect in the public interest and to the benefit of all residents of the state.*

(3) **PURPOSES.**—*The purposes of this section are to:*

(a) *Create and foster a statewide program that promotes public awareness and increases knowledge about the causes of arthritis, the importance of early diagnosis and appropriate management, effective prevention strategies, and pain prevention and management.*

(b) *Develop knowledge and enhance understanding of arthritis by disseminating educational materials and information on research results, services provided, and strategies for prevention and education to patients, health professionals, and the public.*

(c) *Establish a solid scientific base of knowledge on the prevention of arthritis and related disabilities through surveillance, epidemiology, and prevention research.*

(d) *Utilize educational and training resources and services developed by organizations with appropriate expertise and knowledge of arthritis and to use available technical assistance.*

(e) *Evaluate the need for improving the quality and accessibility of existing community-based arthritis services.*

(f) *Heighten awareness among state and local health and human services officials, health professionals and providers, and policymakers about the prevention, detection, and treatment of arthritis.*

(g) *Implement and coordinate state and local programs and services to reduce the public health burden of arthritis.*

(h) *Provide lasting improvements in the delivery of health care for individuals with arthritis and their families, thus improving their quality of life while also containing health care costs.*

(4) **ARTHRITIS PREVENTION AND EDUCATION PROGRAM.**—

(a) **Program establishment.**—*To the extent that funds are specifically made available for this purpose, the Department of Health shall establish, promote, and maintain an arthritis prevention and education program to raise public awareness, educate consumers, and educate and train health professionals, teachers, and human services providers, and for other purposes as provided in this section.*

(b) **Needs assessment.**—*The department shall conduct a needs assessment to identify:*

1. *Epidemiological and other research on arthritis being conducted within the state.*

2. *Available technical assistance and educational materials and programs on arthritis nationwide and within the state.*

3. *The level of public and professional awareness of arthritis.*

4. *The needs of people with arthritis, their families, and caregivers.*

5. *The educational and support service needs of health care providers, including physicians, nurses, managed care organizations, and other health care providers, relating to arthritis.*

6. *The services available to persons with arthritis.*

7. *The existence of arthritis treatment, self-management, physical activity, and other education programs.*

8. *The existence of rehabilitation services for people with arthritis.*

(c) **Advisory panel on arthritis.**—*The department shall establish and coordinate an advisory panel on arthritis to provide nongovernmental input regarding the arthritis prevention and education program. Membership shall include, but is not limited to, persons with arthritis,*

public health educators, medical experts on arthritis, providers of arthritis health care, persons knowledgeable in health promotion and education, and representatives of national arthritis organizations and their local chapters.

(d) *Public awareness.*—The department shall use, but is not limited to, strategies consistent with the National Arthritis Action Plan and existing state planning efforts to raise public awareness and knowledge on the causes and nature of arthritis, personal risk factors, the value of prevention and early detection, ways to minimize preventable pain, and options for diagnosing and treating the disease.

(5) *FUNDING.*—

(a) *Contributions.*—The Secretary of Health may accept grants, services, and property from the Federal Government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the obligations of this program.

(b) *Federal waivers.*—The secretary shall seek any federal waiver or waivers that may be necessary to maximize funds from the Federal Government to implement this program.

And the title is amended as follows:

On page 1, line 2,
remove: said line

and insert: An act relating to chronic diseases; creating s. 385.210, F.S.; creating the “Arthritis Prevention and Education Act”; providing legislative findings; providing purposes; directing the Department of Health to establish an arthritis prevention and education program; requiring the department to conduct a needs assessment; providing for establishment of an advisory panel on arthritis; providing for implementation of a public awareness effort; providing for funding through contributions; directing the Secretary of Health to seek federal waivers as necessary to maximize federal funding;

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 255—A bill to be entitled An act relating to nursing homes and related health care facilities; amending s. 400.235, F.S.; revising membership and terms of office of the Governor’s Panel on Excellence in Long-Term Care; providing for selection of a panel chairperson; amending s. 400.4195, F.S.; providing conditions under which the prohibition against payment of referral fees by assisted living facilities does not apply; authorizing the Agency for Health Care Administration to adopt rules; amending s. 817.505, F.S.; providing that certain penalties for patient brokering do not apply under such conditions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 755 was taken up. On motion by Rep. Murman, the rules were waived and CS for CS for SB 632 was substituted for CS/HB 755. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 632—A bill to be entitled An act relating to out-of-home care; repealing s. 39.521(5), F.S., relating to the mandatory assessment of specified children for placement in licensed residential group care; creating s. 39.523, F.S.; prescribing procedures for the mandatory assessment of certain children for placement in licensed residential group care; providing for reports; providing for a residential group care appropriations category in the General Appropriations Act; providing for funding increases to be appropriated in a lump-sum category; specifying that the release of certain funds is contingent on the approval of a spending plan; prescribing elements of the plan; authorizing one-time startup funding; amending s. 39.407, F.S.; clarifying that the Department of Children and Family Services may place a child who is in its custody in a residential treatment center without prior approval of the court; amending s. 409.1671, F.S.; providing intent that the Department of Children and Family Services

and the Department of Juvenile Justice establish an interagency agreement regarding referral to residential group care facilities; specifying that a residential group care facility must be licensed as a child-caring agency; requiring such facilities serving certain children to meet specified staff qualifications; redefining and adding terms; redefining the term “serious behavioral problems”; authorizing the department to adopt rules; specifying timeframes for initiating and for completing privatization of foster care and related services; providing for the establishment of a model comprehensive residential services program in specified counties; providing that community-based providers and subcontractors require employees to obtain bodily injury liability insurance on personal automobiles; providing certain immunity from liability when transporting clients in privately owned automobiles; directing the Department of Children and Family Services to adopt written policies and procedures for contract monitoring of community-based providers; modifying the requirement for community-based providers to furnish information to the department; modifying the conditions under which a provider may close a case; modifying the requirements concerning dual licensure of foster homes; eliminating the authority for a risk pool; requiring the development of a proposal for a shared-earnings program; providing direction for the development of the proposal; providing for submission of the proposal to the Legislative Budget Commission and for submission to the Legislature under certain conditions; expanding the program relating to excess federal earnings and certain additional state funds to additional entities; eliminating a specified expiration for this program; requiring that the Legislature appropriate a lump sum in the Administered Funds Program each year for a specified purpose; specifying the type of bond that may be required; eliminating an obsolete review requirement; amending s. 409.1676, F.S.; removing a reference to specific districts and regions of the department; amending s. 409.175, F.S.; defining the term “family foster group home”; amending s. 409.906, F.S.; expanding the authority for the establishment of child welfare targeted case management projects; eliminating reference to a pilot project; eliminating the requirement to report to the Child Welfare Estimating Conference regarding targeted case management; directing the Office of Program Policy Analysis and Government Accountability, in consultation with the Agency for Health Care Administration, to conduct a review of the process for placing children for residential mental health treatment; providing for a report to the Governor and Legislature; providing an effective date.

—was read the second time by title.

On motion by Rep. Murman, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Murman offered the following:

(Amendment Bar Code: 734597)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. *Subsection (5) of section 39.521, Florida Statutes, is repealed.*

Section 2. Section 39.523, Florida Statutes, is created to read:

39.523 Placement in residential group care.—

(1) *Except as provided in s. 39.407, any dependent child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once and who is a child with extraordinary needs as defined in s. 409.1676 must be assessed for placement in licensed residential group care. The assessment procedures shall be conducted by the department or its agent and shall incorporate and address current and historical information from any psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; information regarding the placement of any siblings of the child and the impact of the child’s placement in residential group care on*

the child's siblings; the circumstances necessitating the moves of the child while in family foster care and the recommendations of the former foster families, if available; the status of the child's case plan and a determination as to the impact of placing the child in residential group care on the goals of the case plan; the age, maturity, and desires of the child concerning placement; the availability of any less restrictive, more family-like setting for the child in which the foster parents have the necessary training and skills for providing a suitable placement for the child; and any other information concerning the availability of suitable residential group care. If such placement is determined to be appropriate as a result of this procedure, the child must be placed in residential group care, if available.

(2) The results of the assessment described in subsection (1) and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(3) Any residential group care facility that receives children under the provisions of this subsection shall establish special permanency teams dedicated to overcoming the special permanency challenges presented by this population of children. Each facility shall report to the department its success in achieving permanency for children placed by the department in its care at intervals that allow the current information to be provided to the court at each judicial review for the child.

(4) This section does not prohibit the department from assessing and placing children who do not meet the criteria in subsection (1) in residential group care if such placement is the most appropriate placement for such children.

(5)(a) By December 1 of each year, the department shall report to the Legislature on the placement of children in licensed residential group care during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed. The department shall maintain data specifying the number of children who were referred to licensed residential child care for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report to the Legislature due on December 1, so that the Legislature may consider this information in developing the General Appropriations Act.

(b) As part of the report required in paragraph (a), the department shall also provide a detailed account of the expenditures incurred for "Special Categories: Grants and Aids – Specialized Residential Group Care Services" for the fiscal year immediately preceding the date of the report. This section of the report must include whatever supporting data is necessary to demonstrate full compliance with paragraph (6)(c). The document must present the information by district and must specify, at a minimum, the number of additional beds, the average rate per bed, the number of additional persons served, and a description of the enhanced and expanded services provided.

(6)(a) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

(b) Each year, funds included in the General Appropriations Act for Enhanced Residential Group Care as provided for in s. 409.1676, shall be appropriated in a separately identified special category that is designated in the act as "Special Categories: Grants and Aids – Specialized Residential Group Care Services."

(c) Each fiscal year, all funding increases for Enhanced Residential Group Care as provided in s. 409.1676, which are included in the General Appropriations Act shall be appropriated in a lump-sum category as defined in s. 216.011(1)(aa). In accordance with s. 216.181(6)(a), the Executive Office of the Governor shall require the department to submit a spending plan that identifies the residential group care bed capacity shortage throughout the state and proposes a

distribution formula by district which addresses the reported deficiencies. The spending plan must have as its first priority the reduction or elimination of any bed shortage identified and must also provide for program enhancements to ensure that residential group care programs meet a minimum level of expected performance and provide for expansion of the comprehensive residential group care services described in s. 409.1676. Annual appropriation increases appropriated in the lump-sum appropriation must be used in accordance with the provisions of the spending plan.

(d) Funds from "Special Categories: Grants and Aids – Specialized Residential Group Care Services" may be used as one-time startup funding for residential group care purposes that include, but are not limited to, remodeling or renovation of existing facilities, construction costs, leasing costs, purchase of equipment and furniture, site development, and other necessary and reasonable costs associated with the startup of facilities or programs upon the recommendation of the lead community-based provider if one exists and upon specific approval of the terms and conditions by the secretary of the department.

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

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent or person requesting custody of child.—

(5) Children who are in the legal custody of the department may be placed by the department, *without prior approval of the court*, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only pursuant to this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered pursuant to s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the Agency for Health Care Administration. This suitability assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department and to the guardian ad litem, who shall have the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem and the court having jurisdiction over the child and must provide the guardian ad litem and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, and to the guardian ad litem, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, and to the department.

(f) Within 30 days after admission, the residential treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit towards the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress towards achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 3 months after the child's admission to the residential treatment program. An independent review of the child's progress towards achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 3-month review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 3-month review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 3-month independent review by the qualified evaluators of the child's progress towards achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 4. Section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; privatization.—

(1)(a) It is the intent of the Legislature that the Department of Children and Family Services shall privatize the provision of foster care and related services statewide. It is further the Legislature's intent to encourage communities and other stakeholders in the well-being of children to participate in assuring that children are safe and well-nurtured. However, while recognizing that some local governments are presently funding portions of certain foster care and related services programs and may choose to expand such funding in the future, the Legislature does not intend by its privatization of foster care and related services that any county, municipality, or special district be required to assist in funding programs that previously have been funded by the state. Nothing in this paragraph prohibits any county, municipality, or special district from future voluntary funding participation in foster care and related services. As used in this section, the term "privatize" means to contract with competent, community-based agencies. The department shall submit a plan to accomplish privatization statewide, through a competitive process, phased in over a 3-year period beginning January 1, 2000. This plan must be developed with local community participation, including, but not limited to, input from community-based providers that are currently under contract with the department to furnish community-based foster care and related services, and must include a methodology for determining and transferring all available funds, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract. The methodology must provide for the transfer of funds appropriated and budgeted for all services and programs that have been incorporated into the project, including all management, capital (including current furniture and equipment), and administrative funds to accomplish the transfer of these programs. This methodology must address expected workload and at least the 3 previous years' experience in expenses and workload. With respect to any district or portion of a district in which privatization cannot be accomplished within the 3-year timeframe, the department must clearly state in its plan the reasons the timeframe cannot be met and the efforts that should be made to remediate the obstacles, which may include alternatives to total privatization, such as public-private partnerships. As used in this section, the term "related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification. Unless otherwise provided for, beginning in fiscal year 1999-2000, either the state attorney or the Office of the Attorney General shall provide child welfare legal services, pursuant to chapter 39 and other relevant provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee Counties. Such legal services shall commence and be effective, as soon as determined reasonably feasible by the respective state attorney or the Office of the Attorney General, after the privatization of associated programs and child protective investigations has occurred. When a private nonprofit agency

has received case management responsibilities, transferred from the state under this section, for a child who is sheltered or found to be dependent and who is assigned to the care of the privatization project, the agency may act as the child's guardian for the purpose of registering the child in school if a parent or guardian of the child is unavailable and his or her whereabouts cannot reasonably be ascertained. The private nonprofit agency may also seek emergency medical attention for such a child, but only if a parent or guardian of the child is unavailable, his or her whereabouts cannot reasonably be ascertained, and a court order for such emergency medical services cannot be obtained because of the severity of the emergency or because it is after normal working hours. However, the provider may not consent to sterilization, abortion, or termination of life support. If a child's parents' rights have been terminated, the nonprofit agency shall act as guardian of the child in all circumstances.

(b) It is the intent of the Legislature that the department will continue to work towards full privatization by initiating the competitive procurement process in each county by January 1, 2003. In order to provide for an adequate transition period to develop the necessary administrative and service delivery capacity in each community, the full transfer of all foster care and related services must be completed statewide by December 31, 2004.

(c)(b) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. The secretary of the department may authorize more than one eligible lead community-based provider within a single county when to do so will result in more effective delivery of foster care and related services. To compete for a privatization project, such agency must have:

1. The ability to coordinate, integrate, and manage all child protective services in the designated community in cooperation with child protective investigations.
2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.
3. The ability to provide directly, or contract for through a local network of providers, all necessary child protective services.
4. The willingness to accept accountability for meeting the outcomes and performance standards related to child protective services established by the Legislature and the Federal Government.
5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.
6. The willingness to ensure that each individual who provides child protective services completes the training required of child protective service workers by the Department of Children and Family Services.
7. The ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently being used by the Department of Children and Family Services.
8. *Written agreements with Healthy Families Florida lead entities in their community, pursuant to s. 409.153, to promote cooperative planning for the provision of prevention and intervention services.*

(d)(e)1. If attempts to competitively procure services through an eligible lead community-based provider as defined in paragraph *(c)(b)* do not produce a capable and willing agency, the department shall develop a plan in collaboration with the local community alliance. The plan must detail how the community will continue to implement privatization, to be accomplished by December 31, 2004, through competitively procuring either the specific components of foster care and related services or comprehensive services for defined eligible populations of children and families from qualified licensed agencies as part of its efforts to develop the local capacity for a community-based system of coordinated care. The plan must ensure local control over the management and

administration of the service provision in accordance with the intent of this section and may include recognized best business practices, including some form of public or private partnerships. In the absence of a community alliance, the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives for their comments.

2. The Legislature finds that the state has traditionally provided foster care services to children who have been the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services need to be privatized pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such privatization is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.

3. The Legislature further finds that, by requiring the following minimum levels of insurance, children in privatized foster care and related services will gain increased protection and rights of recovery in the event of injury than provided for in s. 768.28.

(e) In any county in which a service contract has not been executed by December 31, 2004, the department shall ensure access to a model comprehensive residential services program as described in s. 409.1677 which, without imposing undue financial, geographic, or other barriers, ensures reasonable and appropriate participation by the family in the child's program.

1. *In order to ensure that the program is operational by December 31, 2004, the department must, by December 31, 2003, begin the process of establishing access to a program in any county in which the department has not either entered into a transition contract or approved a community plan, as described in paragraph (d), which ensures full privatization by the statutory deadline.*

2. *The program must be procured through a competitive process.*

3. *The Legislature does not intend for the provisions of this paragraph to substitute for the requirement that full conversion to community-based care be accomplished.*

(f)(d) Other than an entity to which s. 768.28 applies, any eligible lead community-based provider, as defined in paragraph *(c)(b)*, or its employees or officers, except as otherwise provided in paragraph *(g)(e)*, must, as a part of its contract, obtain a minimum of \$1 million per claim/\$3 million per incident in general liability insurance coverage. *The eligible lead community-based provider must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of \$100,000 per claim, \$300,000 per incident, on their personal automobiles.* In any tort action brought against such an eligible lead community-based provider or employee, net economic damages shall be limited to \$1 million per liability claim and \$100,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such an eligible lead community-based provider, noneconomic damages shall be limited to \$200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76. The lead community-based provider shall not be liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(g)(e) The liability of an eligible lead community-based provider described in this section shall be exclusive and in place of all other

liability of such provider. The same immunities from liability enjoyed by such providers shall extend as well to each employee of the provider when such employee is acting in furtherance of the provider's business, including the transportation of clients served, as described in this subsection, in privately owned vehicles. Such immunities shall not be applicable to a provider or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same provider when each is operating in the furtherance of the provider's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a provider shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(h)(f) Any subcontractor of an eligible lead community-based provider, as defined in paragraph (c)(b), which is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (g)(e), must, as a part of its contract, obtain a minimum of \$1 million per claim/\$3 million per incident in general liability insurance coverage. *The subcontractor of an eligible lead community-based provider must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of \$100,000 per claim, \$300,000 per incident, on their personal automobiles.* In any tort action brought against such subcontractor or employee, net economic damages shall be limited to \$1 million per liability claim and \$100,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such subcontractor, noneconomic damages shall be limited to \$200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(i)(g) The liability of a subcontractor of an eligible lead community-based provider that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such subcontractor provider shall extend as well to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business, including the transportation of clients served, as described in this subsection, in privately owned vehicles. Such immunities shall not be applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or such acts proximately cause such injury or death; nor shall such immunities be applicable to employees of the same subcontractor when each is operating in the furtherance of the subcontractor's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. Culpable negligence is defined as reckless indifference or grossly careless disregard of human life.

(j)(h) The Legislature is cognizant of the increasing costs of goods and services each year and recognizes that fixing a set amount of compensation actually has the effect of a reduction in compensation each year. Accordingly, the conditional limitations on damages in this section shall be increased at the rate of 5 percent each year, prorated

from the effective date of this paragraph to the date at which damages subject to such limitations are awarded by final judgment or settlement.

(2)(a) The department may contract for the delivery, administration, or management of protective services, the services specified in subsection (1) relating to foster care, and other related services or programs, as appropriate. The department shall retain responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations. *The department must adopt written policies and procedures for monitoring the contract for delivery of services by lead community-based providers. These policies and procedures must, at a minimum, address the evaluation of fiscal accountability and program operations, including provider achievement of performance standards, provider monitoring of subcontractors, and timely followup of corrective actions for significant monitoring findings related to providers and subcontractors. These policies and procedures must also include provisions for reducing the duplication of the department's program monitoring activities both internally and with other agencies, to the extent possible. The department's written procedures must ensure that the written findings, conclusions, and recommendations from monitoring the contract for services of lead community-based providers are communicated to the director of the provider agency as expeditiously as possible.*

(b) Persons employed by the department in the provision of foster care and related services whose positions are being privatized pursuant to this statute shall be given hiring preference by the provider, if provider qualifications are met.

(3)(a) In order to help ensure a seamless child protection system, the department shall ensure that contracts entered into with community-based agencies pursuant to this section include provisions for a case-transfer process to determine the date that the community-based agency will initiate the appropriate services for a child and family. This case-transfer process must clearly identify the closure of the protective investigation and the initiation of service provision. At the point of case transfer, and at the conclusion of an investigation, the department must provide a complete summary of the findings of the investigation to the community-based agency.

(b) The contracts must also ensure that each community-based agency shall furnish information on its activities in all cases in client case records ~~regular status reports of its cases to the department as specified in the contract.~~ A provider may not discontinue services on any voluntary case without prior written notification to the department 30 days before planned case closure. *If the department disagrees with the recommended case closure date, written notification to the provider must be provided before the case closure date.* ~~without prior written notification to the department. After discontinuing services to a child or a child and family, the community-based agency must provide a written case summary, including its assessment of the child and family, to the department.~~

(c) The contract between the department and community-based agencies must include provisions that specify the procedures to be used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties' compliance with their respective obligations under the contract.

(4)(a) The department shall establish a quality assurance program for privatized services. The quality assurance program shall be based on standards established by a national accrediting organization such as the Council on Accreditation of Services for Families and Children, Inc. (COA) or CARF—the Rehabilitation Accreditation Commission. The department may develop a request for proposal for such oversight. This program must be developed and administered at a statewide level. The Legislature intends that the department be permitted to have limited flexibility to use funds for improving quality assurance. To this end, effective January 1, 2000, the department may transfer up to 0.125 percent of the total funds from categories used to pay for these contractually provided services, but the total amount of such transferred funds may not exceed \$300,000 in any fiscal year. When necessary, the department may establish, in accordance with s. 216.177, additional

positions that will be exclusively devoted to these functions. Any positions required under this paragraph may be established, notwithstanding ss. 216.262(1)(a) and 216.351. The department, in consultation with the community-based agencies that are undertaking the privatized projects, shall establish minimum thresholds for each component of service, consistent with standards established by the Legislature. Each program operated under contract with a community-based agency must be evaluated annually by the department. The department shall submit an annual report regarding quality performance, outcome measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, the minority leader of each house of the Legislature, and the Governor no later than January 31 of each year for each project in operation during the preceding fiscal year.

(b) The department shall use these findings in making recommendations to the Governor and the Legislature for future program and funding priorities in the child welfare system.

(5)(a) The community-based agency must comply with statutory requirements and agency rules in the provision of contractual services. Each foster home, therapeutic foster home, emergency shelter, or other placement facility operated by the community-based agency or agencies must be licensed by the Department of Children and Family Services under chapter 402 or this chapter. Each community-based agency must be licensed as a child-caring or child-placing agency by the department under this chapter. The department, in order to eliminate or reduce the number of duplicate inspections by various program offices, shall coordinate inspections required pursuant to licensure of agencies under this section.

(b) Substitute care providers who are licensed under s. 409.175 and have contracted with a lead agency authorized under this section shall also be authorized to provide registered or licensed family day care under s. 402.313, if consistent with federal law and if the home has met:

1. the requirements of s. 402.313; ~~and~~

~~2. The requirements of s. 402.281 and has received Gold Seal Quality Care designation.~~

(c) A dually licensed home under this section shall be eligible to receive both an *out-of-home care payment and a subsidized child care payment for the same child pursuant to federal law. The department may adopt administrative rules necessary to administer this paragraph the foster care board rate and the subsidized child care rate for the same child only if care is provided 24 hours a day. The subsidized child care rate shall be no more than the approved full-time rate.*

(6) Beginning January 1, 1999, and continuing at least through June 30, 2000, the Department of Children and Family Services shall privatize all foster care and related services in district 5 while continuing to contract with the current model programs in districts 1, 4, and 13, and in subdistrict 8A, and shall expand the subdistrict 8A pilot program to incorporate Manatee County. Planning for the district 5 privatization shall be done by providers that are currently under contract with the department for foster care and related services and shall be done in consultation with the department. A lead provider of the district 5 program shall be competitively selected, must demonstrate the ability to provide necessary comprehensive services through a local network of providers, and must meet criteria established in this section. Contracts with organizations responsible for the model programs must include the management and administration of all privatized services specified in subsection (1). However, the department may use funds for contract management only after obtaining written approval from the Executive Office of the Governor. The request for such approval must include, but is not limited to, a statement of the proposed amount of such funds and a description of the manner in which such funds will be used. If the community-based organization selected for a model program under this subsection is not a Medicaid provider, the organization shall be issued a Medicaid provider number pursuant to s. 409.907 for the provision of services currently authorized under the state Medicaid plan to those children encompassed in this model and in a manner not to exceed the current level of state expenditure.

(7) The department, *in consultation with existing lead agencies, shall develop a proposal regarding the long-term use and structure of a statewide shared earnings program which addresses is authorized to establish and administer a risk pool to reduce the financial risk to eligible lead community-based providers resulting from unanticipated caseload growth or from significant changes in client mixes or services eligible for federal reimbursement. The recommendations in the statewide proposal must also be available to entities of the department until the conversion to community-based care takes place. At a minimum, the proposal must allow for use of federal earnings received from child welfare programs, which earnings are determined by the department to be in excess of the amount appropriated in the General Appropriations Act, to be used for specific purposes. These purposes include, but are not limited to:*

(a) *Significant changes in the number or composition of clients eligible to receive services.*

(b) *Significant changes in the services that are eligible for reimbursement.*

(c) *Significant changes in the availability of federal funds.*

(d) *Shortfalls in state funds available for eligible or ineligible services.*

(e) *Significant changes in the mix of available funds.*

(f) *Scheduled or unanticipated, but necessary, advances to providers or other cash-flow issues.*

(g) *Proposals to participate in optional Medicaid services or other federal grant opportunities.*

(h) *Appropriate incentive structures.*

(i) *Continuity of care in the event of lead agency failure, discontinuance of service, or financial misconduct.*

The department shall further specify the necessary steps to ensure the financial integrity of these dollars and their continued availability on an ongoing basis. The final proposal shall be submitted to the Legislative Budget Commission for formal adoption before December 31, 2002. If the Legislative Budget Commission refuses to concur with the adoption of the proposal, the department shall present its proposal in the form of recommended legislation to the President of the Senate and the Speaker of the House of Representatives before the commencement of the next legislative session. For fiscal year 2003-2004 and annually thereafter, the Department of Children and Family Services may request in its legislative budget request, and the Governor may recommend, the funding necessary to carry out paragraph (i) from excess federal earnings. The General Appropriations Act shall include any funds appropriated for this purpose in a lump sum in the Administered Funds Program, which funds constitute partial security for lead agency contract performance. The department shall use this appropriation to offset the need for a performance bond for that year after a comparison of risk to the funds available. In no event shall this performance bond exceed 2.5 percent of the annual contract value. The department may separately require a bond to mitigate the financial consequences of potential acts of malfeasance, misfeasance, or criminal violations by the provider. Prior to the release of any funds in the lump sum, the department shall submit a detailed operational plan, which must identify the sources of specific trust funds to be used. The release of the trust fund shall be subject to the notice and review provisions of s. 216.177. However, the release shall not require approval of the Legislative Budget Commission.

(8) Notwithstanding the provisions of s. 215.425, all documented federal funds earned for the current fiscal year by the department and community-based agencies which exceed the amount appropriated by the Legislature shall be distributed to all entities that contributed to the excess earnings based on a schedule and methodology developed by the department and approved by the Executive Office of the Governor. Distribution shall be pro rata based on total earnings and shall be made only to those entities that contributed to excess earnings. Excess earnings of community-based agencies shall be used only in the service

district in which they were earned. Additional state funds appropriated by the Legislature for community-based agencies or made available pursuant to the budgetary amendment process described in s. 216.177 shall be transferred to the community-based agencies. The department shall amend a community-based agency's contract to permit expenditure of the funds. The distribution program applies only to entities that were under privatization contracts as of July 1, 2002 ~~1999~~. ~~This program is authorized for a period of 3 years beginning July 1, 1999, and ending June 30, 2002. The Office of Program Policy Analysis and Government Accountability shall review this program and report to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001. The review shall assess the program to determine how the additional resources were used, the number of additional clients served, the improvements in quality of service attained, the performance outcomes associated with the additional resources, and the feasibility of continuing or expanding this program.~~

(9) Each district and subdistrict that participates in the model program effort or any future privatization effort as described in this section must thoroughly analyze and report the complete direct and indirect costs of delivering these services through the department and the full cost of privatization, including the cost of monitoring and evaluating the contracted services.

Section 5. Section 409.1676, Florida Statutes, is amended to read:

409.1676 Comprehensive residential *group care* services to children who have extraordinary needs.—

(1) It is the intent of the Legislature to provide comprehensive residential *group care* services, including residential care, case management, and other services, to children in the child protection system who have extraordinary needs, ~~such as serious behavioral problems or having been determined to be without the options of either reunification with family or adoption.~~ These services are to be provided in a residential group care setting by a not-for-profit corporation or a local government entity under a contract with the Department of Children and Family Services or by a lead agency as described in s. 409.1671. These contracts should be designed to provide an identified number of children with access to a full array of services for a fixed price. *Further, it is the intent of the Legislature that the Department of Children and Family Services and the Department of Juvenile Justice establish an interagency agreement by December 1, 2002, which describes respective agency responsibilities for referral, placement, service provision, and service coordination for dependent and delinquent youth who are referred to these residential group care facilities. The agreement must require interagency collaboration in the development of terms, conditions, and performance outcomes for residential group care contracts serving the youth referred who have been adjudicated both dependent and delinquent.*

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

(a) *“Child with extraordinary needs” means a dependent child who has serious behavioral problems or who has been determined to be without the options of either reunification with family or adoption.*

(b) ~~(a)~~ *“Residential group care” means a living environment for children who have been adjudicated dependent and are expected to be in foster care for at least 6 months with 24-hour-awake staff or live-in group home parents or staff. Each facility Beginning July 1, 2001, all facilities must be appropriately licensed in this state as a residential child caring agency as defined in s. 409.175(2)(j), and they must be accredited by July 1, 2005. A residential group care facility serving children having a serious behavioral problem as defined in this section must have available staff or contract personnel with the clinical expertise, credentials, and training to provide services identified in subsection (4).*

(c) ~~(b)~~ *“Serious behavioral problems” means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(6) or (7). A child with an emotional*

disturbance as defined in s. 394.492(5) or (6) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate. A child having a serious behavioral problem must have been determined in the assessment to have at least one of the following risk factors:

- 1. An adjudication of delinquency and be on conditional release status with the Department of Juvenile Justice.*
- 2. A history of physical aggression or violent behavior toward self or others, animals, or property within the past year.*
- 3. A history of setting fires within the past year.*
- 4. A history of multiple episodes of running away from home or placements within the past year.*
- 5. A history of sexual aggression toward other youth.*

(3) The department, in accordance with a specific appropriation for this program, shall contract with a not-for-profit corporation, a local government entity, or the lead agency that has been established in accordance with s. 409.1671 for the performance of residential group care services described in this section ~~in, at a minimum, districts 4, 11, 12, and the Suncoast Region of the Department of Children and Family Services and with a not-for-profit entity serving children from multiple districts.~~ A lead agency that is currently providing residential care may provide this service directly with the approval of the local community alliance. The department or a lead agency may contract for more than one site in a county if that is determined to be the most effective way to achieve the goals set forth in this section.

(4) The lead agency, the contracted not-for-profit corporation, or the local government entity is responsible for a comprehensive assessment, residential care, transportation, *access to* behavioral health services, recreational activities, clothing, supplies, and miscellaneous expenses associated with caring for these children; for necessary arrangement for or provision of educational services; and for assuring necessary and appropriate health and dental care.

(5) The department may transfer all casework responsibilities for children served under this program to the entity that provides this service, including case management and development and implementation of a case plan in accordance with current standards for child protection services. When the department establishes this program in a community that has a lead agency as described in s. 409.1671, the casework responsibilities must be transferred to the lead agency.

(6) This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from earning federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(7) The lead agency, not-for-profit corporation, or local government entity has the legal authority for children served under this program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver's license for the child, to cosign loans and insurance for the child, to sign for medical treatment, and to authorize other such activities.

(8) The department shall provide technical assistance as requested and contract management services.

(9) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.

(10) *The department may adopt rules necessary to administer this section.*

Section 6. Paragraph (e) of subsection (2) of section 409.175, Florida Statutes, is amended, present subsections (3) through (15) of said section are renumbered as subsections (4) through (16), respectively,

present subsections (5), (8), (9), and (11) are amended, and a new subsection (3) is added to said section, to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

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

(e) "Family foster home" means a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes, ~~family foster group homes~~, and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption is not considered a family foster home.

(3)(a) *The total number of children placed in each family foster home shall be based on the recommendation of the department, or the community-based care lead agency where one is providing foster care and related services, based on the needs of each child in care, the ability of the foster family to meet the individual needs of each child, including any adoptive or biological children living in the home, the amount of safe physical plant space, the ratio of active and appropriate adult supervision, and the background, experience, and skill of the family foster parents.*

(b) *If the total number of children in a family foster home will exceed five, including the family's own children, a comprehensive behavioral health assessment of each child to be placed in the home must be completed prior to placement of any additional children in the home. The comprehensive behavioral health assessment must comply with Medicaid rules and regulations, assess and document the mental, physical, and psychosocial needs of the child, and recommend the maximum number of children in a family foster home that will allow the child's needs to be met.*

(c) *For any licensed family foster home, the appropriateness of the number of children in the home must be reassessed annually as part of the relicensure process. For a home with more than five children, if it is determined by the licensure study at the time of relicensure that the total number of children in the home is appropriate and that there have been no substantive licensure violations and no indications of child maltreatment or child-on-child sexual abuse within the past 12 months, the relicensure of the home shall not be denied based on the total number of children in the home.*

(6)(5)(a) An application for a license shall be made on forms provided, and in the manner prescribed, by the department. The department shall make a determination as to the good moral character of the applicant based upon screening.

(b) Upon application, the department shall conduct a licensing study based on its licensing rules; shall inspect the home or the agency and the records, including financial records, of the agency; and shall interview the applicant. The department may authorize a licensed child-placing agency to conduct the licensing study of a family foster home to be used exclusively by that agency and to verify to the department that the home meets the licensing requirements established by the department. Upon certification by a licensed child-placing agency that a family foster home meets the licensing requirements, the department shall issue the license.

(c) A licensed family foster home, child-placing agency, or residential child-caring agency which applies for renewal of its license shall submit to the department a list of personnel who have worked on a continuous basis at the applicant family foster home or agency since submitting fingerprints to the department, identifying those for whom a written assurance of compliance was provided by the department and identifying those personnel who have recently begun working at the family foster home or agency and are awaiting the results of the required fingerprint check, along with the date of the submission of those fingerprints for processing. The department shall by rule

determine the frequency of requests to the Department of Law Enforcement to run state criminal records checks for such personnel except for those personnel awaiting the results of initial fingerprint checks for employment at the applicant family foster home or agency.

(d)1. The department may pursue other remedies provided in this section in addition to denial or revocation of a license for failure to comply with the screening requirements. The disciplinary actions determination to be made by the department and the procedure for hearing for applicants and licensees shall be in accordance with chapter 120.

2. When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or summer or recreation camp, and the personnel affected, stating the specific record which indicates noncompliance with the screening requirements.

3. Procedures established for hearing under chapter 120 shall be available to the applicant, licensee, summer day camp, or summer 24-hour camp, and affected personnel, in order to present evidence relating either to the accuracy of the basis for exclusion or to the denial of an exemption from disqualification.

4. Refusal on the part of an applicant to dismiss personnel who have been found not to be in compliance with the requirements for good moral character of personnel shall result in automatic denial or revocation of license in addition to any other remedies provided in this section which may be pursued by the department.

(e) At the request of the department, the local county health department shall inspect a home or agency according to the licensing rules promulgated by the department. Inspection reports shall be furnished to the department within 30 days of the request. Such an inspection shall only be required when called for by the licensing agency.

(f) All residential child-caring agencies must meet firesafety standards for such agencies adopted by the Division of State Fire Marshal of the Department of Insurance and must be inspected annually. At the request of the department, firesafety inspections shall be conducted by the Division of State Fire Marshal or a local fire department official who has been certified by the division as having completed the training requirements for persons inspecting such agencies. Inspection reports shall be furnished to the department within 30 days of a request.

(g) In the licensing process, the licensing staff of the department shall provide consultation on request.

(h) Upon determination that the applicant meets the state minimum licensing requirements, the department shall issue a license without charge to a specific person or agency at a specific location. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any person at the home or agency has failed the required screening. The license is nontransferable. A copy of the license shall be displayed in a conspicuous place. Except as provided in paragraph (j), the license is valid for 1 year from the date of issuance, unless the license is suspended or revoked by the department or is voluntarily surrendered by the licensee. The license is the property of the department.

(i) A license issued for the operation of a family foster home or agency, unless sooner suspended, revoked, or voluntarily returned, will expire automatically 1 year from the date of issuance except as provided in paragraph (j). Ninety days prior to the expiration date, an application for renewal shall be submitted to the department by a licensee who wishes to have the license renewed. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this section and the rules promulgated hereunder.

(j) *Except for a family foster group home having a licensed capacity for more than five children, the department may issue a license that is valid for longer than 1 year but no longer than 3 years to a family foster home that:*

1. Has maintained a license with the department as a family foster home for at least the 3 previous consecutive years;
2. Remains in good standing with the department; and
3. Has not been the subject of a report of child abuse or neglect with any findings of maltreatment.

A family foster home that has been issued a license valid for longer than 1 year must be monitored and visited as frequently as one that has been issued a 1-year license. The department reserves the right to reduce a licensure period to 1 year at any time.

(k) The department may not license summer day camps or summer 24-hour camps. However, the department shall have access to the personnel records of such facilities to ensure compliance with the screening requirements.

(9)(8)(a) The department may deny, suspend, or revoke a license.

(b) Any of the following actions by a home or agency or its personnel is a ground for denial, suspension, or revocation of a license:

1. An intentional or negligent act materially affecting the health or safety of children in the home or agency.
2. A violation of the provisions of this section or of licensing rules promulgated pursuant to this section.
3. Noncompliance with the requirements for good moral character as specified in paragraph (5)(4)(a).
4. Failure to dismiss personnel found in noncompliance with requirements for good moral character.

(10)(9)(a) The department may institute injunctive proceedings in a court of competent jurisdiction to:

1. Enforce the provisions of this section or any license requirement, rule, or order issued or entered into pursuant thereto; or
2. Terminate the operation of an agency in which any of the following conditions exist:
 - a. The licensee has failed to take preventive or corrective measures in accordance with any order of the department to maintain conformity with licensing requirements.
 - b. There is a violation of any of the provisions of this section, or of any licensing requirement promulgated pursuant to this section, which violation threatens harm to any child or which constitutes an emergency requiring immediate action.

3. Terminate the operation of a summer day camp or summer 24-hour camp providing care for children when such camp has willfully and knowingly refused to comply with the screening requirements for personnel or has refused to terminate the employment of personnel found to be in noncompliance with the requirements for good moral character as determined in paragraph (5)(4)(a).

(b) If the department finds, within 30 days after written notification by registered mail of the requirement for licensure, that a person or agency continues to care for or to place children without a license or, within 30 days after written notification by registered mail of the requirement for screening of personnel and compliance with paragraph (5)(4)(a) for the hiring and continued employment of personnel, that a summer day camp or summer 24-hour camp continues to provide care for children without complying, the department shall notify the appropriate state attorney of the violation of law and, if necessary, shall institute a civil suit to enjoin the person or agency from continuing the placement or care of children or to enjoin the summer day camp or summer 24-hour camp from continuing the care of children.

(c) Such injunctive relief may be temporary or permanent.

(12)(11)(a) It is unlawful for any person or agency to:

1. Provide continuing full-time care for or to receive or place a child apart from her or his parents in a residential group care facility, family

foster home, or adoptive home without a valid license issued by the department if such license is required by subsection (5)(4); or

2. Make a willful or intentional misstatement on any license application or other document required to be filed in connection with an application for a license.

(b) It is unlawful for any person, agency, summer day camp, or summer 24-hour camp providing care for children to:

1. Willfully or intentionally fail to comply with the requirements for the screening of personnel or the dismissal of personnel found not to be in compliance with the requirements for good moral character as specified in paragraph (5)(4)(a).

2. Use information from the criminal records obtained under this section for any purpose other than screening a person for employment as specified in this section or to release such information to any other person for any purpose other than screening for employment as specified in this section.

(c) It is unlawful for any person, agency, summer day camp, or summer 24-hour camp providing care for children to use information from the juvenile records of any person obtained under this section for any purpose other than screening for employment as specified in this section or to release information from such records to any other person for any purpose other than screening for employment as specified in this section.

(d)1. A first violation of paragraph (a) or paragraph (b) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. A second or subsequent violation of paragraph (a) or paragraph (b) is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

3. A violation of paragraph (c) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Subsection (24) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for all counties with a the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671, which have been specifically approved by the department. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of targeted case management the pilot projects shall be reported

to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. ~~The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature.~~ The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 8. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(5)(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 9. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(5)(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 10. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(5)(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 11. *The Office of Program Policy Analysis and Government Accountability, in consultation with the Department of Children and Family Services and the Agency for Health Care Administration, shall conduct a review of the process for placing children for residential mental health treatment as specified in s. 39.407(5), Florida Statutes. This review is to be used to determine whether changes are needed in this*

process. The integrity of the examination process that is intended to ensure that only a child with an emotional disturbance or a serious emotional disturbance is placed in a residential mental health facility and to ensure that a child who is diagnosed with an emotional disturbance or a serious emotional disturbance receives the most appropriate mental health treatment in the least restrictive setting must be maintained. The review shall analyze and make recommendations relative to issues pertinent to the process such as the number of children who are assessed and the outcomes of the assessments, the costs associated with the suitability assessments based on geographic differentials, delays in receiving appropriate mental health treatment services in both residential and nonresidential settings which can be attributed to the assessment process, and the need to expand the mental health professional groups who may conduct the suitability assessment. The Office of Program Policy Analysis and Government Accountability shall submit a report of its findings and any proposed changes to substantive law to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2003.

Section 12. This act shall take effect July 1, 2002.

And the title is amended as follows:
remove: the entire title

and insert: A bill to be entitled An act relating to out-of-home care; repealing s. 39.521(5), F.S., relating to the mandatory assessment of specified children for placement in licensed residential group care; creating s. 39.523, F.S.; prescribing procedures for the mandatory assessment of certain children for placement in licensed residential group care; providing for reports; providing for a specialized residential group care services appropriations category in the General Appropriations Act; providing for funding increases to be appropriated in a lump-sum category; specifying that the release of certain funds is contingent on the approval of a spending plan; prescribing elements of the plan; authorizing one-time startup funding; amending s. 39.407, F.S.; clarifying that the Department of Children and Family Services may place a child who is in its custody in a residential treatment center without prior approval of the court; amending s. 409.1671, F.S.; specifying timeframes for initiating and for completing privatization of foster care and related services; requiring cooperative planning agreements between lead community-based providers and Healthy Families Florida lead agencies for certain purposes; providing for the establishment of a model comprehensive residential services program in specified counties; providing that community-based providers and subcontractors require employees to obtain bodily injury liability insurance on personal automobiles; providing certain immunity from liability when transporting clients in privately owned automobiles; directing the Department of Children and Family Services to adopt written policies and procedures for contract monitoring of community-based providers; modifying the requirement for community-based providers to furnish information to the department; modifying the conditions under which a provider may close a case; modifying the requirements concerning dual licensure of foster homes; authorizing the department to adopt rules; eliminating the authority for a risk pool; requiring the development of a proposal for a statewide shared earnings program; providing for use of excess federal earnings and certain additional state funds for the development of the proposal; providing for submission of the proposal to the Legislative Budget Commission and for submission to the Legislature under certain conditions; requiring that the Legislature appropriate a lump sum in the Administered Funds Program each year for a specified purpose; specifying the type of bond that may be required; eliminating a specified expiration for this program; eliminating an obsolete review requirement; amending s. 409.1676, F.S.; providing intent that the Department of Children and Family Services and the Department of Juvenile Justice establish an interagency agreement regarding referral to residential group care facilities; specifying that a residential group care facility must be licensed as a child-caring agency; requiring such facilities serving certain children to meet specified staff qualifications; redefining and adding terms; redefining the term "serious behavioral problems"; authorizing the department to adopt rules; removing a reference to specific districts and regions of the department; amending s. 409.175,

F.S.; conforming the definition of "family foster home"; providing criteria for the number of children placed in each family foster home; providing for a comprehensive behavioral health assessment of each child under certain circumstances; requiring assessment of the appropriateness of the number of children as a condition of annual relicensure; correcting cross references; amending s. 409.906, F.S.; expanding the authority for the establishment of child welfare targeted case management projects; eliminating reference to a pilot project; eliminating the requirement to report to the Child Welfare Estimating Conference regarding targeted case management; amending ss. 393.0657, 402.3057, and 409.1757, F.S.; correcting cross references; directing the Office of Program Policy Analysis and Government Accountability, in consultation with the Agency for Health Care Administration, to conduct a review of the process for placing children for residential mental health treatment; providing for a report to the Governor and Legislature; providing an effective date.

Rep. Murman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Littlefield, consideration of **CS/CS/HB 299** was temporarily postponed under Rule 11.10.

CS/HB 545—A bill to be entitled An act relating to substance abuse services; amending s. 397.311, F.S.; redefining the term "licensed service provider"; requiring that licensure standards apply to certain residential treatment locations; redefining the term "service provider personnel," to add chief financial officers; amending s. 397.403, F.S.; requiring that owners, directors, and chief financial officers of a substance abuse service provider undergo a background check pursuant to ch. 435, F.S.; providing for removal of such person under certain conditions; providing for revocation of the provider's license for failure to remove such person; requiring that proof of compliance with local zoning ordinances be included in the applications for licensure; amending s. 397.405, F.S.; clarifying that DUI education and screening services must be licensed if they provide treatment services; amending s. 397.407, F.S.; conforming cross references; amending s. 397.416, F.S.; conforming cross references; amending s. 397.451, F.S.; clarifying provisions relating to background screening of service provider personnel; requiring level 2 background screening for employees who work with children and with adults who are developmentally disabled; specifying circumstances under which service provider owners, directors, or chief financial officers are not subject to background screening; allowing personnel to request, and the department to grant, an exemption from disqualification; amending ss. 212.055 and 440.102, F.S.; conforming cross references; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 415—A bill to be entitled An act relating to prostitution; creating a community-based pilot program entitled Project HOPE in Pinellas County; specifying that certain persons convicted of violations of s. 796.07, F.S., are required to participate in the program; providing for program components; providing appropriations; requiring a review by the Office of Program Policy Analysis and Government Accountability and a report to the Legislature; providing an effective date.

—was read the second time by title.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 650563)

Amendment 1 (with title amendment)—On page 2, lines 25 and 26, remove: all of said lines
and insert:

Section 4. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution, etc.; evidence; penalties; definitions.—

(1) As used in this section:

(a) "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

(b) "Lewdness" means any indecent or obscene act.

(c) "Assignment" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(d) "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful:

(a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignment, or prostitution.

(b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.

(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignment, or to permit any person to remain there for such purpose.

(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignment.

(e) To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignment.

(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignment.

(g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignment.

(h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.

(i) To purchase the services of any person engaged in prostitution.

(3) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(4) A person who violates any provision of this section commits:

(a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for a second or subsequent violation, punishable as provided in s. 775.082 or s. 775.083.

(c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who is charged with a third or subsequent violation of this section shall be offered admission to a pretrial intervention program or a substance abuse treatment program, as provided in s. 948.08, after screening and evaluation for substance abuse.

(6) *A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$500 if the violation results in any judicial disposition other than acquittal or dismissal. The proceeds from penalties assessed under this subsection shall be paid to the circuit courts administrator for the sole purpose of paying the administrative costs of mandatory treatment-based drug court programs provided under s. 397.334.*

Section 5. Subsection (7) is added to section 322.28, Florida Statutes, to read:

322.28 Period of suspension or revocation.—

(7) *Following a second or subsequent violation of s. 796.07(2)(f) which involves a motor vehicle and which results in any judicial disposition other than acquittal or dismissal, in addition to any other sentence imposed, the court shall revoke the person's driver's license or driving privilege, effective upon the date of the disposition, for a period of not less than 1 year. A person sentenced under this subsection may request a hearing under s. 322.271.*

Section 6. Paragraph (a) of subsection (6) of section 948.08, Florida Statutes, is amended to read:

948.08 Pretrial intervention program.—

(6)(a) Notwithstanding any provision of this section, a person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, *prostitution*, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence; and who has not previously been convicted of a felony nor been admitted to a felony pretrial program referred to in this section is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

Section 7. This act shall take effect July 1, 2002.

And the title is amended as follows:

On page 1, line 11, after the semicolon,

insert: amending s. 796.07, F.S.; providing that a third or subsequent violation of provisions prohibiting prostitution, certain activities related to prostitution, or the purchase of services from a person engaged in prostitution is a third degree felony rather than a second degree misdemeanor; providing that a person charged with such offense may be offered admission to a pretrial intervention program or substance abuse treatment program; amending s. 322.28, F.S.; requiring that the court revoke a person's driver's license or driving privilege following a second or subsequent conviction of certain offenses of solicitation for prostitution which involve a motor vehicle; amending s. 948.08, F.S., relating to the pretrial intervention program; conforming provisions to changes made by the act;

Rep. Farkas moved the adoption of the amendment, which was adopted.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 381469)

Amendment 2 (with title amendment)—On page 1, line 17, after *County*

insert: *and Hillsborough County*

And the title is amended as follows:

On page 1, line 4, after *County*

insert: *and Hillsborough County*

Rep. Farkas moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1223—A bill to be entitled An act relating to health care; creating the "Women's Health and Safety Act"; amending s. 390.0112, F.S.; revising requirements for reporting by medical directors and physicians of terminations of pregnancies; providing a penalty; providing for disciplinary action for successive failures to report; amending s. 390.012, F.S.; revising requirements for rules of the Agency for Health Care Administration relating to abortions performed in abortion clinics; providing for rules regarding abortions performed after the first trimester of pregnancy; requiring abortion clinics to develop policies to protect the health, care, and treatment of patients; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 591 was taken up. On motion by Rep. Johnson, the rules were waived and CS for SB 622 was substituted for HB 591. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 622—A bill to be entitled An act relating to commercial transportation; providing a penalty for the illegal use of any means of public or commercial transportation or conveyance to commit any felony or to facilitate the commission of any felony; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 817—A bill to be entitled An act relating to newborn infant screening; authorizing formation of a study group under Children's Medical Services of the Department of Health; providing purpose; providing membership; requiring recommendations and a plan for newborn infant screening requirements; requiring consideration of the costs of expansion and testing; requiring a report; providing an effective date.

—was read the second time by title.

THE SPEAKER IN THE CHAIR

Rep. Lerner moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 143—A bill to be entitled An act relating to career offenders; amending s. 775.13, F.S.; exempting a career offender from the requirement to register as a convicted felon; creating s. 775.26, F.S.; providing legislative findings and intent with respect to the registration of career offenders and public notification of the presence of career offenders; creating s. 775.261, F.S.; creating the Florida Career Offender Registration Act; providing definitions; requiring a criminal who is classified as a career offender and who is released on or after a specified date to register with the Department of Law Enforcement; providing an exception for an offender who registers as a sexual predator or sexual

offender; providing procedures for registration; requiring that a photograph and fingerprints be taken of a career offender; providing procedures for notifying the Department of Law Enforcement if a career offender intends to establish residence in another state or jurisdiction; requiring the Department of Law Enforcement to provide for computer access to information on career offenders; providing that the registration list is a public record; providing a procedure by which a registered career offender may petition the court to remove the requirement that he or she maintain registration; authorizing law enforcement agencies to notify the public of the presence of a career offender; requiring address verification for career offenders; providing that specified state agencies and employees are immune from liability for good faith compliance with the requirements of the act; providing penalties; specifying venues for prosecuting a violation of the act; creating s. 944.608, F.S.; providing a definition; requiring a career offender who is not sentenced to a term of imprisonment or who is under the supervision of the Department of Corrections to register with the Department of Law Enforcement; providing procedures for registration; providing penalties; providing that specified state agencies and certain employees are immune from liability for good faith compliance with the requirements of the act; creating s. 944.609, F.S.; providing a definition; providing legislative findings and intent; requiring the Department of Corrections to provide information concerning a career offender to the sheriff, chief of police, Department of Law Enforcement, and victim, if requested, before the career offender is released from incarceration; authorizing the Department of Corrections or any law enforcement agency to notify the public of the presence of a career offender; providing for immunity from liability for good faith compliance with the requirements of the act; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1225—A bill to be entitled An act relating to motor vehicle racing contests; amending s. 316.191, F.S.; revising provisions prohibiting specified contests and competitions in a motor vehicle; revising penalties for violation; providing penalties for certain participation in such contests or competitions; providing for impounding vehicle; specifying penalties for violations by minors; providing an effective date.

—was read the second time by title.

Representative(s) Slosberg offered the following:

(Amendment Bar Code: 590473)

Amendment 1 (with title amendment)—On page 1, line 13, of the bill

insert:

Section 1. (1) *Short title.*—*This section may be cited as the “Dori Slosberg Act of 2002.”*

(2) Section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(1) This section may be cited as the “Florida Safety Belt Law.”

~~(2) It is the policy of this state that enactment of this section is intended to be compatible with the continued support by the state for federal safety standards requiring automatic crash protection, and the enactment of this section should not be used in any manner to rescind or delay the implementation of the federal automatic crash protection system requirements of Federal Motor Safety Standard 208 as set forth in S4.1.2.1 thereof, as entered on July 17, 1984, for new cars.~~

~~(2)(3) As used in this section:~~

(a) “Motor vehicle” means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.
3. A farm tractor or implement of husbandry.
4. A truck of a net weight of more than 5,000 pounds.
5. A motorcycle, moped, or bicycle.

(b) “Safety belt” means a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(c) “Restrained by a safety belt” means being restricted by an appropriately adjusted safety belt which is properly fastened at all times when a motor vehicle is in motion.

~~(3)(4)~~ It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each passenger of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

~~(4)(5)~~ It is unlawful for any person 18 years of age or older to be a passenger in the front *or back* seat of a motor vehicle unless such person is restrained by a safety belt when the vehicle is in motion.

~~(5)~~ *The following are not required to be restrained by a safety belt:*

~~(6)(a)~~ Neither A person who is certified by a physician as having a medical condition that causes the use of a safety belt to be inappropriate or dangerous.

~~(b)~~ ~~nor~~ An employee of a newspaper home delivery service while in the course of his or her employment delivering newspapers on home delivery routes ~~is required to be restrained by a safety belt.~~

~~(b)~~ ~~The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacturer.~~

~~(c)~~ An employee of a solid waste or recyclable collection service ~~is not required to be restrained by a safety belt~~ while in the course of employment collecting solid waste or recyclables on designated routes.

~~(d)~~ *The passengers of a motor vehicle in excess of the number of safety belts installed by the manufacturer.*

~~(6)(d)~~ The requirements of this section shall not apply to the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property.

(7) It is the intent of the Legislature that all state, county, and local law enforcement agencies, safety councils, and public school systems, in recognition of the fatalities and injuries attributed to unrestrained occupancy of motor vehicles, shall conduct a continuing safety and public awareness campaign as to the magnitude of the problem and adopt programs designed to encourage compliance with the safety belt usage requirements of this section.

(8) Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318. *A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section.* However, except for violations of s. 316.613, *and except for persons under the age of 18 years*, enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this chapter, chapter 320, or chapter 322. *Persons who are under 18 years of age shall be subject to enforcement of this section, accomplished as a primary action, only if law enforcement detains the motor vehicle based upon a reasonable belief that the driver and any unrestrained passengers are under 18 years of age.*

(9) A violation of the provisions of this section shall not constitute negligence per se, nor shall such violation be used as prima facie evidence of negligence or be considered in mitigation of damages, but such violation may be considered as evidence of comparative negligence, in any civil action.

And the title is amended as follows:

On page 1, lines 2-3,
remove: all of said lines

and insert: An act relating to motor vehicle safety; creating the “Dori Slosberg Act of 2002”; amending s. 316.614, F.S.; deleting obsolete language; revising the Florida Safety Belt Law to provide conditions for enforcement; restricting authority to search; amending s. 316.191, F.S.; revising

Rep. Slosberg moved the adoption of the amendment, which failed of adoption.

Representative(s) Arza offered the following:

(Amendment Bar Code: 612659)

Amendment 2 (with title amendment)—On page 3, line 7, through page 4, line 13
remove: all of said lines

And the title is amended as follows:

On page 1, line 9
remove: all of said line

Rep. Arza moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 1057—A bill to be entitled An act relating to driving or boating under the influence of alcohol or controlled substances; amending s. 316.193, F.S.; reducing the number of convictions required for a felony DUI; requiring mandatory placement of an ignition interlock device under certain circumstances; providing for the forfeiture of vehicles under certain circumstances; amending conditions for conviction in cases of accident, serious bodily injury, or death; removing a cross reference; allowing a law enforcement officer to place a person in protective custody under certain circumstances; requiring a person placed in protective custody to pay reasonable costs of evaluation and treatment under certain circumstances; amending s. 316.1932, F.S.; requiring a law enforcement officer to inform a person that refusal to submit to certain tests is a misdemeanor; amending s. 316.1933, F.S.; requiring a person to submit to a blood test under certain circumstances; providing that the test need not be incidental to a lawful arrest; amending s. 316.1937, F.S.; requiring the installation of ignition interlock devices in conformance to the act; creating s. 316.1939, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; amending s. 322.271, F.S.; providing an exception to the prohibition on a limited right to drive for business or employment for certain persons for whom the court has required the use of an ignition interlock device; amending s. 327.35, F.S.; reducing the number of convictions required for a felony BUI; providing for the forfeiture of vessels under certain circumstances; amending conditions for conviction in cases of accident, serious bodily injury, or death; correcting cross references; allowing a law enforcement officer to place a person in protective custody under certain circumstances; requiring a person placed in protective custody to pay reasonable costs of evaluation and treatment under certain circumstances; amending s. 327.352, F.S.; requiring a law enforcement officer to inform a person that refusal to submit to certain tests is a misdemeanor; amending s. 327.353, F.S.; requiring a person to submit to a blood test under certain circumstances; providing that the test need not be incidental to a lawful arrest; creating s. 327.359, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; creating s. 397.6755, F.S.; specifying grounds for which a court may determine that criteria exist for involuntary admission and treatment of certain persons; requiring payment for such evaluation and treatment from a certain fund;

requiring persons placed in such involuntary custody to reimburse the provider of services under certain circumstances; amending s. 921.0022, F.S.; revising language relating to certain DUI offenses; including certain BUI offenses within the offense severity ranking chart; amending s. 932.701, F.S.; redefining “contraband article”; amending s. 938.07, F.S.; providing for application of a fee to persons found guilty of boating under the influence; correcting a cross reference; providing an effective date.

—was read the second time by title.

On motion by Rep. Simmons, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Simmons offered the following:

(Amendment Bar Code: 252051)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause

and insert:

Section 1. Subsections (2), (3), (4), and (9) of section 316.193, Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.—

(2)(a) Except as provided in paragraph (b), *paragraph (c)*, subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$250 or more than \$500 for a first conviction.

b. Not less than \$500 or more than \$1,000 for a second conviction *and immediate mandatory placement of an ignition interlock device approved by the department in accordance with s. 316.1937 upon all vehicles owned individually or jointly and routinely operated by the convicted person, for a period of not less than 2 years-*

~~e. Not less than \$1,000 or more than \$2,500 for a third conviction; and~~

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

~~e. Not more than 12 months for a third conviction.~~

(b) Any person who is convicted of a *third* ~~fourth or subsequent~~ violation of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; however, the fine imposed for such *third* ~~fourth or subsequent~~ violation may be not less than \$1,000 *and immediate mandatory placement of an ignition interlock device approved by the department in accordance with s. 316.1937 upon all vehicles owned jointly and routinely operated by the convicted person for a period of not less than 2 years.*

(c) Any person who is convicted of a fourth or subsequent violation of this section commits a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such a violation shall not be less than \$1,000.

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to the cause of:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$500 or more than \$1,000 for a first conviction.

2. Not less than \$1,000 or more than \$2,000 for a second conviction.

3. Not less than \$2,000 or more than \$5,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

~~3. Not more than 12 months for a third conviction.~~

For the purposes of this subsection, ~~any conviction for a violation of s. 327.35~~, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(9)(a) A person who is arrested for a violation of this section may not be released from custody:

1.(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

2.(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

3.(c) Until 8 hours have elapsed from the time the person was arrested.

(b) *The arresting officer may place the person in protective custody pursuant to s. 397.6772 if:*

1. *The person has previously been convicted of a violation of this section or s. 327.35;*

2. *The person's blood-alcohol level or breath-alcohol level, as determined by a test conducted incident to the person's arrest, was 0.20 or greater;*

3. *The person, by reason of operation of a motor vehicle, has caused death or serious bodily injury as defined in s. 316.1933; or*

4. *The person is on pretrial release for a previous offense under this section or s. 327.35.*

The election to place a person in protective custody may be done at the time of arrest, but transfer of the person to a facility shall not occur prior to the conclusion of the time period set forth in paragraph (a) or the time

that the person is released on bail, whichever is later. The provisions of this paragraph are in addition to, not in lieu of, the provisions of subsection (5). A court shall order any person placed in protective custody pursuant to this paragraph who is subsequently convicted of a violation of this section to pay the reasonable costs of evaluation and treatment.

Section 2. Section 316.1932, Florida Statutes, is amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; ~~refusal right to refuse.~~—

(1)(a)1. Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages, chemical substances, or controlled substances. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath or urine, or both, *is a misdemeanor and, in addition*, will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests. The refusal to submit to a chemical or physical breath test or to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

- d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.
- e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.
- f. Establish a procedure for the approval of breath test operator and agency inspector classes.
- g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
- h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.
- i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.
- j. Enforce compliance with the provisions of this section through civil or administrative proceedings.
- k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.
- l. Promulgate rules for the administration and implementation of this section, including definitions of terms.
- m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.
- n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
- o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.
- p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

- (b)1. The blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood. The breath-alcohol level must be based upon grams of alcohol per 210 liters of breath.
- 2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of Law Enforcement. For this purpose, the department may approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case do not render the test or test results invalid.
- (c) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical

facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test is a *misdemeanor and, in addition*, will result in the suspension of the person's privilege to operate a motor vehicle upon the public highways of this state. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test is a *misdemeanor and, in addition*, will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously as a result of a refusal to submit to such a test or tests. The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages or controlled substances, such person may request the arresting officer to have a chemical or physical test made of the arrested person's breath or a test of the urine or blood for the purpose of determining the alcoholic content of the person's blood or breath or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(e)1. By applying for a driver's license and by accepting and using a driver's license, the person holding the driver's license is deemed to have expressed his or her consent to the provisions of this section.

2. A nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his or her act of driving in such exempt status, is deemed to have expressed his or her consent to the provisions of this section.

3. A warning of the consent provision of this section shall be printed above the signature line on each new or renewed driver's license.

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. Such rules must specify precisely the test or tests that are approved by the Department of Law Enforcement for reliability of result and ease of administration, and must provide an approved method of administration which must be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2.a. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

b. Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider, who is providing medical care in a health care facility to a person injured in a motor vehicle crash, becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person's blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test result. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample pursuant to this section.

c. The notice shall consist only of the name of the person being treated, the name of the person who drew the blood, the blood-alcohol level indicated by the test, and the date and time of the administration of the test.

d. Nothing contained in s. 395.3025(4), s. 456.057, or any applicable practice act affects the authority to provide notice under this section, and the health care provider is not considered to have breached any duty owed to the person under s. 395.3025(4), s. 456.057, or any applicable practice act by providing notice or failing to provide notice. It shall not be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

e. A civil, criminal, or administrative action may not be brought against any person or health care provider participating in good faith in the provision of notice or failure to provide notice as provided in this section. Any person or health care provider participating in the provision of notice or failure to provide notice as provided in this section shall be immune from any civil or criminal liability and from any professional disciplinary action with respect to the provision of notice or failure to provide notice under this section. Any such participant has the same immunity with respect to participating in any judicial proceedings resulting from the notice or failure to provide notice.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or breath or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

Section 3. Subsection (1) of section 316.1933, Florida Statutes, is amended to read:

316.1933 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(1)(a) ~~Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 316.1932 or any recognized power to revoke the implied consent to such tests,~~ If a law enforcement officer has probable cause to believe that a motor vehicle driven by or in the actual physical control of a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, ~~such person shall submit, upon the request of a law enforcement officer shall require the person driving or in actual physical control of the motor vehicle to submit,~~ to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner. *Notwithstanding s. 316.1932, the testing required by this paragraph need not be incidental to a lawful arrest of the person.*

(b) The term "serious bodily injury" means an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 4. Section 316.1937, Florida Statutes, is amended to read:

316.1937 Ignition interlock devices, requiring; unlawful acts.—

(1) In addition to any other authorized penalties, the court may require that any person who is convicted of driving under the influence in violation of s. 316.193, ~~and who is granted probation,~~ shall not operate a motor vehicle ~~during the period of probation~~ unless that vehicle is equipped with a functioning ignition interlock device certified by the department as provided in s. 316.1938, and installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. The court may require the use of an approved ignition interlock device for *a* the period of probation, ~~said period to be for~~ not less than 6 months, if the person is permitted to operate a motor vehicle, whether *or not* the privilege to operate a motor vehicle is restricted ~~or not~~, as determined by the court. *The court shall require placement of an ignition interlock device in accordance with s. 316.193(2).*

(2) If the court imposes the use of an ignition interlock device ~~as a condition of probation,~~ the court shall:

(a) Stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device.

(b) Order that the records of the department reflect such requirement.

(c) Order that an ignition interlock device be installed, as the court may determine necessary, on any vehicle owned or operated by the ~~person probationer.~~

(d) Determine the ~~person's probationer's~~ ability to pay for installation of the device if the ~~person probationer~~ claims inability to pay. If the court determines that the ~~person probationer~~ is unable to pay for installation of the device, the court may order that any portion of a fine paid by the ~~person probationer~~ for a violation of s. 316.193 shall be allocated to defray the costs of installing the device.

(e) Require proof of installation of the device and periodic reporting to the ~~department probation officer~~ for verification of the operation of the device in the ~~person's probationer's~~ vehicle.

(3) If the court imposes the use of an ignition interlock device ~~as a term of probation~~ on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the ~~department probation officer~~ within 30 days. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall *notify the department revoke or terminate the person's probation.*

(4) If the court imposes the use of an ignition interlock device ~~as a term of probation~~ on a person whose driving privilege is suspended or revoked for a period of less than 3 years, the department shall require proof of compliance before reinstatement of the person's driving privilege.

(5)(a) In addition to any other provision of law, upon conviction of a violation of this section the department shall revoke the person's driving privilege for 1 year from the date of conviction. Upon conviction of a separate violation of this section during the same period of required use of an ignition interlock device, the department shall revoke the person's driving privilege for 5 years from the date of conviction.

(b) Any person convicted of a violation of subsection (6) who does not have a driver's license shall, in addition to any other penalty provided by law, pay a fine of not less than \$250 or more than \$500 per each such violation. In the event that the person is unable to pay any such fine, the fine shall become a lien against the motor vehicle used in violation of subsection (6) and payment shall be made pursuant to s. 316.3025(4).

(6)(a) It is unlawful to tamper with, or to circumvent the operation of, a court-ordered ignition interlock device.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to this section to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to this section.

(d) It is unlawful to knowingly lease or lend a motor vehicle to a person who has had his or her driving privilege restricted ~~under a condition of probation~~ as provided in this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted under a condition of probation requiring an ignition interlock device shall notify any other person who leases or loans a motor vehicle to him or her of such driving restriction.

(7) Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity which owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

(8) In addition to the penalties provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 5. Section 316.1939, Florida Statutes, is created to read:

316.1939 Refusal to submit to testing; penalties.—

(1) *Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine as described in s. 316.1932, and:*

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances.

(b) Who was placed under lawful arrest for a violation of s. 316.193, unless such test was requested pursuant to s. 316.1932(1)(c).

(c) Who was informed that refusal to submit to such test is a misdemeanor.

(d) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional

officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

(3) Except as provided in s. 316.193, the disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege.

Section 6. Paragraph (a) of subsection (2) of section 322.271, Florida Statutes, is amended to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(2)(a) Upon such hearing, the person whose license has been suspended, canceled, or revoked may show that such suspension, cancellation, or revocation of his or her license causes a serious hardship and precludes the person's carrying out his or her normal business occupation, trade, or employment and that the use of the person's license in the normal course of his or her business is necessary to the proper support of the person or his or her family. Except as otherwise provided in this subsection, the department shall require proof of the successful completion of the applicable department-approved driver training course operating pursuant to s. 318.1451 or DUI program substance abuse education course and evaluation as provided in s. 316.193(5). Letters of recommendation from respected business persons in the community, law enforcement officers, or judicial officers may also be required to determine whether such person should be permitted to operate a motor vehicle on a restricted basis for business or employment use only and in determining whether such person can be trusted to so operate a motor vehicle. If a driver's license has been suspended under the point system or pursuant to s. 322.2615, the department shall require proof of enrollment in the applicable department-approved driver training course or licensed DUI program substance abuse education course, including evaluation and treatment, if referred, and may require letters of recommendation described in this subsection to determine if the driver should be reinstated on a restricted basis. If such person fails to complete the approved course within 90 days after reinstatement or subsequently fails to complete treatment, if applicable, the department shall cancel his or her driver's license until the course and treatment, if applicable, is successfully completed, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender has reentered and is currently participating in treatment and has completed the DUI education course and evaluation requirement. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program. The privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person who has been convicted of a violation of s. 316.193 until completion of the DUI program substance abuse education course and evaluations as provided in s. 316.193(5). Except as provided in paragraph (b), if a person's license has been revoked pursuant to s. 322.28 or suspended pursuant to s. 322.2615, or a person has been convicted of a violation of s. 316.193 two or more times or has had his or her license suspended two or more times for refusal to submit to a test pursuant to s. 322.2615 or former s. 322.261, the privilege of driving on a limited or restricted basis for business or employment use shall be granted in those circumstances where a court has required use of an ignition interlock device pursuant to s. 316.193(2) ~~the privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person whose license is revoked pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and who has been convicted of a violation of s. 316.193 two or more times or whose license has been suspended two or more times for refusal to submit to a test pursuant to s. 322.2615 or former s. 322.261.~~

Section 7. Subsections (2), (3), (4), and (8) of section 327.35, Florida Statutes, are amended to read:

327.35 Boating under the influence; penalties; "designated drivers".—

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

- a. Not less than \$250 or more than \$500 for a first conviction.
- b. Not less than \$500 or more than \$1,000 for a second conviction.
- ~~e. Not less than \$1,000 or more than \$2,500 for a third conviction;~~
and

2. By imprisonment for:

- a. Not more than 6 months for a first conviction.
- b. Not more than 9 months for a second conviction.
- ~~e. Not more than 12 months for a third conviction.~~

(b) Any person who is convicted of a ~~third fourth or subsequent~~ violation of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; however, the fine imposed for such ~~third fourth or subsequent~~ violation may not be less than \$1,000.

(c) Any person who is convicted of a fourth or subsequent violation of this section commits a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such a violation shall not be less than \$1,000.

(3) Any person:

- (a) Who is in violation of subsection (1);
- (b) Who operates a vessel; and
- (c) Who, by reason of such operation, causes or contributes to the cause of:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 327.353 ~~316.1933~~, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being commits BUI manslaughter, and commits:

- a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(II) The person failed to give information and render aid as required by s. 327.30 ~~316.062~~.

This sub-subparagraph does not require that the person knew that the accident resulted in injury or death.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.20 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$500 or more than \$1,000 for a first conviction.

2. Not less than \$1,000 or more than \$2,000 for a second conviction.

3. Not less than \$2,000 ~~or more than \$5,000~~ for a third or *subsequent* conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

~~3. Not more than 12 months for a third conviction.~~

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.20 or higher.

(8)(a) A person who is arrested for a violation of this section may not be released from custody:

1.(a) Until the person is no longer under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 and affected to the extent that his or her normal faculties are impaired;

2.(b) Until the person's blood-alcohol level or breath-alcohol level is less than 0.05; or

3.(c) Until 8 hours have elapsed from the time the person was arrested.

(b) The arresting officer may place the person in protective custody pursuant to s. 397.6772 if:

1. The person has previously been convicted of a violation of this section or s. 316.193;

2. The person's blood-alcohol level or breath-alcohol level, as determined by a test conducted incident to the person's arrest, was 0.20 or greater;

3. The person, by reason of operation of a vessel, has caused death or serious bodily injury as defined in s. 327.353; or

4. The person is on pretrial release for a previous offense under this section or s. 316.193.

The election to place a person in protective custody may be done at the time of arrest, but transfer of the person to a facility shall not occur prior to the conclusion of the time period set forth in paragraph (a). The provisions of this paragraph are in addition to, not in lieu of, the provisions of subsection (5). A court shall order any person placed in protective custody pursuant to this paragraph, who is subsequently convicted of a violation of this section, to pay the reasonable costs of evaluation and treatment.

Section 8. Section 327.352, Florida Statutes, is amended to read:

327.352 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; *refusal right to refuse*.—

(1)(a) The Legislature declares that the operation of a vessel is a privilege that must be exercised in a reasonable manner. In order to protect the public health and safety, it is essential that a lawful and effective means of reducing the incidence of boating while impaired or intoxicated be established. Therefore, any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by so operating such vessel, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages, chemical substances, or controlled substances. The chemical or physical breath test must be incidental to

a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was operating the vessel within this state while under the influence of alcoholic beverages. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was operating a vessel within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath or urine, or both, *is a misdemeanor and, in addition*, will result in a civil penalty of \$500. The refusal to submit to a chemical or physical breath or urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

(b)1. The blood-alcohol level must be based upon grams of alcohol per 100 milliliters of blood. The breath-alcohol level must be based upon grams of alcohol per 210 liters of breath.

2. An analysis of a person's breath, in order to be considered valid under this section, must have been performed substantially according to methods approved by the Department of Law Enforcement. Any insubstantial differences between approved techniques and actual testing procedures in any individual case do not render the test or test results invalid.

3. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322. The program shall:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with the provisions of this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 316, or chapter 322.

l. Promulgate rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.

n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 316 and 322.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 316 and 322. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

(c) Any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was operating a vessel while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term "other medical facility" includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test *is a misdemeanor and, in addition*, will result in a civil penalty of \$500. The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages or controlled substances, the person may request the arresting officer to have a chemical or physical test made of the arrested person's breath or a test of the urine or blood for the purpose of determining the alcoholic content of the person's blood or breath or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(e)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

2. Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or

technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining its alcoholic content or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person of his or her own choosing administer an independent test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in the person's blood or breath or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his or her blood or urine, or by chemical or physical test of his or her breath. The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer. The law enforcement officer shall not interfere with the person's opportunity to obtain the independent test and shall provide the person with timely telephone access to secure the test, but the burden is on the person to arrange and secure the test at the person's own expense.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to the person or his or her attorney.

5. A hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer does not incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or urine specimen, or the chemical or physical test of a person's breath pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or breath or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 327.35 upon request for such information.

Section 9. Subsection (1) of section 327.353, Florida Statutes, is amended to read:

327.353 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(1)(a) ~~Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 327.352 or any recognized power to revoke the implied consent to such tests,~~ If a law enforcement officer has probable cause to believe that a vessel operated by a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, ~~the person shall submit, upon the request of a law enforcement officer shall require the person operating or in actual physical control of the vessel to submit,~~ to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893. The law enforcement officer may use reasonable force if necessary to require the person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner. *Notwithstanding s. 327.352, the testing required by this paragraph need not be incidental to a lawful arrest of the person.*

(b) The term "serious bodily injury" means an injury to any person, including the operator, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 10. Section 327.359, Florida Statutes, is created to read:

327.359 Refusal to submit to testing; penalties.—Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 327.352, and:

(1) Who the arresting law enforcement officer had probable cause to believe was operating or in actual physical control of a vessel in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances.

(2) Who was placed under lawful arrest for a violation of s. 327.35, unless such test was requested pursuant to s. 327.352(1)(c).

(3) Who was informed that refusal to submit to such test is a misdemeanor.

(4) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

Section 11. Section 397.6755, Florida Statutes, is created to read:

397.6755 Evidence and criteria for involuntary admissions and involuntary treatment; funding.—

(1) If a court finds that a person arrested for violation of either s. 316.193 or s. 327.35 has lost the power of self-control with respect to substance use and is likely to inflict physical harm upon himself or herself or another pursuant to the standards set forth in s. 397.675, a court may require involuntary admission and treatment of such person. In making such determination, a court shall, along with all relevant evidence, consider the following factors:

(a) Whether the person has, previous to the arrest, been convicted of a violation of s. 316.193 or s. 327.35;

(b) Whether the person's blood-alcohol level or breath-alcohol level, as determined by a test conducted incident to the person's arrest, was 0.20 or greater;

(c) Whether the person, by reason of operation of a motor vehicle or a vessel, has caused or contributed to the death or serious bodily injury of another as defined in s. 316.1933 or s. 327.353; or

(d) Whether the person is on pretrial release for a previous offense under s. 316.193 or s. 327.35.

(2) Any person who meets the criteria for involuntary admission pursuant to s. 397.675, who was placed in protective custody pursuant to s. 316.193(9)(b) or s. 327.35(8)(b), and who is a qualified resident as defined in s. 212.055(4)(d) shall have the costs of evaluation and treatment paid from the fund established pursuant to s. 212.055(4)(e). A court shall order any person whose care is paid for under this subsection, who is subsequently convicted of a violation of s. 316.193 or s. 327.35, to reimburse the provider of the services for the reasonable cost of the services provided and, if the person is unable to reimburse the provider, a civil judgment in favor of such fund shall be entered.

Section 12. Paragraphs (c), (f), and (i) of subsection (3) of section 921.0022, Florida Statutes, as amended by chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
		(c) LEVEL 3	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.	843.19	3rd	Injure, disable, or kill police dog or horse.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.	870.01(2)	3rd	Riot; inciting or encouraging.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.			
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.
327.35(2)(b)	3rd	Felony BUI, 3rd conviction.			
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
697.08	3rd	Equity skimming.			
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.	944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
796.05(1)	3rd	Live on earnings of a prostitute.			
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.	985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.			(f) LEVEL 6
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.	316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.	316.193(2)(c)(4b)	3rd	Felony DUI, 4th or subsequent conviction.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.	327.35(2)(c)	3rd	Felony BUI, 4th or subsequent conviction.
817.233	3rd	Burning to defraud insurer.	775.0875(1)	3rd	Taking firearm from law enforcement officer.
817.234(8)&(9)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.	775.21(10)	3rd	Sexual predators; failure to register; failure to renew driver's license or identification card.
817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
817.505(4)	3rd	Patient brokering.	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.	784.041	3rd	Felony battery.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.	784.048(3)	3rd	Aggravated stalking; credible threat.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.	784.048(5)	3rd	Aggravated stalking of person under 16.
			784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
			784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
			784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
784.081(2)	2nd	Aggravated assault on specified official or employee.	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
784.083(2)	2nd	Aggravated assault on code inspector.	943.0435(9)	3rd	Sex offenders; failure to comply with reporting requirements.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.			
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	944.40	2nd	Escapes.
790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
794.05(1)	2nd	Unlawful sexual activity with specified minor.			(i) LEVEL 9
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.	327.35(3)(c)3.b.	1st	<i>BUI manslaughter; failing to render aid or give information.</i>
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.			
812.014(2)(b)2.	2nd	Property stolen cargo valued at less than \$50,000, grand theft in 2nd degree.	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
812.015(9)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.	755.0844	1st	Aggravated white collar crime.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
825.102(1)	3rd	Abuse of an elderly person or disabled adult.	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.			
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
827.03(1)	3rd	Abuse of a child.	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
827.03(3)(c)	3rd	Neglect of a child.			
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
836.05	2nd	Threats; extortion.			
836.10	2nd	Written threats to kill or do bodily injury.	790.161	1st	Attempted capital destructive device offense.
843.12	3rd	Aids or assists person to escape.			

Florida Statute	Felony Degree	Description
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(j)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

Section 13. Section 938.07, Florida Statutes, is amended to read:

938.07 Driving or boating under the influence.—Notwithstanding any other provision of s. 316.193 or s. 327.35, a court cost of \$135 shall be added to any fine imposed pursuant to s. 316.193 or s. 327.35. The clerks shall remit the funds to the Department of Revenue, \$25 of which shall be deposited in the Emergency Medical Services Trust Fund, \$50 shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses in conducting the statewide criminal analysis laboratory system established in s. 943.32, and \$60 shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 381.79.

Section 14. This act shall take effect July 1, 2002.

And the title is amended as follows:
remove: the entire title

and insert: A bill to be entitled An act relating to driving or boating under the influence of alcohol or controlled substances; amending s. 316.193, F.S.; revising language with respect to convictions for a felony DUI; requiring mandatory placement of an ignition interlock device under certain circumstances; amending conditions for conviction in cases of accident, serious bodily injury, or death; removing a cross reference; allowing a law enforcement officer to place a person in protective custody under certain circumstances; requiring a person placed in protective custody to pay reasonable costs of evaluation and treatment under certain circumstances; amending s. 316.1932, F.S.; requiring a law enforcement officer to inform a person that refusal to submit to certain tests is a misdemeanor; amending s. 316.1933, F.S.; requiring a person to submit to a blood test under certain circumstances; providing that the test need not be incidental to a lawful arrest; amending s. 316.1937, F.S.; requiring the installation of ignition interlock devices in conformance to the act; eliminating reference to probation and probationers; requiring notification to the department with respect to ignition interlock devices; creating s. 316.1939, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; amending s. 322.271, F.S.; providing an exception to the prohibition on a limited right to drive for business or employment for certain persons for whom the court has required the use of an ignition interlock device; amending s. 327.35, F.S.; revising language with respect to convictions required for a felony BUI; amending conditions for conviction in cases of accident, serious bodily injury, or death; correcting cross references; allowing a law enforcement officer to place a person in protective custody under certain circumstances; requiring a person placed in protective custody to pay reasonable costs of evaluation and treatment under certain circumstances; amending s. 327.352, F.S.; requiring a law enforcement officer to inform a person that refusal to submit to certain tests is a misdemeanor; amending s. 327.353, F.S.; requiring a person to submit to a blood test under certain circumstances; providing that the test need not be incidental to a lawful arrest; creating s. 327.359, F.S.; providing a penalty for refusing to submit to a chemical or physical test of breath, urine, or blood; providing application; creating s. 397.6755, F.S.; specifying grounds for which a court may determine that criteria exist for involuntary admission and treatment of certain persons; requiring payment for such evaluation and treatment from a certain fund; requiring persons placed in such involuntary custody to reimburse the provider of services under certain circumstances; amending s. 921.0022, F.S.; revising language relating to certain DUI offenses; including certain BUI offenses within the offense severity ranking chart; amending s. 938.07, F.S.; providing for application of a fee to persons found guilty of boating under the influence; correcting a cross reference; providing an effective date.

Rep. Simmons moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1819—A bill to be entitled An act relating to guide dogs and service animals; providing a short title; prohibiting persons from interfering with, injuring, or killing guide dogs or service animals; providing penalties; defining the terms “guide dog” and “service animal”

for purposes of the act; amending s. 413.08, F.S.; extending to people who have seizure disorders the right to be accompanied by a trained service dog in specified circumstances; providing penalties for violations of this section; conforming a provision relating to trainers of service dogs; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1821—A bill to be entitled An act relating to children and families; creating s. 39.320, F.S.; providing legislative findings and intent; creating the Commission on Florida Families within the Department of Children and Family Services; providing purposes and responsibilities; providing for coordination with other organizations and entities; authorizing appointment of advisory committees; providing for funding of the commission; repealing ss. 383.0112, 383.0113, and 383.0114, F.S., relating to the Commission on Responsible Fatherhood and community-based programs to encourage responsible fatherhood; providing an effective date.

—was read the second time by title.

The Committee on Child & Family Security offered the following:

(Amendment Bar Code: 283649)

Amendment 1 (with title amendment)—
Remove everything after the enacting clause
and insert:

Section 1. Section 39.320, Florida Statutes, is created to read:

39.320 The Commission on Marriage and Family Support Initiatives.—

(1) **LEGISLATIVE FINDINGS AND INTENT.**—

(a) *the Legislature finds that Florida families deserve respect and support. Children need support and guidance from both mothers and fathers, and families need support and guidance from community systems to help them thrive.*

(b) *The Legislature finds that there are many problems facing families, including but not limited to, poverty, exposure to crime and drugs, exposure to violence, and lack of access to needed educational and job skills opportunities.*

(c) *The Legislature finds that Florida is a state rich in diversity, and its population and families come from all over the world, representing many cultures, languages, belief systems and experiences.*

(d) *The Legislature also finds that while some relationships between mothers and fathers are broken and beyond repair, others can be nurtured and salvaged with the provision of appropriate community supports to fathers as well as mothers. For parents, these supports may include opportunities to obtain or increase educational levels and employment skills, access to the justice system, support from community agencies to help them become free of substance abuse and violent relationships, and easy, affordable access to relationship skills education. For some unwed parents, it will be possible and desirable to help them move towards marriage; for others, the optimum goal may be to help them co-parent, spend time with their child, and pay child support regularly.*

(e) *The Legislature finds that assisting states to end dependence of low-income parents by promoting job preparation, work and marriage and assisting states to encourage the formation and maintenance of two-parent families are the two of four stated purposes of federal welfare reform enacted in 1996 that have been largely neglected by states and that states are now urging Congress to designate 10 percent of all welfare funds for relationship education and skills development, responsible fatherhood programs, and community support as it seeks to reauthorize the Temporary Assistance for Needy Families Act in 2002.*

(f) *The Legislature further finds that public policy should not operate to force people to get married, should not withdraw or diminish benefits*

to single mothers merely because they are not married, and should not keep people in abusive relationships.

(g) *It is therefore the intent of the Legislature to build on the accomplishments of the Commission on Responsible Fatherhood, which has achieved recognition as a national model of a comprehensive statewide strategy to address fatherhood issues; to increase public awareness of the problems of families including failing marriages, violence, poverty, substance abuse, lack of access to community systems and help and other supports families need; and to continue to develop sound public policy related to parenting, marriage, and the effects of poverty, violence and abuse on children and their families through the work of the Commission on Marriage and Family Support Initiatives. The Legislature further intends that, to the extent practicable, the laws of this state should do all that is possible to provide support for children and encourage, promote, and value strong, safe, long-term marriages and family life that includes grandparents, family members, community support and all that children need to grow up healthy and to thrive.*

(2) **ESTABLISHMENT OF COMMISSION.**—

(a) *There is created within the Department of Children and Family Services the Commission on Marriage and Family Support Initiatives. The commission shall consist of 18 members, with 6 each appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The commission must contain a minimum of 50 percent representation from the private sector. The commission members shall include representatives of business, workforce development, education, state government, local government, the judicial system, the health care sector, the substance abuse community, domestic violence centers, child development, and community and faith-based organizations. The commission may also designate liaisons to work with it to carry out its mission. Liaisons may be designated from state and local government agencies and others as the commission sees fit.*

(b) *Initially, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint as members meeting the qualifications contained in paragraph (1), 2 members for a term of 3 years, 2 members for a term of 2 years, and 2 members for a term of 1 year. Thereafter, after receiving recommendations from the commission, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint all members for terms of 2 years. Any vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term by a person who possesses the proper qualifications for the vacancy.*

(c) *The members of the commission shall elect one of their members to serve as chair. For the purpose of maintaining continuity with the work of the Commission on Responsible Fatherhood, the individual serving as the chair of the Commission on Responsible Fatherhood at the time of the effective date of this act shall remain as the chair of the Commission on Marriage and Family Support Initiatives for a term of 1 year, unless subsequently re-elected by the members of the commission.*

(d) *Members of the commission shall not be entitled to compensation for their services as members, but shall be reimbursed for travel expenses as provided in s. 112.061.*

(e) *The commission shall meet semi-annually and more frequently upon call of the chair. The commission may conduct its meetings through teleconferences or other similar means.*

(3) **SCOPE OF ACTIVITY.**—*The commission shall:*

(a) *Develop a report that details comprehensive statewide strategies for Florida to promote safe, violence-free, substance abuse-free, respectful, nurturing and responsible parenting, including connection or recommendation of responsible parents, both mothers and fathers, with their families and children.*

(b) *Develop a report that makes recommendations on how to increase the availability of and access to parenting and relationship skills education and training, and to encourage and support the formation and maintenance of two-parent families and family structures that are best for the children. This shall include providing a plan for delivering*

services and supports to couples and families to help them learn communication and conflict resolution skills prior to marriage, enable couples to refresh those skills periodically during marriage and, if the marriage fails, provide divorce education, safety planning and mediation techniques that teach parents how to be safe and to work through their problems and how to minimize the impact of the divorce on their children.

(c) Produce and promote a promising practices manual or tool that highlights successful efforts at promoting marriage and Florida families and family life.

(d) Develop a community awareness campaign to promote community collaboration and coordinated grass-roots programs that show how people, advocates and agencies can work together to promote marriage in Florida families;

(e) Serve as a clearinghouse for collecting and disseminating information related to research findings on poverty, violence and other social forces and their effects on families, and innovative approaches to the delivery of services necessary for the formation and maintenance of strong families.

(f) By December 31 of each year, beginning December 31, 2002, issue an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court on progress it is making on its responsibilities.

(g) The Commission on Marriage and Family Support Initiatives shall stand repealed on June 30, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

(4) COORDINATION.—The commission shall coordinate its work with community-based organizations, including those that are faith-based, with schools, courts, certified local domestic violence centers, adult and juvenile criminal justice systems, and agencies providing social welfare, welfare transition, and child support services, and with any appropriate research and policy development centers, including, but not limited to, those within universities that focus on issues related to families, fatherhood, motherhood, low-income families, marriages, children and poverty, parenting, and relationship skills.

(5) FUNDING.—The operation of the Commission on Marriage and Family Support Initiatives shall be funded from general revenue funds currently allocated to the Commission on Responsible Fatherhood, shall maintain the current connection with the Ounce of Prevention Fund, and shall support and continue any community-based programs established by the Commission on Responsible Fatherhood. The Commission on Marriage and Family Support Initiatives may seek and accept grants, funds, or gifts from any source, public or private, federal, state, or local, to supplement its operation and defray the expenses incurred in the operation and implementation of this section.

Section 2. Sections 383.0112, 383.0113, and 383.0114, Florida Statutes, are repealed.

Section 3. This act shall take effect July 1, 2002.

And the title is amended as follows:

On page 1, lines 4-10,
remove: said lines

and insert: findings and intent; creating the Commission on Marriage and Family Support Initiatives within the Department of Children and Family Services; providing for membership; providing scope of activity; providing for coordination with other organizations and entities; providing for funding of the

Rep. Lynn moved the adoption of the amendment.

Representative(s) Lynn offered the following:

(Amendment Bar Code: 975859)

Amendment 1 to Amendment 1—On page 5, line 6,
remove: recommendation

and insert: reconnection

Rep. Lynn moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the rules were waived and the House moved to the order of—

Bills and Joint Resolutions on Third Reading

HB 111—A bill to be entitled An act relating to health flex plans; providing legislative findings and intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria for approval of health flex plans; delineating the responsibilities of the Agency for Health Care Administration and the Department of Insurance; exempting approved health flex plans from certain regulatory requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan entities to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying that coverage under an approved health flex plan is not an entitlement; requiring an evaluation and report; providing for subsequent repeal; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 866

Yeas—115

The Chair	Crow	Holloway	Paul
Alexander	Cusack	Jennings	Peterman
Allen	Davis	Johnson	Pickens
Andrews	Detert	Jordan	Prieguez
Arza	Diaz-Balart	Joyner	Rich
Attkisson	Dockery	Justice	Richardson
Atwater	Evers	Kallinger	Ritter
Ausley	Farkas	Kendrick	Romeo
Baker	Fasano	Kilmer	Ross
Ball	Fields	Kosmas	Rubio
Barreiro	Florentino	Kottkamp	Russell
Baxley	Flanagan	Kravitz	Ryan
Bean	Gannon	Lacasa	Seiler
Bendross-Mindingall	Garcia	Lee	Simmons
Bennett	Gardiner	Lerner	Siplin
Bense	Gelber	Littlefield	Slosberg
Benson	Gibson	Lynn	Smith
Berfield	Goodlette	Machek	Sobel
Betancourt	Gottlieb	Mack	Sorensen
Bilirakis	Green	Mahon	Spratt
Bowen	Greenstein	Mayfield	Stansel
Brown	Haridopolos	Maygarden	Trovillion
Brummer	Harper	McGriff	Wallace
Brutus	Harrell	Meadows	Waters
Bullard	Harrington	Mealor	Weissman
Byrd	Hart	Melvin	Wiles
Cantens	Henriquez	Murman	Wilson
Carassas	Heyman	Needelman	Wishner
Clarke	Hogan	Negron	

Nays—2

Bucher	Frankel
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So the bill passed, as amended, and was immediately certified to the Senate.

CS for SB 160—A bill to be entitled An act relating to pari-mutuel wagering; providing a short title; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the

state; requiring that the booth be operated by certain qualified persons on weekends; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; amending s. 550.26165, F.S.; revising criteria for making breeders' awards for racehorses; amending s. 550.2625, F.S.; providing for payment of special racing awards; amending s. 550.5251, F.S.; allowing a thoroughbred racing permitholder to operate a cardroom; amending s. 849.086, F.S.; redefining the term "authorized games"; allowing the amendment of a permitholder's annual application to include operation of a cardroom; providing restrictions relating to harness permitholder cardrooms; revising standards relating to when cardrooms may be operated and relating to bets; authorizing facilities to award prizes; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 867

Yeas—86

Allen	Diaz-Balart	Joyner	Richardson
Andrews	Evers	Justice	Ritter
Argenziano	Farkas	Kilmer	Romeo
Arza	Fasano	Kosmas	Rubio
Atwater	Fields	Lacasa	Russell
Ausley	Flanagan	Lee	Ryan
Baxley	Gannon	Lerner	Seiler
Bendross-Mindingall	Garcia	Littlefield	Simmons
Bennett	Gardiner	Machek	Siplin
Bense	Gibson	Mack	Slosberg
Berfield	Goodlette	Mahon	Smith
Betancourt	Gottlieb	Mayfield	Sobel
Bilirakis	Green	Maygarden	Sorensen
Bowen	Greenstein	McGriff	Spratt
Brutus	Haridopolos	Meadows	Wallace
Bucher	Harper	Mealor	Waters
Bullard	Harrell	Murman	Weissman
Cantens	Hart	Needelman	Wiles
Clarke	Henriquez	Negron	Wilson
Cusack	Heyman	Peterman	Wishner
Davis	Holloway	Pickens	
Detert	Jennings	Rich	

Nays—26

The Chair	Brummer	Harrington	Lynn
Attkisson	Byrd	Hogan	Melvin
Baker	Carassas	Johnson	Paul
Ball	Crow	Jordan	Stansel
Bean	Dockery	Kendrick	Trovillion
Benson	Frankel	Kottkamp	
Brown	Gelber	Kravitz	

Votes after roll call:

Yeas—Prieguez, Ross

Nays—Fiorentino

Yeas to Nays—Kilmer, Maygarden

Explanation of Vote for Sequence Number 867

I accidentally pushed the wrong button and corrected my vote.

*Rep. Bev Kilmer
District 7*

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Mahon, consideration of **CS/HB 775** was temporarily postponed under Rule 11.10.

CS/HB 1301—A bill to be entitled An act relating to the Board of Architecture and Interior Design; amending s. 481.205, F.S.; delegating to the board the duties and authority of the Department of Business and Professional Regulation to investigate and prosecute the practice and unlicensed practice of architecture and interior design; requiring the board to contract with a corporation or other business entity to provide legal, investigative, prosecutorial, and other services; providing requirements with respect to records; authorizing the board to use funds from the unlicensed activity account to perform certain duties; requiring the board to submit an annual budget request to the Legislature; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 868

Yeas—111

The Chair	Clarke	Jennings	Paul
Alexander	Crow	Johnson	Peterman
Allen	Cusack	Joyner	Pickens
Andrews	Davis	Justice	Prieguez
Argenziano	Detert	Kallinger	Rich
Arza	Dockery	Kendrick	Richardson
Attkisson	Farkas	Kilmer	Ritter
Atwater	Fasano	Kosmas	Romeo
Ausley	Fields	Kottkamp	Ross
Baker	Fiorentino	Kravitz	Russell
Ball	Flanagan	Kyle	Ryan
Barreiro	Frankel	Lacasa	Seiler
Baxley	Gannon	Lee	Simmons
Bean	Garcia	Lerner	Siplin
Bendross-Mindingall	Gardiner	Littlefield	Slosberg
Bennett	Gelber	Lynn	Smith
Bense	Gibson	Machek	Sobel
Benson	Gottlieb	Mack	Sorensen
Berfield	Green	Mahon	Spratt
Betancourt	Greenstein	Mayfield	Stansel
Bilirakis	Haridopolos	Maygarden	Trovillion
Bowen	Harper	McGriff	Wallace
Brown	Harrell	Meadows	Waters
Brummer	Harrington	Mealor	Weissman
Brutus	Hart	Melvin	Wiles
Bucher	Henriquez	Murman	Wilson
Bullard	Heyman	Needelman	Wishner
Cantens	Holloway	Negron	

Nays—2

Carassas Hogan

Votes after roll call:

Yeas—Evers, Jordan

Nays to Yeas—Carassas, Hogan

So the bill passed and was immediately certified to the Senate.

HB 1529—A bill to be entitled An act relating to road designations; designating a portion of roadway in Miami-Dade County as "Dr. Luis Conte-Aguero Way"; designating a portion of U.S. 1 the "South Miami All-American Parkway;" designating a portion of State Road 87 in Santa Rosa County the "Bennett C. Russell Florida/Alabama Parkway;" directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 869

Yeas—118

The Chair	Clarke	Holloway	Paul
Alexander	Crow	Jennings	Peterman
Allen	Cusack	Johnson	Pickens
Andrews	Davis	Jordan	Prieguez
Argenziano	Detert	Joyner	Rich
Arza	Diaz-Balart	Justice	Richardson
Attkisson	Dockery	Kallinger	Ritter
Atwater	Evers	Kendrick	Romeo
Ausley	Farkas	Kilmer	Ross
Baker	Fasano	Kosmas	Rubio
Ball	Fields	Kottkamp	Russell
Barreiro	Fiorentino	Kravitz	Ryan
Baxley	Flanagan	Kyle	Seiler
Bean	Frankel	Lacasa	Simmons
Bendross-Mindingall	Gannon	Lee	Siplin
Bennett	Gardiner	Lerner	Slosberg
Bense	Gelber	Littlefield	Smith
Benson	Gibson	Lynn	Sobel
Berfield	Goodlette	Machek	Sorensen
Betancourt	Gottlieb	Mack	Spratt
Bilirakis	Green	Mahon	Stansel
Bowen	Greenstein	Mayfield	Trovillion
Brown	Haridopolos	Maygarden	Wallace
Brummer	Harper	McGriff	Waters
Brutus	Harrell	Meadows	Weissman
Bucher	Harrington	Mealor	Wiles
Bullard	Hart	Melvin	Wilson
Byrd	Henriquez	Murman	Wishner
Cantens	Heyman	Needelman	
Carassas	Hogan	Negron	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1531—A bill to be entitled An act relating to road designations; designating a portion of roadway in the City of Miami in Miami-Dade County as “Enrique Valledor Way”; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 870

Yeas—116

The Chair	Brown	Gannon	Kendrick
Alexander	Brummer	Garcia	Kilmer
Allen	Brutus	Gardiner	Kosmas
Andrews	Bucher	Gelber	Kottkamp
Argenziano	Bullard	Gibson	Kravitz
Arza	Byrd	Goodlette	Lacasa
Attkisson	Cantens	Green	Lee
Atwater	Carassas	Greenstein	Lerner
Ausley	Clarke	Haridopolos	Littlefield
Baker	Crow	Harrell	Lynn
Ball	Cusack	Harrington	Machek
Barreiro	Davis	Hart	Mack
Baxley	Detert	Henriquez	Mahon
Bean	Diaz-Balart	Heyman	Mayfield
Bendross-Mindingall	Dockery	Hogan	Maygarden
Bennett	Evers	Holloway	McGriff
Bense	Farkas	Jennings	Meadows
Benson	Fasano	Johnson	Mealor
Berfield	Fields	Jordan	Melvin
Betancourt	Fiorentino	Joyner	Murman
Bilirakis	Flanagan	Justice	Needelman
Bowen	Frankel	Kallinger	Negron

Paul	Romeo	Siplin	Trovillion
Peterman	Ross	Slosberg	Wallace
Pickens	Rubio	Smith	Waters
Prieguez	Russell	Sobel	Weissman
Rich	Ryan	Sorensen	Wiles
Richardson	Seiler	Spratt	Wilson
Ritter	Simmons	Stansel	Wishner

Nays—None

Votes after roll call:
Yeas—Gottlieb, Harper

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1533—A bill to be entitled An act relating to road designations; designating a portion of roadway in Miami-Dade County as “Olga Chorens and Tony Alvarez Way”; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 871

Yeas—115

The Chair	Crow	Hogan	Paul
Allen	Cusack	Holloway	Peterman
Andrews	Davis	Jennings	Pickens
Argenziano	Detert	Johnson	Prieguez
Arza	Diaz-Balart	Jordan	Rich
Attkisson	Dockery	Joyner	Richardson
Atwater	Evers	Justice	Ritter
Ausley	Farkas	Kallinger	Romeo
Baker	Fasano	Kendrick	Ross
Ball	Fields	Kilmer	Rubio
Barreiro	Fiorentino	Kosmas	Russell
Baxley	Flanagan	Kottkamp	Ryan
Bean	Frankel	Kravitz	Seiler
Bendross-Mindingall	Gannon	Kyle	Simmons
Bennett	Garcia	Lacasa	Siplin
Bense	Gardiner	Lerner	Slosberg
Benson	Gelber	Littlefield	Smith
Berfield	Gibson	Lynn	Sobel
Betancourt	Goodlette	Machek	Sorensen
Bilirakis	Gottlieb	Mack	Spratt
Bowen	Green	Mahon	Stansel
Brown	Greenstein	Mayfield	Trovillion
Brummer	Haridopolos	Maygarden	Wallace
Bucher	Harper	McGriff	Waters
Bullard	Harrell	Mealor	Weissman
Byrd	Harrington	Melvin	Wiles
Cantens	Hart	Murman	Wilson
Carassas	Henriquez	Needelman	Wishner
Clarke	Heyman	Negron	

Nays—None

Votes after roll call:
Yeas—Brutus

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Flanagan, consideration of **HB 1985** was temporarily postponed under Rule 11.10.

On motion by Rep. Flanagan, consideration of **CS/CS/HB 577** was temporarily postponed under Rule 11.10.

CS/HB 1207—A bill to be entitled An act relating to health care; creating the Florida Alzheimer’s Training Act; creating ss. 400.4786, 400.55715, and 400.626, F.S., and amending s. 400.6045, F.S.; prescribing training standards for employees of home health agencies, adult day care centers, adult family-care homes, and hospices,

respectively, that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing for compliance with guidelines within a certain time period; providing for approval of Alzheimer's training and trainers; providing for application of training to meet specified requirements; providing authority to adopt rules; providing legislative findings and intent; providing effective dates.

—was read the third time by title.

On motion by Rep. Gibson, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Gibson offered the following:

(Amendment Bar Code: 555309)

Amendment 2 (with title amendment)—On page 1, line 24, through page 3, line 22, remove: all of said lines

and insert:

Section 2. Effective July 1, 2004, section 400.4785, Florida Statutes, is amended to read:

400.4785 Patients with Alzheimer's disease or other related disorders; certain *training mandates and disclosures*.—

(1)(a) *An agency licensed under this part which provides direct service to adults shall require each newly hired employee who provides direct care to patients under federal home health regulations to dedicate 4 hours to training in Alzheimer's disease and dementia-related illnesses. This training shall include, but is not limited to, overview of dementia, demonstrating basic skills in communicating with persons with dementia, managing problem behaviors, promoting the client's independence in activities of daily living, and skills in working with families and caregivers.*

(b) *The Department of Elderly Affairs, or its designee, shall approve the required training. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 4-hour training. The department shall adopt rules to establish standards for the trainers required in this section.*

(c) *Upon completing the training listed in this section, the employee shall be issued a certificate that states that the training mandated under this section has been received. The certificate shall be dated and signed by the training provider. The certificate is evidence of completion of this training and the employee is not required to repeat this training if the employee changes employment to a different home health agency, assisted living facility, nursing home, adult day care center, adult family-care home, or hospice.*

(2) An agency licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The agency must give a copy of all such advertisements or a copy of the document to each person who requests information about the agency and must maintain a copy of all such advertisements and documents in its records. The Agency for Health Care Administration shall examine all such advertisements and documents in the agency's records as part of the license renewal procedure.

And the title is amended as follows:

On page 1, lines 4 and 5, remove: all of said lines

and insert: 400.55715 and 400.626, F.S., and amending ss. 400.4785 and 400.6045, F.S.; prescribing

Rep. Gibson moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 1207. The vote was:

Session Vote Sequence: 872

Yeas—117

The Chair	Cusack	Jennings	Peterman
Alexander	Davis	Johnson	Pickens
Allen	Detert	Jordan	Prieguez
Andrews	Diaz-Balart	Joyner	Rich
Argenziano	Dockery	Justice	Richardson
Arza	Evers	Kallinger	Ritter
Attkisson	Farkas	Kendrick	Romeo
Atwater	Fasano	Kilmer	Ross
Baker	Fields	Kosmas	Rubio
Ball	Fiorentino	Kottkamp	Russell
Barreiro	Flanagan	Kravitz	Ryan
Baxley	Frankel	Kyle	Seiler
Bean	Gannon	Lacasa	Simmons
Bendross-Mindingall	Garcia	Lee	Siplin
Bennett	Gardiner	Lerner	Slosberg
Bense	Gelber	Littlefield	Smith
Benson	Gibson	Lynn	Sobel
Berfield	Goodlette	Machek	Sorensen
Betancourt	Gottlieb	Mack	Spratt
Bilirakis	Green	Mahon	Stansel
Bowen	Greenstein	Mayfield	Trovillion
Brown	Haridopolos	Maygarden	Wallace
Brunner	Harper	McGriff	Waters
Brutus	Harrell	Meadows	Weissman
Bucher	Harrington	Mealor	Wiles
Bullard	Hart	Melvin	Wilson
Byrd	Henriquez	Murman	Wishner
Carassas	Heyman	Needelman	
Clarke	Hogan	Negron	
Crow	Holloway	Paul	

Nays—None

Votes after roll call:

Yeas—Ausley

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS for SB 148—A bill to be entitled An act relating to to homeowners' associations; amending s. 720.304, F.S.; providing that any homeowner may display a United States flag; amending s. 720.3075, F.S.; prohibiting association documents from placing certain restrictions on the display of a United States flag; providing for retroactive application of the act; providing an effective date.

—was read the third time by title.

Representative(s) Harper offered the following:

(Amendment Bar Code: 063347)

Amendment 1 (with title amendment)—On page 2, line 2, after the period,

insert: *The top of a flagpole may not be higher than 15 feet from the ground and the flag may not be larger than 15 square feet in area.*

And the title is amended as follows:

On page 1, line 4, after the semicolon,

insert: providing limitations;

Rep. Harper moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption.

The question recurred on the passage of CS for SB 148. The vote was:

Session Vote Sequence: 873

Yeas—108

The Chair	Carassas	Heyman	Melvin
Alexander	Clarke	Hogan	Murman
Allen	Cusack	Holloway	Needelman
Andrews	Davis	Jennings	Negron
Argenziano	Detert	Jordan	Paul
Arza	Diaz-Balart	Joyner	Peterman
Attkisson	Dockery	Justice	Prieguez
Atwater	Evers	Kallinger	Rich
Ausley	Farkas	Kendrick	Ritter
Baker	Fasano	Kilmer	Romeo
Ball	Fields	Kosmas	Ross
Barreiro	Fiorentino	Kottkamp	Rubio
Baxley	Flanagan	Kravitz	Ryan
Bean	Frankel	Kyle	Seiler
Bendross-Mindingall	Garcia	Lacasa	Simmons
Bennett	Gardiner	Lee	Siplin
Benson	Gelber	Lerner	Slosberg
Berfield	Gibson	Littlefield	Sobel
Betancourt	Goodlette	Lynn	Sorensen
Bilirakis	Gottlieb	Machek	Spratt
Bowen	Green	Mack	Stansel
Brown	Greenstein	Mahon	Trovillion
Brutus	Haridopolos	Mayfield	Waters
Bucher	Harper	Maygarden	Weissman
Bullard	Harrell	McGriff	Wiles
Byrd	Harrington	Meadows	Wilson
Cantens	Henriquez	Mealor	Wishner

Nays—4

Brummer	Gannon	Richardson	Smith
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Votes after roll call:

Yeas—Pickens, Russell

So the bill passed and was immediately certified to the Senate.

HB 813—A bill to be entitled An act relating to Everglades restoration; amending s. 201.15, F.S.; providing for distribution of proceeds from excise taxes on documents to pay debt service on Everglades restoration bonds; creating s. 215.619, F.S.; authorizing the issuance of Everglades restoration bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan; providing procedures and limitations; providing for deposit of funds in the Save Our Everglades Trust Fund; amending s. 259.105, F.S.; specifying time period for transfer of certain Florida Forever Act funds into the Save Our Everglades Trust Fund; amending ss. 373.470 and 373.472, F.S.; authorizing the payment of debt service on Everglades restoration bonds from the Save Our Everglades Trust Fund; revising requirements for deposit of state and water management district funds into the Save Our Everglades Trust Fund; providing legislative intent that the issuance of Everglades restoration bonds is in the best interest of the state; amending s. 373.1502, F.S.; providing that certain project components shall be exempt from permit requirements; specifying land procurement procedures; providing effective dates.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 273381)

Technical Amendment 7—On page 1, line 18, after the semicolon,

insert: specifying use of funds;
and on page 12, line 10,
remove: *monies*

and insert: *moneys*
and on page 12, line 14, after s. 373.470,

insert: , *Florida Statutes*,
and on page 12, line 15, after s. 570.71,

insert: , *Florida Statutes*

Rep. Goodlette moved the adoption of the amendment, which was adopted.

The question recurred on the passage of HB 813. The vote was:

Session Vote Sequence: 874

Yeas—116

The Chair	Carassas	Henriquez	Needelman
Alexander	Clarke	Heyman	Negron
Allen	Crow	Hogan	Paul
Andrews	Cusack	Holloway	Peterman
Argenziano	Davis	Jennings	Pickens
Arza	Detert	Johnson	Prieguez
Attkisson	Diaz-Balart	Jordan	Rich
Atwater	Dockery	Joyner	Richardson
Ausley	Evers	Justice	Ritter
Baker	Farkas	Kallinger	Romeo
Ball	Fasano	Kendrick	Ross
Barreiro	Fields	Kilmer	Rubio
Baxley	Fiorentino	Kosmas	Russell
Bean	Flanagan	Kottkamp	Ryan
Bendross-Mindingall	Frankel	Kravitz	Seiler
Bennett	Gannon	Kyle	Simmons
Bense	Garcia	Lacasa	Siplin
Benson	Gardiner	Lee	Slosberg
Berfield	Gelber	Lerner	Smith
Betancourt	Gibson	Littlefield	Sobel
Bilirakis	Goodlette	Lynn	Sorensen
Bowen	Gottlieb	Machek	Spratt
Brown	Green	Mack	Stansel
Brummer	Greenstein	Mahon	Wallace
Brutus	Haridopolos	Mayfield	Waters
Bucher	Harper	McGriff	Weissman
Bullard	Harrell	Meadows	Wiles
Byrd	Harrington	Mealor	Wilson
Cantens	Hart	Murman	Wishner

Nays—None

Votes after roll call:

Yeas—Maygarden, Melvin, Trovillion

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Goodlette, the House moved to the consideration of CS/HB 507 on Special Orders.

Continuation of Special Orders

Continuation of Special Order Calendar

CS/HB 507—A bill to be entitled An act relating to responsiveness to emergencies and disasters; providing legislative findings; amending s. 381.0011, F.S.; revising duties of the Department of Health; authorizing the State Health Officer to take specified emergency actions to protect the public health; amending s. 381.0034, F.S.; providing a requirement for instruction of certain health care licensees on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as a condition of relicensure; amending s. 381.0035, F.S.; providing a requirement for instruction of employees at certain health care facilities on conditions caused by nuclear, biological, and chemical terrorism, upon initial employment, and, in lieu of the requirement of instruction on HIV and AIDS, as biennial continuing education; providing an exception; creating s. 381.0421, F.S.; requiring postsecondary education institutions to provide information on hepatitis B; requiring individuals residing in on-campus housing to document

vaccinations against hepatitis B or sign a waiver; amending ss. 395.1027 and 401.245, F.S.; correcting cross references; amending s. 401.23, F.S.; revising definitions of “advanced life support” and “basic life support” and defining “emergency medical condition”; amending s. 401.252, F.S.; authorizing physician assistants to conduct interfacility transfers in a permitted ambulance under certain circumstances; amending s. 401.27, F.S.; providing that the course on conditions caused by nuclear, biological, and chemical terrorism shall count toward the total required hours for biennial recertification of emergency medical technicians and paramedics; amending s. 456.033, F.S.; providing a requirement for instruction of certain health care practitioners on conditions caused by nuclear, biological, and chemical terrorism, as a condition of initial licensure, and, in lieu of the requirement for instruction on HIV and AIDS, as part of biennial relicensure; creating s. 456.0345, F.S.; providing continuing education credits to health care practitioners for certain life support training; amending s. 456.072, F.S.; conforming provisions relating to grounds for disciplinary actions to changes in health care practitioners’ course requirements; amending s. 456.38, F.S.; revising provisions relating to the health care practitioner registry for disasters and emergencies; prohibiting certain termination of or discrimination against a practitioner providing disaster medical assistance; amending ss. 458.319 and 459.008, F.S.; conforming provisions relating to exceptions to continuing education requirements for physicians and osteopathic physicians; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today; now pending on point of order by Rep. Ryan, under Rule 12.9, on Amendment 2 by Rep. Farkas.

Subsequently, Rep. Ryan withdrew the point of order.

The question recurred on the adoption of Amendment 2, which was withdrawn.

Representative(s) Rubio offered the following:

(Amendment Bar Code: 733711)

Amendment 3 (with title amendment)—On page 25, between lines 2 and 3, of the bill

insert:

Section 17. Subsection (4) is added to section 401.2715, Florida Statutes, to read:

401.2715 Recertification training of emergency medical technicians and paramedics.—

(4) *Any certified emergency medical technician or paramedic may, as a condition of recertification, complete up to 8 hours of training to respond to terrorism, as defined in s. 775.30, and such hours completed may be substituted on an hour-for-hour basis for any other areas of training required for recertification. The department may adopt rules necessary to administer this subsection.*

Section 18. Subsection (1) of section 633.35, Florida Statutes, is amended to read:

633.35 Firefighter training and certification.—

(1) The division shall establish a firefighter training program of not less than 360 hours, administered by such agencies and institutions as it approves for the purpose of providing basic employment training for firefighters. *Any firefighter may, as a condition of certification, complete up to 8 hours of training to respond to terrorism, as defined in s. 775.30, and such hours completed may be substituted on an hour-for-hour basis for any other areas of training required for certification. The division may adopt rules necessary to administer this subsection.* Nothing herein shall require a public employer to pay the cost of such training.

Section 19. Subsection (1) of section 943.135, Florida Statutes, is amended to read:

943.135 Requirements for continued employment.—

(1) The commission shall, by rule, adopt a program that requires all officers, as a condition of continued employment or appointment as officers, to receive periodic commission-approved continuing training or education. Such continuing training or education shall be required at the rate of 40 hours every 4 years, *up to 8 hours of which may consist of training to respond to terrorism as defined in s. 775.30.* No officer shall be denied a reasonable opportunity by the employing agency to comply with this section. The employing agency must document that the continuing training or education is job-related and consistent with the needs of the employing agency. The employing agency must maintain and submit, or electronically transmit, the documentation to the commission, in a format approved by the commission. The rule shall also provide:

(a) Assistance to an employing agency in identifying each affected officer, the date of his or her employment or appointment, and his or her most recent date for successful completion of continuing training or education;

(b) A procedure for reactivation of the certification of an officer who is not in compliance with this section; and

(c) A remediation program supervised by the training center director within the geographic area for any officer who is attempting to comply with the provisions of this subsection and in whom learning disabilities are identified. The officer shall be assigned nonofficer duties, without loss of employee benefits, and the program shall not exceed 90 days.

And the title is amended as follows:

On page 3, line 2, after the semicolon,

insert: amending ss. 401.2715, 633.35, and 943.135, F.S.; authorizing certain substitution of terrorism response training for other training required for recertification of emergency medical technicians and paramedics, certification of firefighters, and continued employment or appointment of law enforcement officers, correctional officers, and correctional probation officers; authorizing rulemaking;

Rep. Rubio moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Messages from the Senate

First Reading by Publication

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 682 and CS for SB 1362 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Children and Families and Senator Peaden—

CS for SB 682—A bill to be entitled An act relating to substance-abuse services; amending s. 397.311, F.S.; redefining the term “licensed service provider”; requiring that licensure standards apply to certain housing locations; redefining the term “service provider personnel,” to add chief financial officers; requiring that owners, directors, and chief financial officers of a substance-abuse service provider undergo a background check pursuant to ch. 435, F.S.; requiring that proof of compliance with local zoning ordinances be included in the applications for licensure; amending s. 397.405, F.S.; clarifying that DUI education and screening services must be licensed if they provide treatment services; amending s. 397.407, F.S.; conforming cross-references; amending s. 397.416, F.S.; conforming cross-references; amending s. 397.451, F.S.; clarifying provisions; requiring level-2 background screening for employees who work with children and with adults who are developmentally disabled; specifying circumstances under which service provider owners, directors, or chief financial officers are not subject to background screening; allowing personnel to request, and the department to grant, an exemption from disqualification; amending ss.

212.055, 440.102, F.S.; conforming cross-references; providing an effective date.

Referred to the Calendar of the House.

By the Committee on Banking and Insurance and Senator Latvala—

CS for SB 1362—A bill to be entitled An act relating to insurance; amending s. 627.7295, F.S.; clarifying an exception; providing an additional exception to a requirement that a minimum of 2 months' premium be collected to issue a policy or binder for motor vehicle insurance; amending s. 627.901, F.S.; authorizing insurance agents and insurers that finance premiums for certain policies to charge interest or a service charge at a specified rate on unpaid premiums on those policies; providing an effective date.

Referred to the Calendar of the House.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:00 a.m., Wednesday, March 13. The motion was agreed to.

Votes After Roll Call

[Date(s) of Vote(s) and Sequence Number(s)]

Rep. Attkisson:

Yeas—March 11: 858

Rep. Bendross-Mindingall:

Yeas—March 11: 847

Rep. Feeney:

Yeas—March 11: 840, 856, 857, 858

Rep. Gannon:

Yeas—March 7: 816

Rep. Heyman:

Yeas—March 11: 847

Rep. Mahon:

Yeas—March 7: 817, 823

Nays—March 7: 828

Rep. Mayfield:

Yeas—March 7: 821; March 11: 839, 840, 841, 842, 843, 844, 845, 846, 848, 849, 850, 851, 852, 853

Rep. Maygarden:

Yeas—March 11: 855, 856, 858

Rep. Seiler:

Yeas—March 7: 835

Rep. Wilson:

Yeas to Nays—March 11: 848

Rep. Wishner:

Yeas—March 11: 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859

Prime Sponsors

CS/HB 507—Farkas
 HB 631—Greenstein
 HB 2009—Fasano

Cosponsors

HB 105—Lerner
 CS/HB 135—Allen, Needelman, Wilson
 HB 161—Cusack
 HB 307—Ryan
 CS/HB 473—Benson
 CS/HB 479—Wilson
 CS/HB 491—Joyner
 CS/HB 547—Wilson
 HB 565—Smith, Sobel
 CS/HB 593—Detert, Needelman, Seiler
 HB 615—Clarke
 HB 651—Berfield, Brown, Ross
 CS/HB 683—Harrell
 CS/HB 753—Lynn
 CS/HB 775—Jennings
 HB 813—Heyman, Wishner
 CS/HB 1163—Wishner
 CS/HB 1301—Benson, Needelman
 HB 1467—Joyner
 CS/HB 1661—Fiorentino
 HB 2009—Fiorentino, Goodlette, Rubio

Introduction and Reference

By the Council for Smarter Government; Representative Cantens—

HB 2015—A bill to be entitled An act relating to governmental reorganization; amending ss. 13.05, 14.202, 14.24, 112.215, 114.03, 121.0312, 121.055, 121.4501, 215.44, 215.62, 215.95, and 253.02, F.S.; changing the number and composition of certain boards, committees, commissions, and councils to conform memberships to reflect the reorganization of the constitutional officers of the Cabinet as members of such boards, committees, commissions, and councils; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By the Council for Lifelong Learning; Representative Melvin—

HB 2017—A bill to be entitled An act relating to education and matters connected therewith; creating the “Florida K-20 Education Code”; creating ch. 1000, F.S., entitled “K-20 General Provisions,” consisting of part I relating to general provisions, part II relating to systemwide definitions, and part III relating to educational compacts; creating ch. 1001, F.S., entitled “K-20 Governance,” consisting of part I relating to state-level governance, part II relating to school district governance, part III relating to community colleges, and part IV relating to state universities; creating ch. 1002, F.S., entitled “Student and Parental Rights and Educational Choices,” consisting of part I relating to general provisions, part II relating to student and parental rights, part III relating to educational choice, and part IV relating to home education, private schools, and other education options; creating ch. 1003, F.S., entitled “Public K-12 Education,” consisting of part I relating to general provisions, part II relating to school attendance, part III relating to control of students, part IV relating to public K-12 educational instruction, part V relating to specialized instruction for certain public K-12 students, and part VI relating to pilot public K-12 education programs; creating ch. 1004, F.S., entitled “Public Postsecondary Education,” consisting of part I relating to general provisions, part II relating to state universities, part III relating to community colleges, and part IV relating to workforce development education; creating ch. 1005, F.S., entitled “Nonpublic Postsecondary Education,” consisting of part I relating to general provisions, part II relating to the Commission for Independent Education, and part III relating to licensure of nonpublic postsecondary educational institutions; creating ch. 1006, F.S., entitled “Support for Learning and Student Services,” consisting of part I relating to public K-12 education support for learning and student services and part II relating to postsecondary educational institutions; creating ch. 1007, F.S., entitled

“Access and Articulation,” consisting of part I relating to general provisions, part II relating to articulation, and part III relating to access to postsecondary education; creating ch. 1008, F.S., entitled “Assessment and Accountability,” consisting of part I relating to assessment, part II relating to accountability, and part III relating to the Council for Education Policy Research and Improvement; creating ch. 1009, F.S., entitled “Educational Scholarships, Fees, and Financial Assistance,” consisting of part I relating to general provisions, part II relating to postsecondary student fees, part III relating to financial assistance, part IV relating to prepaid college board programs, and part V relating to the Florida higher education loan authority; creating ch. 1010, F.S., entitled “Financial Matters,” consisting of part I relating to general accounting requirements, part II relating to financial reporting, part III relating to audit requirements and procedures, part IV relating to bonding, and part V relating to trust funds; creating ch. 1011, F.S., entitled “Planning and Budgeting,” consisting of part I relating to preparation, adoption, and implementation of budgets, part II relating to funding for school districts, part III relating to funding for workforce education, part IV relating to funding for community colleges, and part V relating to funding for state universities; creating ch. 1012, F.S., entitled “Personnel,” consisting of part I relating to general provisions, part II relating to K-20 personnel issues, part III relating to public schools personnel, part IV relating to public postsecondary educational institutions personnel, part V relating to professional development, and part VI relating to the interstate compact on qualifications of educational personnel; creating ch. 1013, F.S., entitled “Educational Facilities,” consisting of part I relating to functions of the Department of Education, part II relating to use and management of educational facilities, part III relating to planning and construction of educational facilities, and part IV relating to funding for educational facilities; reenacting and amending s. 20.15, F.S., relating to the Department of Education, to conform; amending ss. 11.061, 11.40, 11.45, 23.1225, 24.121, 39.0015, 39.407, 61.13015, 105.061, 110.1228, 110.123, 110.151, 110.181, 110.205, 112.1915, 112.313, 120.52, 120.55, 120.81, 121.051, 121.091, 145.131, 145.19, 153.77, 159.27, 163.3177, 163.3191, 195.096, 196.012, 196.031, 196.1983, 200.001, 200.065, 200.069, 201.24, 210.20, 212.04, 212.0602, 212.08, 213.053, 215.20, 215.82, 216.181, 216.301, 218.39, 220.183, 222.22, 250.115, 255.0515, 255.0516, 265.2861, 265.603, 267.173, 267.1732, 282.005, 282.103, 282.105, 282.106, 282.3031, 282.3063, 282.310, 284.34, 285.18, 287.042, 287.055, 287.064, 288.039, 288.8175, 295.01, 295.015, 295.016, 295.017, 295.018, 295.019, 295.0195, 316.003, 316.027, 316.515, 316.6145, 316.615, 316.70, 316.72, 318.12, 318.14, 320.08058, 320.20, 320.38, 322.031, 322.091, 322.095, 322.21, 333.03, 364.508, 380.0651, 381.003, 381.005, 381.0056, 381.0302, 391.055, 393.0657, 394.4572, 394.495, 394.498, 395.602, 395.605, 397.405, 397.451, 397.951, 402.22, 402.302, 402.3057, 409.145, 409.1757, 409.2598, 409.9071, 409.908, 409.9122, 411.01, 411.203, 411.223, 414.1251, 440.16, 445.04, 445.0121, 445.024, 447.203, 447.301, 447.403, 450.081, 450.121, 458.3145, 458.324, 459.0125, 468.1115, 468.607, 468.723, 471.0035, 476.114, 476.144, 476.178, 477.0132, 477.019, 477.0201, 477.023, 480.033, 481.229, 488.01, 553.415, 559.902, 589.09, 627.733, 627.742, 627.912, 633.445, 633.50, 732.402, 784.081, 817.566, 817.567, 877.18, 921.187, 943.10, 943.22, 944.801, 948.03, 984.03, 984.05, 984.151, 984.19, 985.03, 985.04, 985.316, and 985.412, F.S.; conforming provisions and cross references; providing purpose of this act; authorizing activities relating to the reorganization of the Department of Education and implementation of changes to the state system of education; repealing s. 187.201(1), F.S., relating to the education goals and policies of the State Comprehensive Plan; repealing s. 2 of ch. 2000-181, Laws of Florida, relating to the repeal of s. 236.081, F.S., effective June 30, 2004; repealing part I of ch. 243, F.S., relating to the educational institutions law, and ch. 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, 244, and 246, F.S., relating to public education general provisions, functions of state educational agencies, the district school system, personnel of the school system, compulsory school attendance and child welfare, courses of study and instructional aids, transportation of school children, educational facilities, finance and taxation of schools, financial accounts and expenditures for public schools, vocational, adult, and community education, postsecondary education, distance learning, specialized state educational institutions, educational compacts, and nonpublic postsecondary institutions; providing duties of the Division of Statutory

Revision; providing for review of ch. 1000-1013, F.S., during the 2003 Regular Session; providing for severability; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Council for Lifelong Learning; Representative Melvin—

HB 2019—A bill to be entitled An act relating to exemption from public records and meeting requirements; creating s. 1005.385, F.S.; creating an exemption from public records requirements for specified complaints filed with the Commission for Independent Education and all information obtained pursuant to the investigation of such complaints by the commission; providing a time limitation for the exemption; providing an exception to the exemption; creating an exemption from public meeting requirements for proceedings of the commission’s probable-cause panel; providing a time limitation for the exemption; amending s. 1004.43, F.S., as created by HB ___, 2002 Regular Session; providing an exemption from public records requirements for specified proprietary confidential business information concerning materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable materials, or proprietary information received, generated, ascertained, or discovered during the course of research conducted at the H. Lee Moffitt Cancer Center and Research Institute or by the not-for-profit organization of the institute or its subsidiaries; providing for future review and repeal of the exemptions; providing findings of public necessity; providing a conditional effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representatives Alexander and Atwater—

HB 2021—A bill to be entitled An act relating to insurance; amending s. 215.555, F.S.; revising a definition; providing for certain additional coverages under the Florida Hurricane Catastrophe Fund; increasing the cap on fund liability; imposing an additional liquidity enhancement factor to reimbursement premiums; amending s. 627.062, F.S.; specifying the Department of Insurance as having the burden of proof with respect to certain property insurance rate filings under certain circumstances; amending s. 627.351, F.S.; providing for waiver of required flood insurance under certain circumstances; specifying policyholder burden of proof under certain circumstances; authorizing an association to deny certain coverage under certain circumstances; renaming the Residential Property and Casualty Joint Underwriting Association as the Citizens Property Insurance Corporation to provide residential and commercial property insurance; requiring insurers writing property insurance to participate in the corporation; providing for dividing the revenues, assets, liabilities, losses, and expenses of the corporation into three accounts; authorizing the Department of Insurance to remove certain territories from certain eligible areas under certain circumstances; providing for emergency assessments for policyholders of participating insurers; providing a plan of operation; defining the terms “quota share primary insurance” and “eligible risks”; authorizing the corporation to enter into quota share primary insurance agreements; providing for a board of governors appointed by the Treasurer, subject to confirmation by the Cabinet; providing rate limitations and requirements; requiring the Department of Insurance to provide the corporation with certain rate information for certain purposes; requiring the corporation to certify certain rates to the department; authorizing the department to adopt rules; requiring the corporation to impose and collect an additional amount to augment the corporation’s financial resources; requiring the corporation to file quarterly statements of financial condition and submit other reports to the Department of Insurance; providing that the corporation is not required to obtain a certificate of authority from the Department of Insurance; providing that the corporation is not required to be a member of the Florida Insurance Guaranty Association; requiring the corporation to pay assessments pledged by the association to secure bonds to pay covered claims arising from insurer insolvencies caused by hurricane losses; providing for transfer of policies of the association and the Florida Windstorm Underwriting Association to the corporation; providing for a transfer of assets and liabilities; requiring the

associations to take actions necessary to further the transfers; providing for the redesignation of certain coverage as the high-risk account of the corporation; providing that such account be treated as if it were a separate participating insurer for certain purposes; providing that the personal lines and commercial lines accounts be treated as a single participating insurer for certain purposes; providing that the department may postpone the July 1, 2002, effective date of transfer under the act; providing legislative intent; requiring the board to report to the Legislature on certain loss activities; requiring the board to reduce certain eligibility boundaries under certain circumstances; providing legislative intent not to interfere with the rights of creditors, to preserve the obligation of the association, and to assure that outstanding financing agreements pass unchanged to the corporation; creating s. 627.3517, F.S.; preserving the right of a residual-market policyholder to select and maintain an agent of his or her own choice; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Calendar of the House.

By the Committee on Fiscal Policy & Resources; Representative Wallace—

HB 2023—A bill to be entitled An act relating to taxpayer's rights; creating s. 120.585, F.S.; providing procedures and requirements for administrative proceedings on property taxes; amending s. 192.0105, F.S.; providing an additional right to know the amount of special district taxes; amending s. 194.011, F.S.; providing requirements for certain petitions; authorizing property appraisers to notify a taxpayer of an incomplete petition; requiring a petitioner to provide certain additional information under certain circumstances; amending s. 194.013, F.S.; specifying conditions and requirements for a refund of a filing fee under certain circumstances; amending s. 194.032, F.S.; authorizing a petitioner to reschedule a hearing under certain circumstances; requiring the property appraiser to provide a petitioner certain documentation prior to a scheduled value adjustment board hearing under certain circumstances; amending s. 194.035, F.S.; prohibiting certain persons from serving as a special master; requiring the Department of Revenue to provide certain counties with lists of qualified special masters; providing for reimbursement of payments to special masters under certain circumstances; providing procedures and requirements for reimbursements; specifying qualifications for special masters; amending s. 194.171, F.S.; authorizing taxpayers to elect administrative hearings under certain circumstances; revising certain jurisdiction requirements; amending s. 213.015, F.S.; specifying additional taxpayer rights; amending s. 213.21, F.S.; requiring settlement or compromise of a taxpayer's liability for certain interest under certain circumstances; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Jennings, McGriff, and Kendrick—

HR 9087—A resolution designating March 13, 2002, as "Alachua County Day."

First reading by publication (Art. III, s. 7, Florida Constitution).

First Reading of Council and Committee Substitutes by Publication

By the Fiscal Responsibility Council; Representatives Bennett and Spratt—

CS/HB 121—A bill to be entitled An act relating to corporate income tax; amending s. 220.15, F.S., which provides for apportionment of adjusted federal income to this state; revising the conditions for determining when sales of tangible personal property occur in this state for certain industries; amending s. 220.187, F.S.; expanding the definition of qualified student; repealing section 9 of ch. 2001-225, Laws of Florida, relating to an incorrect statute cross reference; repealing s. 220.331, F.S., relating to application of certain credits to estimated payments; providing for retroactive effect; providing an effective date.

By the Council for Competitive Commerce; Representatives Kottkamp, Harrell, Murman, Melvin, Negron, Pickens, Paul,

Betancourt, Green, Needelman, Cantens, Heyman, Gannon, Crow, Davis, and Gottlieb—

CS/HB 691—A bill to be entitled An act relating to cruelty to animals; amending s. 828.12, F.S.; providing that any person convicted of specified acts which constitute cruelty to an animal, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal, shall be ordered to undergo psychological counseling or anger management treatment; providing a minimum mandatory fine; providing penalties for second or subsequent violations; reenacting ss. 550.2415(6)(d), 828.122(5) and (6)(a), 828.17, 828.24(3), 828.26(3), 828.29(14), 943.051(3)(b)11., 985.212(1)(b)11., and 921.0022(3)(c), F.S., to incorporate the amendment to s. 828.12, F.S., in references thereto; providing an effective date.

By the Fiscal Responsibility Council; Representatives Mealor, Justice, Needelman, Kosmas, Crow, McGriff, Brown, Paul, and Spratt—

CS/HB 697—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; redefining the terms "compensation" and "bonus" for purposes of the system; providing an effective date.

By the Council for Ready Infrastructure; Representatives Russell and Slosberg—

CS/HB 757—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; revising provisions relating to the organization of the Department of Transportation; deleting certain responsibilities of the secretary; requiring the secretary to submit a report on major actions at each meeting of the Florida Transportation Commission; revising provisions relating to assistant secretaries; reducing the number of assistant secretaries; creating the Office of Comptroller; deleting provisions relating to the inspector general and comptroller; repealing s. 59, ch. 99-385, Laws of Florida; abrogating the repeal of provisions governing business damages in eminent domain actions; amending s. 73.071, F.S.; providing for the age required of a standing business in order to qualify for business damages; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 163.3177, F.S.; adding airport master plans that have specified components to comprehensive plans; creating exemption to development of regional impact review if certain conditions are met; amending s. 189.441, F.S., relating to contracts with an authority under the Community Improvement Authority Act; removing an exemption from s. 287.055, F.S., related to procurement of specified services; amending s. 215.615, F.S., relating to funding of fixed-guideway transportation systems; deleting obsolete language; amending s. 255.20, F.S.; exempting certain transportation projects from certain competitive bidding requirements; amending s. 287.055, F.S.; increasing the amount defining a continuing contract; amending s. 311.09, F.S.; providing for application of s. 287.055, F.S., the Consultants' Competitive Negotiation Act, to seaports; amending s. 315.02, F.S.; redefining the terms "unit" and "port facilities" for purposes of port facilities financing; including seaport security projects within the meaning of "port facility"; amending s. 315.03, F.S.; authorizing certain entities to participate in certain federal loan programs; providing for oversight by the Florida Seaport Transportation and Economic Development Council; requiring annual reports; requiring legislative review; amending s. 316.003, F.S.; revising definition of "motor vehicle"; defining the terms "electric personal assistive mobility device" and "motorized scooter"; creating s. 316.2068, F.S.; providing regulations for electric personal assistive mobility devices; amending s. 316.515, F.S.; revising size requirement provisions for vehicles transporting certain agricultural products; allowing the Department of Transportation to issue permits for certain vehicles; amending s. 316.520, F.S.; exempting certain vehicles from covering requirements; creating s. 316.80, F.S.; establishing penalties for persons who transport motor or diesel fuel in unlawful containers; establishing penalties for use of stolen or illegal payment access devices; providing for forfeiture; providing for costs; amending s. 320.08056, F.S.; providing use fees for the Florida Firefighters license plate and the Police Benevolent Association license plate; amending s. 320.08058, F.S.; providing for creation of the Florida Firefighters license plate and the Police Benevolent Association license plate; providing for the

distribution of use fees received from the sale of such plates; amending s. 332.004, F.S.; revising the definition of "airport or aviation development project" for purposes of the Florida Airport Development and Assistance Act to add certain noise mitigation projects; amending s. 332.007, F.S.; extending expiration date of provisions relating to economic assistance to airports for certain projects; extending due date of certain loans for certain airports; amending s. 333.06, F.S.; adding requirements for an airport master plan; amending s. 334.044, F.S.; authorizing the department to expend money on items that promote scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.175, F.S.; adding state-registered landscape architects to the list of design professionals who sign, seal, and certify certain Department of Transportation project plans; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program within the Department of Transportation; providing for consideration of planning and construction with certain criteria; providing for grants for local, regional, and state projects that support the program; providing rulemaking authority; amending s. 336.41, F.S.; providing for counties to certify or qualify persons to perform work under certain contracts; clarifying that a contractor already qualified by the department is presumed qualified to perform work described under contract on county road projects; amending s. 336.44, F.S.; providing that certain contracts shall be let to the lowest responsible bidder; amending s. 337.11, F.S., relating to design-build contracts effective July 1, 2003; adding right-of-way services to activities that can be part of a design-build contract; amending s. 337.11, F.S., relating to design-build contracts effective July 1, 2005; deleting right-of-way services from design-build contracts; amending s. 337.14, F.S.; revising provisions for qualifying persons to bid on certain construction contracts; providing for expressway authorities to certify or qualify persons to perform work under certain contracts; clarifying that a contractor qualified by the department is presumed qualified to perform work described under contract on projects for expressway authorities; amending s. 337.401, F.S.; providing that for certain projects under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 339.08, F.S.; revising language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; revising language relating to compensation to local governments that perform projects for the department; providing for preference to certain counties for transportation grants under specified circumstances; amending s. 339.55, F.S.; providing for state infrastructure bank funds to be spent on intermodal projects; revising criteria for evaluation of projects; amending s. 341.031, F.S.; correcting cross references; amending s. 341.051, F.S., relating to financing of public transit capital projects, and s. 341.053, F.S., relating to projects eligible for funding under the Intermodal Development Program; deleting obsolete language; amending s. 341.501, F.S., relating to high-technology transportation systems; authorizing the department to match funds from other states or jurisdictions for certain purposes; providing criteria; amending s. 348.0003, F.S.; authorizing a county governing body to set qualifications, terms of office, and obligations and rights for the members of expressway authorities within their jurisdictions; amending s. 348.0008, F.S.; allowing expressway authorities to acquire certain interests in land; providing for expressway authorities and their agents or employees to access public or private property for certain purposes; creating s. 348.545, F.S.; clarifying that the Tampa-Hillsborough County Expressway Authority may use bond revenues to finance improvements to toll facilities, interchanges, and other facilities related to the expressway system; amending s. 348.565, F.S.; adding the connector highway linking Lee Roy Selmon Crosstown Expressway to Interstate 4 as an approved project; amending s. 373.4137, F.S.; providing for certain expressway, bridge, or transportation authorities to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 380.04, F.S.; adding work on rights-of-way pertaining to electricity facilities to the list of activities not defined as "development" for purposes of the Florida Environmental

Land and Water Management Act; amending s. 380.0651, F.S.; increasing acreage threshold for development-of-regional-impact review of certain industrial and wholesaling facilities; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates certain facilities on the State Highway System is not required to issue a permit or grant access to any person for the purpose of soliciting funds; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; creating the Dori Slosberg Driver Education Safety Act; authorizing a board of county commissioners to require an additional amount to be collected with each civil traffic penalty to be used to fund traffic education programs in public and nonpublic schools; providing for administration of funds collected; restricting use of said funds; amending s. 2 of chapter 88-418, Laws of Florida, relating to Crandon Boulevard; allowing expenditure of public funds for modifications to provide access for governmental public safety vehicles; providing effective dates.

By the Council for Competitive Commerce; Committee on Economic Development & International Trade; Representatives Kilmer, Carassas, Mahon, Atwater, Prieguez, Harper, Meadows, Betancourt, Arza, and Pickens—

CS/CS/HB 779—A bill to be entitled An act relating to economic stimulus; amending s. 288.095, F.S.; revising terminology relating to certain incentive payment schedules; revising the due date and content for an annual report on incentives and reassigning responsibility for such report to Enterprise Florida, Inc.; amending s. 288.1045, F.S.; revising definitions; revising the required elements of a tax refund agreement; providing an exemption from mandatory loss of tax refund eligibility and decertification resulting from agreement breach in cases of uncontrollable economic factors; prescribing a deadline for applying for tax refunds; revising conditions and procedures governing applications for tax refunds; revising provisions relating to the order authorizing a tax refund; authorizing the office to grant extensions to certain application and notification deadlines; revising conditions under which a prorated tax refund will be approved; providing for calculation of such prorated refund; specifying that the section does not create a presumption a claim will be approved and paid; revising the agencies with which the office may verify information and to which the office may provide information; expanding purposes for which the office may seek assistance from certain entities; amending s. 288.106, F.S., relating to the tax refund program for qualified target industry businesses; revising requirements for application for certification as such business with respect to the number of current and new jobs at the business and projections by the Office of Tourism, Trade, and Economic Development of refunds based thereon; revising requirements relating to the tax refund agreement with respect to job creation and the time for filing of claims for refund; providing for an exemption from mandatory loss of tax refund eligibility and decertification resulting from agreement breach in cases of uncontrollable economic factors; revising provisions relating to annual claims for refund; authorizing an extension of time for signing the tax refund agreement; providing an application deadline; revising provisions relating to the order authorizing a tax refund; revising conditions under which a prorated tax refund will be approved; providing for calculation of such prorated tax refund; specifying that the section does not create a presumption that a claim will be approved and paid; revising the agencies with which the office may verify information and to which the office may provide information; expanding purposes for which the office may seek assistance from certain entities; specifying that certain appropriations may not be used for any purpose other than the payment of specified tax refunds; amending s. 213.053, F.S.; authorizing the Department of Revenue to provide certain information to the office; providing an effective date.

By the Council for Smarter Government; Representative Baker—

CS/HB 793—A bill to be entitled An act relating to school system personnel; creating s. 231.265, F.S.; providing a penalty for instructional personnel and administrative personnel who have knowledge of sexual battery committed by a student upon another student and fail to report it; providing an effective date.

By the Fiscal Responsibility Council; Committee on Local Government & Veterans Affairs; Representative Carassas—

CS/CS/HJR 833—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to a tax exemption for certain property owned by municipalities or special districts and used for specified purposes.

By the Council for Smarter Government; Representative Johnson—

CS/HB 893—A bill to be entitled An act relating to regulation of movers; providing definitions; providing construction, intent, and application; providing for registration with the Department of Agriculture and Consumer Services; authorizing the department to adopt rules; providing for fees; providing for display of certain information; providing for local registration; providing requirements, procedures, criteria, and limitations; authorizing the department to charge certain fees; providing for denial of or refusal to renew registration; providing security requirements and procedures; requiring estimates of moving costs; providing requirements and criteria; providing for delivery and storage of household goods; specifying violations; providing that certain violations constitute deceptive and unfair trade practices; providing penalties; providing for relief; providing for deposit of funds; providing intent regarding preemption of local laws; providing for enforcement by the department under cooperative agreements with local governments; providing an effective date.

By the Council for Competitive Commerce; Representative Farkas—

CS/HB 911—A bill to be entitled An act relating to mandated health benefit coverages; requiring the Office of Legislative Services to contract for completion of a report on existing mandated health insurance benefit coverages; specifying report review requirements; requiring a report to the Legislature; providing an effective date.

By the Council for Competitive Commerce; Representatives Jennings and Paul—

CS/HB 1081—A bill to be entitled An act relating to the Florida Black Business Investment Board; amending s. 288.707, F.S.; revising legislative findings regarding the creation and growth of black business enterprises; redefining the term “black business enterprise”; providing that the board shall be a not-for-profit corporation and not an entity of state government; revising provisions relating to appointment and number of board members, compensation of board members, the president and employees, and financial disclosure by board members; providing for board meetings; authorizing the board to appoint at-large members; creating s. 288.7075, F.S.; providing legislative findings that the needs of black business enterprises are shared by other minority business enterprises; expressing the intent of the Legislature that the Black Business Investment Board, Inc., and the black business investment corporations include minority business enterprises within the scope of their duties, responsibilities, and activities and report on their progress in assisting such business enterprises; amending s. 288.708, F.S.; revising provisions relating to appointment of the executive director; renaming the position of “executive director” as “president”; providing for the appointment and compensation of the president; providing for delegation of powers and responsibilities to the president; prescribing the corporation’s responsibilities regarding use of funds; providing requirements regarding employees’ compensation; amending s. 288.709, F.S.; replacing references to board rulemaking with references to the adoption of policies; eliminating provisions related to the authority of the corporation to acquire and sell property; amending s. 288.7091, F.S.; revising provisions relating to duties of the corporation regarding developing memoranda of understanding with certain entities and increasing the number of black business enterprises in construction projects; requiring the corporation to ensure that certain appropriations are distributed properly, to conduct certain economic development activities, and to facilitate creation of black business investment corporations; creating s. 288.7092, F.S.; providing intent regarding operation of the corporation and return on investment; defining the state’s operating investment in the corporation; directing

the board to adopt an annual operating budget; providing requirements regarding private-sector support; providing requirements regarding corporation compliance with performance measures; providing for a report; requiring that the corporation hire a private accounting firm or economic analysis firm and providing its duties; amending ss. 288.711 and 288.712, F.S.; conforming provisions; amending s. 288.714, F.S.; revising the list of persons to whom the corporation’s annual report is submitted; revising the due date for such report; clarifying references to ss. 288.707-288.714, F.S.; establishing a program to lease state employees to the Black Business Investment Board, Inc.; prescribing duties of the Department of Management Services related to such leasing program; providing terms and conditions of such leasing program; amending s. 288.9015, F.S.; revising duties of Enterprise Florida, Inc., relating to small and minority businesses; directing Enterprise Florida, Inc., to contract with the Black Business Investment Board, Inc., under certain conditions; requiring the Black Business Investment Board, Inc., to complete a report on the inclusion of all minorities in the activities of the corporation and the black business investment corporations; providing applicability to other legislation; providing an effective date.

By the Council for Competitive Commerce; Representative Mealar—

CS/HB 1133—A bill to be entitled An act relating to collateral protection insurance; amending s. 215.555, F.S.; revising a definition; providing an effective date.

By the Council for Ready Infrastructure; Representative Gardiner—

CS/HB 1213—A bill to be entitled An act relating to motor vehicles, vessels, and enforcement of laws related thereto; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.061, F.S.; authorizing certain entities to remove crashed motor vehicles from roadways under certain circumstances; providing a limitation of liability; amending s. 316.066, F.S.; providing for access to vehicle crash reports by local, state, and federal entities under certain circumstances; requiring said entities to maintain confidential status of such reports; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles under certain circumstances; creating s. 316.2127, F.S.; providing for operation of utility vehicles on city streets, county roads, or the State Highway System under certain circumstances; amending s. 316.2397, F.S.; authorizing emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising traffic law enforcement authority of university police officers; revising the powers and duties of traffic crash investigation officers; amending s. 318.1451, F.S.; providing traffic school reference guide requirements; amending s. 318.18, F.S.; providing for assessment of doubled fines for speeding in toll collection zones; amending s. 319.23, F.S.; deleting certain requirements for the transfer of ownership of an antique vehicle; requiring the Department of Highway Safety and Motor Vehicles to retain certain evidence of title; amending s. 319.28, F.S.; revising requirements for processing an application for title based on a contractual default; amending s. 320.025, F.S.; providing for confidential registration and issuance under fictitious name of decals for vessels operated by a law enforcement agency; requiring registration number and decal to be affixed to such vessel; amending s. 320.05, F.S.; providing for release of vessel registration information; providing exceptions; amending s. 320.055, F.S.; providing registration period for certain nonapportioned vehicles; amending s. 320.06, F.S.; revising form of license plate validation stickers; reducing the number of required validation stickers per plate; amending s. 320.072, F.S.; revising initial registration fee exemptions; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; providing for a use fee; amending s. 320.08058, F.S.; directing the Department of Highway

Safety and Motor Vehicles to develop a Florida Golf license plate; providing for the distribution and use of fees; authorizing the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; amending s. 320.083, F.S.; revising requirements for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; revising weight restriction for the Ex-POW and Purple Heart license plates; amending s. 321.02, F.S.; providing for colors for use on Florida Highway Patrol motor vehicles and motorcycles; amending s. 322.051, F.S.; requiring acceptance of the Florida identification card as proof of identification by persons accepting the Florida driver license as proof of identification; amending s. 322.095, F.S.; deleting provision prohibiting governmental entities or courts from providing information regarding traffic law and substance abuse education program schools or course providers; authorizing the Department of Highway Safety and Motor Vehicles to provide a list of approved traffic law and substance abuse education course providers with a single phone number for each provider; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.27, F.S.; revising language relating to habitual traffic offender license revocation; amending s. 322.271, F.S.; correcting a cross reference; amending s. 322.28, F.S.; deleting obsolete language relating to revocation of a driver's license; repealing s. 322.282, F.S., relating to procedure when court revokes or suspends license or driving privilege and orders reinstatement, and s. 322.331, F.S., relating to restoration of license for habitual traffic offenders; amending s. 324.091, F.S.; providing for electronic access to vehicle insurer information; prohibiting compilation and retention of such information; amending s. 328.01, F.S.; deleting the requirement that a copy of a contract upon which a claim of ownership of a vessel is made be submitted if an application for transfer of title is based on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel a vessel registration, license plate, or fuel-use tax decal when given a dishonored check by the customer; amending s. 328.56, F.S.; revising language relating to display of vessel registration number; amending s. 328.72, F.S.; deleting certain requirements for the transfer of ownership of an antique vessel; amending s. 832.09, F.S.; requiring the department to create a standardized form for notification from clerks of courts of satisfaction of a worthless check; providing an effective date.

By the Fiscal Responsibility Council; Representatives Allen and Machek—

CS/HB 1281—A bill to be entitled An act relating to brownfield redevelopment; amending s. 288.106, F.S.; redefining the term “local financial support exemption option” with respect to the tax refund program; amending s. 288.107, F.S.; revising the criteria for participation in the bonus refund program; revising the formula for calculating the refund; providing an effective date.

By the Council for Smarter Government; Representatives Kallinger, Holloway, Siplin, Harper, and Bullard—

CS/HB 1323—A bill to be entitled An act relating to the Florida Minority Business Loan Mobilization Program; creating s. 288.706, F.S.; providing legislative findings and intent; creating the Florida Minority Business Loan Mobilization Program for certain purposes; providing for program administration by the Department of Management Services; authorizing state agencies to disburse a certain amount of a contract award to assist certain minority business enterprise vendors in obtaining working capital financing; authorizing professional services vendors to apply for a specified percentage of a base contract amount; specifying procedures for the program; providing for working capital agreements and lines of credit; providing requirements and limitations; providing requirements for prime contract vendors; providing requirements for subcontract vendors; providing contracting state agency requirements and limitations; authorizing the department to adopt rules; requiring the department to maintain a listing of participating financial institutions; providing an effective date.

By the Council for Competitive Commerce; Representatives Stansel, Bean, Brown, Spratt, Kilmer, and Kendrick—

CS/HB 1343—A bill to be entitled An act relating to the Small County Technical Assistance Program; amending s. 163.05, F.S.; revising

legislative findings; providing criteria for contracts between the Commissioner of Agriculture and program providers; deleting responsibilities of the Comptroller and the Legislative Committee on Intergovernmental Relations; authorizing the Commissioner of Agriculture to award contracts to provide assistance to small counties; requiring the Commissioner of Agriculture to provide fiscal oversight and performance reviews; providing an appropriation; providing an effective date.

By the Council for Competitive Commerce; Representative Negrón—

CS/HB 1373—A bill to be entitled An act relating to solvency of insurers and health maintenance organizations; amending s. 624.404, F.S.; revising a definition; amending s. 624.80, F.S.; revising a definition; amending s. 624.81, F.S.; specifying authority of the Department of Insurance relating to certain notice requirements; authorizing the department to adopt certain rules; amending s. 624.84, F.S.; specifying that administrative review of certain orders does not operate as an automatic stay of such orders; specifying that certain actions are not subject to administrative review; amending s. 627.481, F.S.; providing requirements for certain annuity agreements; amending s. 641.19, F.S.; providing a definition; amending s. 641.26, F.S.; revising certain annual report requirements; amending s. 641.35, F.S.; specifying inclusion of certain losses and claims under liabilities of a health maintenance organization under certain circumstances; providing an exception; amending s. 641.365, F.S.; revising limitations on certain dividend payments or distributions to stockholders by a health maintenance organization; specifying criteria for making payments, declaring dividends, or making distributions; specifying criteria for department approval of certain dividends or distributions; providing an effective date.

By the Fiscal Responsibility Council; Representatives Johnson and Heyman—

CS/HB 1419—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.20, F.S.; providing for distribution of a portion of revenues from the tax on sales, use, and other transactions to specified units of local government owning eligible convention centers; creating s. 288.1171, F.S.; providing for certification of units of local government owning eligible convention centers by the Office of Tourism, Trade and Economic Development of the Executive Office of the Governor; providing a definition; providing requirements for certification; requiring the office to adopt specified rules; providing for use of proceeds distributed to units of local government under the act; providing for audits by the Department of Revenue; providing for revocation of certification; providing an effective date.

By the Council for Competitive Commerce; Representatives Kendrick, Rubio, Bean, Alexander, Flanagan, Betancourt, Stansel, Detert, and Seiler—

CS/HB 1471—A bill to be entitled An act relating to the Florida Fair Lending Act; providing a short title; providing definitions; specifying prohibited acts relating to high-cost home loans; specifying required disclosures for high-cost home loans; providing administration and enforcement powers and duties of the Department of Banking and Finance; authorizing the department to conduct investigations and examinations; providing for complaints; authorizing the department to bring actions for injunctions; providing for issuance of subpoenas; authorizing the department to issue and serve cease and desist orders for certain purposes; authorizing the department to impose certain fines under certain circumstances; specifying effect; authorizing the department to adopt rules; preempting regulation of high-cost home loans to the state; providing severability; providing an effective date.

By the Fiscal Responsibility Council; Representatives Ross, Dockery, Ritter, Greenstein, Murman, Negrón, Gottlieb, Argenziano, Clarke, Holloway, Cusack, Attkisson, Bowen, Smith, Sobel, Garcia, Lee, Flanagan, Lacasa, and Farkas—

CS/HB 1515—A bill to be entitled An act relating to high-speed rail transportation; creating the “Florida High-Speed Rail Authority Act”;

creating s. 341.8201, F.S.; providing a short title; creating s. 341.8202, F.S.; providing legislative findings, policy, purpose, and intent with respect to the development, design, financing, construction, and operation of a high-speed rail system in the state; creating s. 341.8203, F.S.; providing definitions; amending s. 341.821, F.S., relating to the creation of the Florida High-Speed Rail Authority; removing obsolete provisions; amending s. 341.822, F.S.; revising and providing additional powers and duties of the authority; amending s. 341.823, F.S.; revising the criteria for assessment and recommendations with respect to the establishment of the high-speed rail system; requiring the authority to establish specified requirements; requiring the authority to develop a specified plan, study, and estimates; amending s. 341.824, F.S.; specifying types of technical, scientific, or other assistance to be provided by the Department of Community Affairs and the Department of Environmental Protection; creating s. 341.827, F.S.; providing for determination of service areas and the order of system segment construction; creating s. 341.828, F.S.; authorizing the authority to utilize existing permitting processes; requiring cooperation between the authority and metropolitan planning organizations; creating s. 341.829, F.S.; requiring the authority, in conjunction with the Executive Office of the Governor, the Department of Community Affairs, and the Department of Environmental Protection, to develop and implement a process to mitigate and resolve conflicts between the system and growth management requirements and environmental standards; providing time limits for the filing of and response to specified complaints; creating s. 341.830, F.S.; authorizing the authority to employ specified procurement methods; providing for the adoption of rules; authorizing the authority to procure commodities and services for the designing, building, financing, maintenance, operation, and implementation of a high-speed rail system; creating s. 341.831, F.S.; authorizing the authority to prequalify interested persons or entities prior to seeking proposals for the design, construction, operation, maintenance, and financing of the high-speed rail system; providing for the establishment of qualifying criteria; creating s. 341.832, F.S.; authorizing the authority to develop and execute a request for qualifications process; creating s. 341.833, F.S.; authorizing the authority to develop and execute a request for proposals process to seek a person or entity to design, build, operate, maintain, and finance a high-speed rail system; creating s. 341.834, F.S.; providing for award of a conditional contract; providing contract requirements; prohibiting transfer of system property without written approval; creating s. 341.835, F.S.; authorizing the authority to purchase, lease, exchange, or acquire land, property, or buildings necessary to secure or utilize rights-of-way for high-speed rail system facilities; providing that the authority is not subject to specified liability; authorizing the authority and the Department of Environmental Protection to enter into certain interagency agreements; providing for the disposal of interest in property; authorizing agents and employees of the authority to enter upon certain property; authorizing the authority to accept donations of real property; creating s. 341.836, F.S.; authorizing the authority to undertake the development of associated developments; providing requirements of associated developments; creating s. 341.837, F.S.; providing for payment of expenses incurred in carrying out the act; creating s. 341.838, F.S.; authorizing the authority to fix, revise, charge, collect, and adjust rates, rents, fees, charges, and revenues, and to enter into contracts; providing for annual review by the authority of rates, rents, fees, and charges; providing for uses of revenues; creating s. 341.839, F.S.; providing that the act is supplemental and additional to powers conferred by other laws; exempting powers of the authority from specified supervision, approval, or consent; creating s. 341.840, F.S.; providing tax exemptions for property acquired or used by the authority or specified income; creating s. 341.841, F.S.; requiring the authority to prepare and submit a report; providing for an annual audit; creating s. 341.842, F.S.; providing construction of the act; amending s. 288.109, F.S.; removing a cross reference; amending s. 334.30, F.S.; removing a cross reference; amending s. 337.251, F.S.; removing a cross reference; amending s. 341.501, F.S.; providing that specified actions do not apply to the Florida High-Speed Rail Authority Act; repealing s. 341.3201, F.S., relating to the short title for ss. 341.3201-341.386, F.S., the "Florida High-Speed Rail Transportation Act"; repealing s. 341.321, F.S., relating to legislative findings, policy, purpose, and intent with respect to the development of a high-speed rail transportation system connecting the

major urban areas of the state; repealing s. 341.322, F.S., relating to definitions of terms; repealing s. 341.325, F.S., relating to special powers and duties of the Department of Transportation; repealing s. 341.327, F.S., which provides that the Florida High-Speed Rail Transportation Act is the sole and exclusive determination of need for any high-speed rail transportation system established under the act, thereby preempting specified determinations of need; repealing s. 341.329, F.S., relating to the issuance of bonds to finance a high-speed rail transportation system; repealing s. 341.331, F.S., relating to designation of the areas of the state to be served by the high-speed rail transportation system and designation of termini; repealing s. 341.332, F.S., relating to the award of franchises by the Department of Transportation to establish a high-speed rail transportation system; repealing s. 341.3331, F.S., relating to request for proposals; repealing s. 341.3332, F.S., relating to notice of issuance of request for proposals; repealing s. 341.3333, F.S., relating to requirements with respect to an application for franchise, and confidentiality of the application and portions of the application relating to trade secrets; repealing s. 341.3334, F.S., relating to the departmental review process of application for franchise; repealing s. 341.3335, F.S., relating to interagency coordination of franchise application review; repealing s. 341.3336, F.S., relating to public meetings on franchise applications; repealing s. 341.3337, F.S., relating to determination and award of franchise; repealing s. 341.3338, F.S., relating to effect of franchise; repealing s. 341.3339, F.S., relating to postfranchise agreements; repealing s. 341.334, F.S., relating to the powers and duties of the Department of Transportation with respect to the act; repealing s. 341.335, F.S., relating to the powers and duties of the Florida Land and Water Adjudicatory Commission sitting as the board; repealing s. 341.336, F.S., relating to the powers and duties of the Department of Environmental Protection, the Department of Community Affairs, and other affected agencies; repealing s. 341.3365, F.S., relating to certification procedures; repealing s. 341.342, F.S., relating to agreements concerning contents of certification application and supporting documentation; repealing s. 341.343, F.S., relating to review of certification applications; repealing s. 341.344, F.S., relating to the establishment, composition, organization, and duties of the Citizens' Planning and Environmental Advisory Committee; repealing s. 341.345, F.S., relating to alternate corridors or transit station locations; repealing s. 341.346, F.S., relating to the powers and duties of an administrative law judge appointed to conduct hearings under the act; repealing s. 341.3465, F.S., relating to alteration of time limitations specified by the act; repealing s. 341.347, F.S., relating to required combined public meetings and land use and zoning hearings to be conducted by local governments; repealing s. 341.348, F.S., relating to reports and studies required of various agencies by the act; repealing s. 341.351, F.S., relating to publication and contents of notice of certification application and proceedings; repealing s. 341.352, F.S., relating to certification hearings; repealing s. 341.353, F.S., relating to final disposition of certification applications; repealing s. 341.363, F.S., relating to the effect of certification; repealing s. 341.364, F.S., relating to a franchisee's right to appeal to the Florida Land and Water Adjudicatory Commission under specified circumstances; repealing s. 341.365, F.S., relating to associated development; repealing s. 341.366, F.S., relating to recording of notice of certified corridor route; repealing s. 341.368, F.S., relating to modification of certification or franchise; repealing s. 341.369, F.S., relating to fees imposed by the department and the disposition of such fees; repealing s. 341.371, F.S., relating to revocation or suspension of franchise or certification; repealing s. 341.372, F.S., relating to imposition by the department of specified administrative fines in lieu of revocation or suspension of franchise; repealing s. 341.375, F.S., relating to the required participation by women, minorities, and economically disadvantaged individuals in all phases of the design, construction, maintenance, and operation of a high-speed rail transportation system developed under the act, and required plans for compliance by franchisees; repealing s. 341.381, F.S., relating to applicability of the act; repealing s. 341.382, F.S., relating to laws and regulations superseded by the act; repealing s. 341.383, F.S., relating to the authority of local governments to assess specified fees; repealing s. 341.386, F.S., relating to the admissibility of the award of a franchise and of a certification under the act in eminent domain proceedings; providing effective dates.

By the Council for Smarter Government; Representative Ross—

CS/HB 1541—A bill to be entitled An act relating to liability under the drycleaning solvent cleanup program; amending s. 376.01, F.S.; defining the term “nearby real property owner”; amending s. 376.3078, F.S.; adding a statement of intent; exempting certain real property owners and others from claims for property damage arising from contamination by drycleaning solvents; amending s. 376.308, F.S.; revising provisions governing the statutory construction of immunity provisions; amending s. 376.313, F.S.; revising provisions governing immunity; amending s. 376.30781, F.S.; correcting a cross reference; providing an effective date.

By the Council for Competitive Commerce; Representative Allen—

CS/HB 1557—A bill to be entitled An act relating to the Spaceport Florida Authority; amending ss. 74.011, 196.012, 212.02, 288.063, 288.075, 288.35, 288.9415, 288.9515, 330.30, 331.301, and 331.302, F.S.; changing the name of the Spaceport Florida Authority to the Florida Space Authority; amending s. 331.303, F.S.; defining the term “Spaceport Florida”; conforming provisions to the name change; amending s. 331.304, F.S.; naming certain spaceport territory; revising the boundaries of spaceport territory; amending s. 331.308, F.S.; conforming provisions to the name change; revising membership of and procedures related to the board of supervisors; designating the Lieutenant Governor as the chair of the board of supervisors and as the state’s space policy leader; amending s. 331.3101, F.S.; conforming provisions to the name change; amending s. 331.349, F.S.; changing the fiscal year of the authority; amending s. 331.360, F.S.; conforming provisions to the name change; conforming a cross reference; amending s. 331.367, F.S.; revising the membership, mission, administration, and reporting requirements of the Spaceport Management Council and its executive board; amending ss. 331.368, 331.405, 331.411, 339.137, 339.175, and 768.28, F.S.; conforming provisions to the name change; deleting obsolete provisions; providing effective dates.

By the Council for Competitive Commerce; Representative Brummer—

CS/HB 1611—A bill to be entitled An act relating to agriculture education and promotion facilities; creating s. 288.1175, F.S.; providing that the Department of Agriculture and Consumer Services shall be the state agency for screening applicants for state funding and certification as an agriculture education and promotion facility; providing for rules; providing definitions; providing criteria for applicants; providing for evaluation by the department; providing criteria; prohibiting the expenditure of funds to develop or subsidize privately owned facilities; providing an exception; providing an effective date.

By the Fiscal Responsibility Council; Committee on Information Technology; Representatives Hart, Mack, Mealor, Gannon, Jennings, Ausley, Green, Littlefield, Harrell, Jordan, Benson, Hogan, Allen, Harper, Gelber, Holloway, Wiles, Kendrick, Gottlieb, Bilirakis, Carassas, Kyle, Haridopolos, Paul, and Bense—

CS/HB 1937—A bill to be entitled An act relating to technology development; creating s. 240.72, F.S.; creating the “Florida Technology Development Act”; providing a definition; providing purposes and objectives of a center of excellence; creating the Emerging Technology Commission; providing for membership, powers, and duties of the commission; providing for the Florida Research Consortium, Inc., to report to the commission regarding factors contributing to the success of the creation of a center of excellence; requiring the commission to develop and approve criteria for evaluating proposals related to the creation of centers of excellence; requiring the commission to solicit such proposals from state universities; requiring the commission to submit recommended plans to the State Board of Education for establishing centers of excellence in the state; requiring the State Board of Education to develop and approve a final plan for establishing centers of excellence in the state and to authorize expenditures for plan implementation; providing commission reporting requirements; providing for future repeal; providing an appropriation for commission staff support and certain administrative expenses; providing an effective date.

By the Council for Competitive Commerce; Committee on Insurance; Representatives Waters, Simmons, Negron, Berfield, Brown, Clarke, Ross, McGriff, Kallinger, Fields, Melvin, Baker, and Lee—

CS/HB 1947—A bill to be entitled An act relating to workers’ compensation; amending s. 440.02, F.S.; revising definitions; prohibiting exempt individuals from doing construction work on commercial job sites; amending s. 440.05, F.S.; requiring employers to maintain business records as specified by rules of the Division of Workers’ Compensation, relating to exemptions from coverage; revising requirements for election of exemption from coverage; requiring that a corporate officer claiming an exemption from ch. 440, F.S., be listed with the Department of State; requiring the Division of Workers’ Compensation of the Department of Labor and Employment Security to issue a stop-work order upon failure to produce certain documents; amending s. 440.06, F.S.; clarifying certain limitations imposed on an employer who fails to secure compensation; creating s. 440.078, F.S.; providing for limitation on construction industry business activities; providing penalties; amending s. 440.09, F.S.; requiring compensation for accidental compensable injuries; amending s. 440.091, F.S.; specifying circumstances under which firefighters, emergency medical technicians, and paramedics are considered to be acting within the scope of their employment so as to qualify for workers’ compensation benefits; characterizing certain activities of certain officers as arising out of and in the course of employment for compensability purposes and providing circumstances under which certain officers may continue in full-pay status when injured; amending s. 440.092, F.S.; deleting a provision relating to the going and coming rule applicable to certain law enforcement officers that is transferred by the amendment to s. 440.091, F.S.; providing a declaration of important state interest; amending s. 440.10, F.S.; revising certain limitations on an employer’s liability for compensation; providing for rules; amending s. 440.103, F.S.; specifying requirements for certificates of insurance that must be shown to receive a building permit; amending s. 440.107, F.S.; providing for penalties to be imposed against an employer for certain misrepresentations made to a carrier; providing for the issuance of a stop-work order; providing for rules; requiring that the division notify the Department of Business and Professional Regulation upon the failure of certain employers to secure payment of workers’ compensation; amending s. 440.11, F.S.; revising provisions relating to employer liability to provide an exemption in the case of intentional misconduct by an employer; amending s. 440.13, F.S.; requiring that costs for an independent medical examination be determined under ch. 440, F.S.; requiring the carrier to give the employee the opportunity to change physicians under certain circumstances and limitations; revising the effect of an independent medical examination; limiting the admissibility of certain medical opinions; revising the limitation on medical fees; providing an exception to certain recourse for payment for services rendered; amending s. 440.134, F.S.; providing for discontinuance of medical care under a managed care plan regardless of the date of an accident; amending s. 440.14, F.S.; revising the computation of the average weekly wage of an employee for the purposes of determining benefits; amending s. 440.15, F.S.; revising the criteria for permanent total disability; revising the compensation rate for impairment income benefits; deleting a provision relating to full-pay status for certain law enforcement officers that is transferred by the amendment to s. 440.091, F.S., and providing a reference thereto; amending s. 440.191, F.S.; authorizing the Employee Assistance and Ombudsman Office to initiate contact with an injured employee to discuss rights and responsibilities; revising other duties of the office; amending s. 440.192, F.S.; revising the procedures for resolving benefit disputes and filing petitions for benefits; specifying information that must be included in a petition for benefits; requiring that a claim be raised by petition for purposes of adjudication; amending s. 440.20, F.S.; limiting amount of attorney’s fees in cases determining lump-sum settlements; amending s. 440.25, F.S.; revising procedures for mediation and hearings; extending the time for ordering and holding mediation conferences; providing requirements for granting a continuance; providing for mediation conducted by mediators other than from the Office of the Judges of Compensation Claims; requiring that the parties complete pretrial stipulations before concluding mediation; extending the time for holding final hearings; providing for waiver of any benefit not raised at the final hearing; providing for an expedited

determination of pay; requiring that certain claims be resolved through an expedited process; providing for dismissal for lack of prosecution; limiting the payment of interest and the attachment of attorney's fees; amending s. 440.271, F.S.; requiring appellate mediation and providing procedures therefor; amending s. 440.29, F.S.; requiring opinions of independent medical examiners to be received into evidence under certain conditions; amending s. 440.34, F.S.; revising the limit on the amount of attorney's fees that may be approved by a judge of compensation claims and eliminating factors that the judge must consider; applying such limits to any agreement related to benefits under ch. 440, F.S.; amending s. 440.345, F.S.; revising requirements for the reporting of attorney's fees; removing requirement to provide an annual report; amending s. 440.381, F.S.; requiring that the application for workers' compensation coverage contain a sworn statement by the agent; providing a penalty for carriers that fail to comply with audit requirements; revising requirements for audits; amending s. 440.40, F.S.; requiring employers to post a notice relating to the anti-fraud reward program; amending s. 440.45, F.S.; providing additional responsibilities of the director of the Division of Administrative Hearings as agency head of the Office of the Judges of Compensation Claims; amending ss. 489.114 and 489.510, F.S.; revising determination by the division of verification of coverage of persons engaged in the business of contracting; specifying an administrative fine for contractors who are in noncompliance with ch. 440, F.S., to be paid to the Department of Business and Professional Regulation; amending s. 626.9892, F.S.; revising the criteria for the anti-fraud program; providing for application; requiring the Department of Insurance to conduct a study relating to workers' compensation for persons engaged in the construction industry; providing for construction; providing for severability; providing effective dates.

Reports of Councils and Standing Committees

Council Reports

Received March 12:

The Council for Competitive Commerce recommends council substitutes for the following:

- HB 691
- CS/HB 779
- HB 911
- HB 1081
- HB 1343
- HB 1373
- HB 1471
- HB 1557
- HB 1611
- HB 1947

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HB 691; CS/HB 779; HBs 911, 1081, 1343, 1373, 1471, 1557, 1611, and 1947 were laid on the table.

The Fiscal Responsibility Council recommends council substitutes for the following:

- HB 121
- HB 697
- CS/HJR 833
- HB 1281
- HB 1419
- HB 1515
- HB 1937

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HBs 121 and 697; CS/HJR 833; HBs 1281, 1419, 1515, and 1937 were laid on the table.

The Council for Ready Infrastructure recommends council substitutes for the following:

- HB 757
- HB 1213

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HBs 757 and 1213 were laid on the table.

The Council for Smarter Government recommends council substitutes for the following:

- HB 793
- HB 893
- HB 1323
- HB 1541

The above council substitutes were placed on the Calendar, subject to review under Rule 6.3, and, under the rule, HBs 793, 893, 1323, and 1541 were laid on the table.

The Council for Competitive Commerce recommends a council substitute for the following:

- HB 1133

The above council substitute was referred to the Fiscal Responsibility Council, subject to review under Rule 6.3, and, under the rule, HB 1133 was laid on the table.

Communications

The Governor advised that he had filed in the Office of the Secretary of State HBs 275 and 561, which he approved on March 12.

Excused

- Rep. Diaz de la Portilla

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 4:56 p.m., to reconvene at 10:00 a.m., Wednesday, March 13.

**Pages and Messengers
for the week of
March 11-15**

PAGES—Marissa Best, Sanford; Cameron A. Cassidy, Tampa; Collier Joseph Clemens, Tampa; Alexander Douglas Jess, Tallahassee; Krystan Kupiszewski, Collierville; Emily D. Loe, Lake Mary; Claire O'Conner Murphy, Naples; James Thomas Murphy, Jr., Naples; Sam Neimeiser, Tallahassee; Jody Lynn Newell, Lantana; Stephanie Norton, Casselberry; Ginni Poe, Sanford; Andy Rankin, Apopka; Johanna R. Ryan, Dania Beach; Brittany Sebesta, Jacksonville; Paul Stephen Sellers, Tallahassee; Blaine Varn, Tallahassee; Allison Warne, Altamonte Springs; Jordan L. Whitney, Weston.

MESSENGERS—Wesley R. Barnett, Lakeland; Amy L. Clampitt-Holsenbeck, Winter Springs; Anne T. Cofer, Jacksonville; Alyssa Franks, Lakeland; Sarah A. Hammock, Clewiston; Craig A. Hampy, Ocala; Rebecca Johansen, Mary Esther; Audra Jones, Glen St. Mary; Cody Locklear, Belleview; Lindsay M. Loe, Lake Mary; Kristen Lup, Kissimmee; Megan Maisner, New Port Richey; Alexander Ryan, DeFuniak Springs; Aliza Sager, Quincy.