

West's F.S.A. T. XXIX, Ch. 402, Refs & Annos

West's F.S.A. § 402.01

402.01. Repealed by Laws 1977, c. 77-147, § 258

West's F.S.A. § 402.02

402.02. Repealed by Laws 1977, c. 77-147, § 258

West's F.S.A. § 402.03

402.03. Repealed by Laws 1977, c. 77-147, § 258

West's F.S.A. § 402.04

402.04. Award of scholarships and stipends; disbursement of funds; administration

Effective: June 26, 2003

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

West's F.S.A. § 402.05

402.05. Requisites for holding scholarship and stipend

Scholarships or stipends are to be awarded only to such residents of the state as intend to make psychiatric social work, psychiatry, psychiatric nursing, and clinical psychology their professions. Among other essential requisites for holding a scholarship or stipend hereunder are citizenship, residence in Florida for a period of 1 year, good moral character, good health, exceptional scholarship, and the applicant shall have met the entrance requirement at a college or university for their professional specialization.

West's F.S.A. § 402.06

402.06. Notes required of scholarship holders

**Florida Statutes Annotated \_Title XXIX. Public Health (Chapters 381-408)\_Chapter 402. Health and Human Services: Miscellaneous Provisions**

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

**West's F.S.A. § 402.07**

**402.07. Payment of notes**

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

- (1) The staff of one of the state hospitals of the Mental Health Program Office.
- (2) The Department of Corrections.
- (3) A mental health clinic or guidance center.
- (4) One of the state-operated universities.
- (5) A circuit court exercising jurisdiction in connection with juveniles.
- (6) A public school.
- (7) Such other accredited social agencies or state institutions as may be approved by the Department of Children and Family Services.

**West's F.S.A. § 402.08**

**402.08. Omitted in Fla.St.1957**

**West's F.S.A. § 402.115**

**402.115. Sharing confidential or exempt information**

**Effective: July 1, 2006**

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

**West's F.S.A. § 402.12**

**402.12. National Community Mental Health Centers Act**

Any federal funds accruing to the state for the purposes of carrying out the national Community Mental Health Centers Act of 1963 shall be paid to the Department of Children and Family Services for expenditure as directed by said department.

**West's F.S.A. § 402.16**

**402.16. Proceedings by department**

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

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

**West's F.S.A. § 402.161**

**402.161. Authorization for sale of property**

**Florida Statutes Annotated \_Title XXIX. Public Health (Chapters 381-408)\_Chapter 402. Health and Human Services: Miscellaneous Provisions**

(1) The Department of Children and Family Services is authorized to sell any real or personal property that it acquired by way of donation, gift, contribution, bequest, or devise from any person, persons, or organizations when such real or personal property is determined by the department not to be necessary for use in connection with the work of the department. All proceeds derived from the sale of such property shall be transmitted to the State Treasury to be credited to the department.

(2) The Department of Children and Family Services is authorized to use for its purposes any moneys realized from the sale of any such real or personal property. It is expressly declared to be the intention of the Legislature that such moneys are appropriated to the department and may be used by it for its purposes. However, such moneys shall be withdrawn in accordance with law. Such moneys are appropriated to the use of the department in addition to other funds which have been or may otherwise be appropriated for its purposes.

**West's F.S.A. § 402.164**

**402.164. Legislative intent; definitions**

**Effective: July 3, 2007**

(1)(a) It is the intent of the Legislature to use citizen volunteers as members of the Florida Statewide Advocacy Council and the Florida local advocacy councils, and to have volunteers operate a network of councils that shall, without interference by an executive agency, undertake to discover, monitor, investigate, and determine the presence of conditions or individuals that constitute a threat to the rights, health, safety, or welfare of persons who receive services from state agencies.

(b) It is the further intent of the Legislature that the monitoring and investigation shall safeguard the health, safety, and welfare of consumers of services provided by these state agencies.

(c) It is the further intent of the Legislature that state agencies cooperate with the councils in forming interagency agreements to provide the councils with authorized client records so that the councils may monitor services and investigate claims.

(2) As used in this section through s. 402.167, the term:

(a) "Access" means a visual inspection or the copying of the records maintained by the state agency, facility, provider, or contractor.

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(b) "Client" means a client of the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Children and Family Services, or the Department of Elderly Affairs, as defined in s. 393.063, s. 394.67, s. 397.311, or s. 400.960, a forensic client or client as defined in s. 916.106, a child or youth as defined in s. 39.01, a child as defined in s. 827.01, a family as defined in s. 414.0252, a participant as defined in s. 429.901, a resident as defined in s. 429.02, a Medicaid recipient or recipient as defined in s. 409.901, a child receiving child care as defined in s. 402.302, a disabled adult as defined in s. 410.032 or s. 410.603, or a victim as defined in s. 39.01 or s. 415.102 as each definition applies within its respective chapter.

(c) "Client services" means health and human services that are provided to a client by a state agency or a service provider operated, funded, or contracted by the state.

(d) "Council" or "statewide council" means the Florida Statewide Advocacy Council.

(e) "Local council" or "local advocacy council" means one of the local advocacy councils located in this state, under the supervision of the Florida Statewide Advocacy Council.

**West's F.S.A. § 402.165**

**402.165. Florida Statewide Advocacy Council; confidential records and meetings**

**Effective: July 1, 2006**

(1) The Florida Statewide Advocacy Council shall be located in the Executive Office of the Governor but may be assigned by the Governor for administrative support purposes to any Governor's agency. Members of the council shall represent the interests of clients who are served by state agencies that provide client services. The statewide council is not subject to control, supervision, or direction by any state agency providing client services in the performance of its duties. The council shall consist of not less than 15 and not more than 20 residents of this state, one from each service area designated by the statewide council, who broadly represent the interests of the public and the clients of the state agencies that provide client services. The members shall be representative of groups of state residents as follows: a provider who delivers client services; a nonsalaried representative of nonprofit agencies or civic groups; a representative of consumer groups who is currently receiving, or has received, one or more client services within the past 4 years; and two residents of the state who do not represent any of the foregoing groups, but may represent a health-related profession or the legal profession. In appointing the representative of the health-related professions, the appointing authority shall give priority of consideration to a physician licensed under chapter 458 or chapter 459; and, in appointing the representative of the legal profession, the appointing authority shall give priority of consideration to a member in good standing of The Florida Bar. Of the remaining members, no more than one shall be an elected official. Except for the member who is an elected public official, each candidate for the statewide council must be given priority consideration if he or she has served as a member of a local council. Persons related to each other by consanguinity or affinity within the third degree may not serve on the statewide council at the same time.

(2) Members of the statewide council shall be appointed to serve terms of 4 years, subject to termination at the pleasure of the Governor prior to expiration of such period. A member may not serve more than two full consecutive terms.

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(3) If a member of the statewide council fails to attend two-thirds of the regular council meetings during the course of a year, the position held by the member may be deemed vacant by the council. The Governor shall fill the vacancy according to subsection (4). If a member of the statewide council violates this section or procedures adopted under this section, the council may recommend to the Governor that the member be removed.

(4) The Governor may fill a vacancy on the statewide council from a list of nominees submitted by the statewide council or appoint any qualified person. A list of candidates may be submitted to the statewide council by the local council in the service area from which the vacancy occurs. Priority of consideration shall be given to the appointment of an individual who is receiving one or more client services and whose primary interest, experience, or expertise lies with a major client group that is not represented on the council at the time of the appointment. If an appointment is not made within 60 days after a vacancy occurs on the statewide council, the vacancy may be filled by a majority vote of the statewide council without further action by the Governor. A person who is employed by any state agency in client services may not be appointed to the statewide council.

(5)(a) Members of the statewide council shall receive no compensation, but are entitled to be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(b) The Governor shall select an executive director who shall serve at the pleasure of the Governor and shall perform the duties delegated to him or her by the council. The compensation of the executive director and staff shall be established in accordance with the rules of the Selected Exempt Service. The Governor shall give priority consideration in the selection of an executive director to an individual with professional expertise in research design, statistical analysis, or agency evaluation and analysis.

(c) The council may apply for, receive, and accept grants, gifts, donations, bequests, and other payments including money or property, real or personal, tangible or intangible, and service from any governmental or other public or private entity or person and make arrangements as to the use of same.

(d) The statewide council shall annually prepare a budget request that, after it is approved by the council, shall be submitted to the Governor. The budget shall include a request for funds to carry out the activities of the statewide council and the local councils.

(6) The members of the statewide council shall elect a chair and a vice chair to terms of 1 year. A person may not serve as chair or vice chair for more than two full consecutive terms.

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

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of clients

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within programs or facilities operated, funded, or contracted by any state agency that provides client services.

(b) Monitoring, by site visit and through access to records, the delivery and use of services, programs, or facilities operated, funded, or contracted by any state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. The statewide council may conduct an unannounced site visit or monitoring visit that involves the inspection of records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself, after consulting with the Governor's office, if information from any state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of the constitutional and human rights of clients. The statewide council shall establish and follow uniform criteria for the review of information and generation of complaints. The statewide council shall develop a written protocol for all complaints it generates to provide the Governor's office with information including the nature of the abuse or neglect, the agencies involved, the populations or numbers of individuals affected, the types of records necessary to complete the investigation, and a strategy for approaching the problem. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the statewide council by a local council. If a matter constitutes a threat to the life, safety, or health of clients or is multiservice-area in scope, the statewide council may exercise its powers without the necessity of a referral from a local council.

(d) Reviewing existing programs or services and new or revised programs of the state agencies that provide client services and making recommendations as to how the rights of clients are affected.

(e) Submitting an annual report to the Legislature, no later than December 30 of each calendar year, concerning activities, recommendations, and complaints reviewed or developed by the council during the year.

(f) Conducting meetings at least once a year at the call of the chair and at other times at the call of the Governor or by written request of eight members of the council, including the executive director.

(g) Developing and adopting uniform procedures to be used to carry out the purpose and responsibilities of the statewide council and the local councils.

(h) Supervising the operations of the local councils and monitoring the performance and activities of all local councils and providing technical assistance to members of local councils.

(i) Providing for the development and presentation of a standardized training program for members of local councils.

(j) Developing and maintaining interagency agreements between the council and the state agencies providing client

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services. The interagency agreements shall address the coordination of efforts and identify the roles and responsibilities of the statewide and local councils and each agency in fulfillment of their responsibilities, including access to records. The interagency agreements shall explicitly define a process that the statewide and local councils shall use to request records from the agency and shall define a process for appeal when disputes about access to records arise between agency staff and council members. Interagency agreements shall be renewed annually and shall be completed and reported to the Governor no later than February 1.

(8)(a) In the performance of its duties, the statewide council shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints that allege any abuse or deprivation of constitutional or human rights of persons who receive client services from any state agency.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services and any records that are material to its investigation and are in the custody of any other agency or department of government. The council's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement agencies or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation that supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside the state agency, or outside a state facility, and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records that are confidential as specified by law. The petition shall be filed with notice and opportunity to be heard by the state agency and shall state the specific reasons for which the council is seeking access and the intended use of such information. The circuit court may authorize council access to the records upon a finding that access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, agency records, and reports may not be removed from a state agency, but copies must be provided to the council and the local councils at the agency's expense. Under no circumstance shall the council have access to confidential adoption records once the adoption is finalized by a court in accordance with ss. 39.0132, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of a state agency, the statewide council shall report its findings to that agency.

(b) All information obtained or produced by the statewide council that is made confidential by law, that relates to the identity of any client or group of clients subject to the protections of this section, or that relates to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Portions of meetings of the statewide council that relate to the identity of any client or group of clients subject to the protections of this section, that relate to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, or wherein testimony is provided relating to records otherwise made confidential by law, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

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(d) All records prepared by members of the statewide council that reflect a mental impression, investigative strategy, or theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or until the investigation ceases to be active. For purposes of this section, an investigation is considered “active” while the investigation is being conducted by the statewide council with a reasonable, good faith belief that it may lead to a finding of abuse or of a violation of human rights. An investigation does not cease to be active so long as the statewide council is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the council or other administrative or law enforcement agency.

(e) Any person who knowingly and willfully discloses any confidential information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**West’s F.S.A. § 402.166**

**402.166. Florida local advocacy councils; confidential records and meetings**

**Effective: January 1, 2005**

(1) The local councils are subject to direction from and the supervision of the statewide council. The statewide council shall assign staff to provide support to the local councils. The number and areas of responsibility of the local councils, not to exceed 46 councils statewide, shall be determined by the statewide council and shall be consistent with judicial circuit boundaries. Local councils shall meet at facilities under their jurisdiction whenever possible.

(2) Each local council shall have no fewer than 7 members and no more than 15 members, no more than 4 of whom are or have been recipients of one or more client services within the last 4 years, except that one member of this group may be an immediate relative or legal representative of a current or former client; two providers who deliver client services as defined in s. 402.164(2); and two representatives of professional organizations, one of whom represents the health-related professions and one of whom represents the legal profession. Priority of consideration shall be given to the appointment of at least one medical or osteopathic physician, as defined in chapters 458 and 459, and one member in good standing of The Florida Bar. Priority of consideration shall also be given to the appointment of an individual who is receiving client services and whose primary interest, experience, or expertise lies with a major client group not represented on the local council at the time of the appointment. A person who is employed in client services by any state agency may not be appointed to the local council. No more than three individuals who are providing contracted services for clients to any state agency may serve on the same local council at the same time. Persons related to each other by consanguinity or affinity within the third degree may not serve on the same local council at the same time. All members of local councils must successfully complete a standardized training course for council members within 3 months after their appointment to a local council. A member may not be assigned to an investigation that requires access to confidential information prior to the completion of the training course. After he or she completes the required training course, a member of a local council may not be prevented from participating in any activity of that local council, including investigations and monitoring, except due to a conflict of interest as described in the procedures established by the statewide council under subsection (7).

(3)(a) With respect to existing local councils, each member shall serve a term of 4 years. Upon expiration of a term

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and in the case of any other vacancy, the local council shall appoint a replacement by majority vote of the local council, subject to the approval of the Governor. A member may serve no more than two full consecutive terms.

(b)1. The Governor shall appoint the first four members of any newly created local council; and those four members shall select the remaining members, subject to approval of the Governor. If any of the first four members are not appointed within 60 days after a request is submitted to the Governor, those members may be appointed by a majority vote of the statewide council without further action by the Governor.

2. Members shall serve for no more than two full consecutive terms of 4 years, except that at the time of initial appointment, terms shall be staggered so that approximately one-half of the members first appointed shall serve for terms of 4 years and the remaining members shall serve for terms of 2 years. Vacancies shall be filled as provided in subparagraph 1.

(c) If no action is taken by the Governor to approve or disapprove a replacement of a member under this subsection within 60 days after the local council has notified the Governor of the appointment, then the appointment of the replacement may be considered approved by the Governor.

(4) Each local council shall elect a chair and a vice chair for a term of 1 year. A person may not serve as chair or vice chair for more than two consecutive terms. The chair's and vice chair's terms expire on September 30 of each year.

(5) If a local council member fails to attend two-thirds of the regular local council meetings during the course of a year, the local council may replace the member. If a member of a local council violates this section or procedures adopted under this section, the local council may recommend to the Governor that the member be removed.

(6) A member of a local council shall receive no compensation but is entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061. Members may be provided reimbursement for long-distance telephone calls if the calls were necessary to an investigation of an abuse or deprivation of constitutional or human rights.

(7) A local council shall first seek to resolve a complaint with the appropriate local administration, agency, or program; any matter not resolved by the local council shall be referred to the statewide council. A local council shall comply with appeal procedures established by the statewide council. The duties, actions, and procedures of both new and existing local councils shall conform to ss. 402.164-402.167. The duties of each local council shall include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or contracted by a state agency providing client services in the local services area.

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(b) Monitoring by site visit and access to records the delivery and use of services, programs, or facilities operated, funded, or contracted by a state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. A local council may conduct an unannounced site visit or monitoring visit that involves access to records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself if information from a state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of constitutional and human rights of clients. The local council shall follow uniform criteria established by the statewide council for the review of information and generation of complaints. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights by a state agency or contracted service provider in the local service area.

(d) Reviewing and making recommendations regarding how a client's constitutional or human rights might be affected by the client's participation in a proposed research project, prior to implementation of the project.

(e) Appealing to the statewide council any complaint unresolved at the local level. Any matter that constitutes a threat to the life, safety, or health of a client or is multiservice-area in scope shall automatically be referred to the statewide council.

(f) Submitting an annual report by September 30 to the statewide council concerning activities, recommendations, and complaints reviewed or developed by the local council during the year.

(g) Conducting meetings at least six times a year at the call of the chair and at other times at the call of the Governor, at the call of the statewide council, or by written request of a majority of the members of the local council.

(8)(a) In the performance of its duties, a local council shall have the same authority to access client records, state agency files, reports from any program or service, records of contractors and providers, and records from any facility operated, funded, or under contract with a state agency as specified in s. 402.165(8)(a).

(b) All information obtained or produced by a local council that is made confidential by law, that relates to the identity of any client or group of clients subject to the protection of this section, or that relates to the identity of an individual who provides information to the local council about abuse or about alleged violations of constitutional or human rights, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Portions of meetings of a local council that relate to the identity of any client or group of clients subject to the protections of this section, that relate to the identity of an individual who provides information to the local council about abuse or about alleged violations of constitutional or human rights, or when testimony is provided relating to records otherwise made confidential by law, are exempt from s. 286.011 and s. 24(b), Art. I of the State

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Constitution.

(d) All records prepared by members of a local council that reflect a mental impression, investigative strategy, or theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or until the investigation ceases to be active. For purposes of this section, an investigation is considered “active” while the investigation is being conducted by a local council with a reasonable, good faith belief that it may lead to a finding of abuse or of a violation of constitutional or human rights. An investigation does not cease to be active so long as the local council is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the local council or other administrative or law enforcement agency.

(e) Any person who knowingly and willfully discloses any such confidential information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**West's F.S.A. § 402.167**

**402.167. Duties of state agencies that provide client services relating to the Florida Statewide Advocacy Council and the Florida local advocacy councils**

**Effective: January 1, 2005**

The secretaries or directors of the state agencies shall ensure the full cooperation and assistance of employees of their respective state agencies with members and staff of the statewide and local councils. The secretary or director of each state agency providing client services shall notify its contract, service, and treatment providers of the powers, duties, and responsibilities of the statewide and local councils.

**West's F.S.A. § 402.17**

**402.17. Claims for care and maintenance; trust property**

**Effective: July 1, 2006**

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

**(1) Claims for care and maintenance.--**

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

1. Receive and supervise the collection of sums due the state.
2. Bring any court action necessary to collect any claim the state may have against any client, former client, guardian of any client or former client, executor or administrator of the client's estate, or any person against whom any client or former client may have a claim.
3. Obtain a copy of any inventory or appraisal of the client's property filed with any court.
4. Obtain from the department's Economic Self-Sufficiency Services Program Office a financial status report on any client or former client, including the ability of third parties responsible for such client to pay all or part of the cost of the client's care and maintenance.
5. Petition the court for appointment of a guardian or administrator for an otherwise unrepresented client or former client should the financial status report or other information indicate the need for such action. The cost of any such action shall be charged against the assets or estate of the client.
6. Represent the interest of the state in any litigation in which a client or former client is a party.
7. File claims with any person, firm, or corporation or with any federal, state, county, district, or municipal agency on behalf of an unrepresented client.
8. Represent the state in the settlement of the estates of deceased clients or in the settlement of estates in which a client or a former client against whom the state may have a claim has a financial interest.
9. Establish procedures by rule for the use of amounts held in trust for the client to pay for the cost of care and maintenance, if such amounts would otherwise cause the client to become ineligible for services which are in the client's best interests.

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

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**(2) Money or other property received for personal use or benefit of any client.**--The department or agency shall perform the following acts:

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

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

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

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

**(3) Deposit of funds received.**--Funds received by the Department of Children and Family Services in accordance with s. 402.33 shall be deposited into a trust fund for the operation of the department.

**(4) Disposition of unclaimed trust funds.**--Upon the death of any client affected by the provisions of this section, any unclaimed money held in trust by the department, the agency, or by the Chief Financial Officer for the child shall be applied first to the payment of any unpaid claim of the state against the client, and any balance remaining unclaimed for a period of 1 year shall escheat to the state as unclaimed funds held by fiduciaries.

**(5) Legal representation.**--To the extent that the budget will permit, the Department of Legal Affairs shall furnish the legal services to carry out the provisions of this section. Upon the request of the department or agency, the

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various state and county attorneys shall assist in litigation within their jurisdiction. The department or agency may retain legal counsel for necessary legal services which cannot be furnished by the Department of Legal Affairs and the various state and county attorneys.

**(6) Deposit or investment of funds of clients.--**

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

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

**(7) Disposition of money and property of clients upon attaining age 18 or discharge from care, custody, control, or services of the department.--**

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

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

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

(d) When a client under the age of 18 who has been in the legal custody, care, or control of the department and for whom the department is holding money or property as a trustee leaves the care, custody, and control of the

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department due to adoption or placement of the client with a relative, or as otherwise directed by a court of competent jurisdiction, the department shall notify that court of the existence of the money and property either prior to, or promptly after, receiving knowledge of the change of custody, care, or control. The department shall apply for an order from the court exercising jurisdiction over the client to direct the disposition of the money and property belonging to that client. The court order may establish a trust in which the money and property of the client will be deposited, appoint a guardian of a property as to the money or property of the client, or direct the creation of a Uniform Transfers to Minors Act account on behalf of that client, under the terms and conditions the court determines appropriate to the circumstances.

**West's F.S.A. § 402.175**

**402.175. Repealed by Laws 2000, c. 2000-337, § 3, eff. June 20, 2000**

**Effective: June 20, 2000**

**West's F.S.A. § 402.18**

**402.18. Welfare trust funds created; use of**

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

(2) All moneys now held in any auxiliary, canteen, welfare, donated, or similar fund in any district of the department shall be deposited in a welfare trust fund which is hereby created in the State Treasury, or in a place which the department shall designate. Money in the fund of each district of the department, or which may accrue thereto, is hereby appropriated for the purpose for which the donor intended. Absent specific intentions of donor, such moneys shall be used for programs for the benefit, education, and general welfare of all clients of the department. All sales taxes collected by the department in a district for the Department of Revenue may be deposited into the district trust fund to facilitate preparing consolidated sales tax returns and remittals of sales tax to the Department of Revenue.

(3) The department shall deposit in a welfare trust fund all receipts from the operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects, and other such facilities designated as accruing to a specific welfare trust fund, and any moneys which may be assigned to a specific welfare trust fund by clients or others. Separate revenue and expense accounts shall be maintained in the department's accounting system for each such facility. Annually, the net proceeds, after providing an allowance for depreciation, shall be determined for such facility and made available for expenditures for the benefit and welfare of the clients of the department. The moneys of said fund shall constitute a trust held by the department for the benefit and welfare of the clients of the department.

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(4) Any contraband found upon, or in the possession of, any client of the department shall be confiscated and liquidated, and the proceeds thereof shall be deposited in a welfare trust fund.

(5) The department may invest in the manner authorized by law for fiduciaries any money in a welfare trust fund which is not necessary for immediate use. Such investments may include, but shall not be limited to, investments in savings share accounts of any credit union chartered under the laws of the United States and doing business in this state, and savings share accounts of any credit union chartered under the laws of this state, provided the credit union is insured under the federal share insurance program or an approved state share insurance program. The interest earned and other increments derived from such investments of such money shall be deposited in the welfare trust fund. Moneys required for current use may be deposited in any bank, credit union, or savings and loan association authorized to do business in this state, provided such deposits are insured under a federal depository or share insurance program or under a state-approved depository or share insurance program, and provided such moneys are available on demand.

(6) The department shall maintain accounts in the welfare trust fund for the sale of goods, services, or products resulting from sheltered workshop, activity center, and agricultural project operations carried out in the rehabilitation of the department's clients, each project being accounted for separately in accordance with cost standards established by the department, but the cost of such projects shall not include any wage or salary expenditures funded by a general revenue appropriation applicable to such rehabilitative activities. The cost of materials incorporated in such products sold, if funded by an appropriation of general revenue, shall be restored to general revenue unallocated at the end of the fiscal year of sale from the proceeds of such sales; provided, however, that the cost of inventories on hand June 30, 1984, shall be accounted for as part of the working capital authorized for such activities. The department may extend credit for the sale of products produced in such activities, and for those sales made for its clients through its hobby shops, to purchasers of demonstrated credit standing sufficient to warrant the amount of credit extended after prudent evaluation of information relating to such credit standing. The department may obtain credit reports from reputable credit reporting agencies to assure prudence in the extending of credit, except when payment is made by credit card, charge card, or debit card as authorized by s. 215.322. The department shall provide an allowance for doubtful accounts for credit sales and record an expense in a like amount based on a good faith estimate, such provision being recorded as a cost of such sales. The net revenue after such provision shall be retained in the welfare trust fund and used only for the benefit of the department's clients for whom the trust fund was established.

**West's F.S.A. § 402.181**

**402.181. State Institutions Claims Program**

**Effective: July 1, 2008**

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

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

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

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

**West's F.S.A. § 402.185**

**402.185. Productivity enhancing technology**

**Effective: July 1, 2000**

In accordance with the provisions of chapter 216, 20 percent of any unobligated General Revenue Fund or any trust fund appropriation for salaries and benefits, expenses, other personal services, operating capital outlay, and special categories remaining at the end of a fiscal year shall be available to the Department of Children and Family Services for purchases of productivity-enhancing technology, to improve existing services, and for community services initiatives. Funds used for such purposes may be certified forward.

**West's F.S.A. § 402.19**

**402.19. Photographing records; destruction of records; effect as evidence**

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

**West's F.S.A. § 402.20**

**402.20. County contracts authorized for services and facilities for mental health and developmental disabilities**

**Effective: July 1, 2006**

The boards of county commissioners are authorized to provide monetary grants and facilities, and to enter into renewable contracts, for services and facilities, for a period not to exceed 2 years, with public and private hospitals, clinics, and laboratories; other state agencies, departments, or divisions; the state colleges and universities; the community colleges; private colleges and universities; counties; municipalities; towns; townships; and any other governmental unit or nonprofit organization which provides needed facilities for persons with mental illness or developmental disabilities. These services are hereby declared to be for a public and county purpose. The county commissioners may make periodic inspections to assure that the services or facilities provided under this chapter meet the standards of the Department of Children and Family Services and the Agency for Persons with Disabilities.

**West's F.S.A. § 402.21**

**402.21. Renumbered as 385.205 and amended by Laws 1986, c. 86-220, § 99, eff. Oct. 1, 1986**

**West's F.S.A. § 402.212**

**402.212. Renumbered as 385.206 by Laws 1986, c. 86-220, § 100, eff. Oct. 1, 1986**

**West's F.S.A. § 402.22**

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

**Effective: July 2, 2013**

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

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

(c) It is the intent of the Legislature that educational services be coordinated with appropriate and existing diagnostic and evaluative, social, followup, and other therapeutic services of the department and agency so that the effect of the total rehabilitation process is maximized.

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(d) It is the intent of the Legislature that, as educational programs for students in residential care facilities are implemented by the district school board, educational personnel in the residential care facilities who meet the qualifications for employees of the district school board be employed by the district school board.

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

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

(4) Students age 18 and under who are under the residential care of the Department of Children and Family Services or the Agency for Persons with Disabilities and who receive an education program shall be calculated as full-time equivalent student membership in the appropriate cost factor as provided for in s. 1011.62(1)(c). Residential care facilities shall include, but not be limited to, developmental disabilities centers and state mental health facilities. All students shall receive their education program from the district school system, and funding shall be allocated through the Florida Education Finance Program for the district school system.

(5) Instructional and special educational services that are provided to clients with mental illness or developmental disabilities of the department's or agency's residential care facilities by local school districts shall not be less than 180 days or 900 hours; however, the 900 hours may be distributed over a 12-month period.

(6) Notwithstanding the provisions of s. 1001.42(4)(n), the educational program at the Marianna Sunland Center in Jackson County shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public educational agencies. The annual state allocation to any such agency shall be computed pursuant to s. 1011.62(1), (2), and (6) and allocated in the amount that would have been provided the local school district in which the residential facility is located.

**West's F.S.A. § 402.24**

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

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

(2)(a) Third-party coverage for medical services shall be primary coverage.

(b) An applicant for or the recipient of medical services shall inform the department of any rights which the applicant or recipient has to third-party payments for medical services. The department shall automatically be subrogated to any rights the recipient has to third-party payments for medical services. The department shall recover for medical services directly from:

1. Any third party who is liable to make a medical benefit payment to the provider of the recipient’s medical services or to the recipient under the terms of any contract, settlement, or award;

2. The recipient, if he or she has received third-party payment for medical services provided to him or her; or

3. The provider of the recipient’s medical services if third-party payment for medical services has been recovered by the provider.

(c) An applicant for or the recipient of medical services who receives medical services shall be deemed to have made an assignment to the department of any right such person has to any payments for such medical services from a third party.

(d) An applicant for or the recipient of medical services who receives medical services shall be deemed to have provided the department the authority to release medical information with respect to such medical services for the sole purpose of obtaining reimbursement.

(e) The department may, in order to enforce its subrogation rights under this section, institute, intervene in, or join any legal proceeding against any third party against whom recovery rights arise. No action taken by the department shall operate to deny the recipient’s recovery for that portion of his or her damages not subrogated to the department, and no action of the recipient shall prejudice the subrogation rights of the department.

(f) When the department provides, pays for, or becomes liable for medical services, it shall have a lien for the amount of medical services upon any and all causes of action which accrue to the person to whom care was furnished, or which accrue to his or her legal representatives, as a result of sickness, injury, disease, disability, or

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death due to the liability of a third party which necessitated the medical services. The department shall have 1 year from the date when the last item of medical services relative to a specific accident or spell of illness was paid in which to file its verified lien statement. The statement shall be filed with the clerk of the circuit court in the recipient's county of residence. The verified lien statement shall contain the name and address of the person to whom medical services were furnished; the date of injury; the name and address of the vendor or vendors furnishing medical services; the dates of the service; the amount claimed to be due for the care; and, to the best knowledge of the department, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries. The department's failure to file a lien shall not affect its subrogation rights provided in paragraph (b).

(g) In recovering any payments in accordance with this subsection, the department is authorized to make appropriate settlements.

(h) The department shall promulgate rules to implement the provisions of this section.

West's F.S.A. § 402.25

402.25. Renumbered as 411.0106 and amended by Laws 2010, c. 2010-210, § 5, eff. July 1, 2010

Effective: July 1, 2010

West's F.S.A. § 402.26

**402.26. Child care; legislative intent**

Effective: July 1, 2010

(1) The Legislature recognizes the critical importance to the citizens of the state of both safety and quality in child care. Child care in Florida is in the midst of continuing change and development, driven by extraordinary changes in demographics. Many parents with children under age 6 are employed outside the home. For the majority of Florida's children, child care will be a common experience. For many families, child care is an indispensable part of the effort to meet basic economic obligations or to make economic gains. State policy continues to recognize the changing composition of the labor force and the need to respond to the concerns of Florida's citizens as they enter the child care market. In particular, the Legislature recognizes the need to have more working parents employed in family-friendly workplaces. In addition, the Legislature recognizes the abilities of public and private employers to assist the family's efforts to balance family care needs with employment opportunities.

(2) The Legislature also recognizes the effects of both safety and quality in child care in reducing the need for special education, public assistance, and dependency programs and in reducing the incidence of delinquency and educational failure. In a budgetary context that spends billions of dollars to address the aftermath of bad outcomes, safe, quality child care is one area in which the often maligned concept of cost-effective social intervention can be applied. It is the intent of the Legislature, therefore, that state policy should be firmly embedded in the recognition that child care is a voluntary choice of the child's parents. For parents who choose child care, it is the intent of the Legislature to protect the health and welfare of children in care.

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(3) To protect the health and welfare of children, it is the intent of the Legislature to develop a regulatory framework that promotes the growth and stability of the child care industry and facilitates the safe physical, intellectual, motor, and social development of the child.

(4) It is also the intent of the Legislature to promote the development of child care options in the private sector and disseminate information that will assist the public in determining appropriate child care options.

(5) It is the further intent of the Legislature to provide and make accessible child care opportunities for children at risk, economically disadvantaged children, and other children traditionally disenfranchised from society. In achieving this intent, the Legislature shall develop a school readiness program, a range of child care options, support services, and linkages with other programs to fully meet the child care needs of this population.

(6) It is the intent of the Legislature that a child care facility licensed pursuant to s. 402.305 or a child care facility exempt from licensing pursuant to s. 402.316, that achieves Gold Seal Quality status pursuant to s. 402.281, be considered an educational institution for the purpose of qualifying for exemption from ad valorem tax pursuant to s. 196.198.

West's F.S.A. § 402.27

402.27. Renumbered as 411.0101 and amended by Laws 2008, c. 2008-196, § 3, eff. July 1, 2008

Effective: July 1, 2008

West's F.S.A. § 402.28

402.28. Repealed by Laws 2001, c. 2001-170, § 26, eff. Jan. 1, 2002

Effective: January 1, 2002

West's F.S.A. § 402.281

402.281. Gold Seal Quality Care program

Effective: July 1, 2013

(1)(a) There is established within the department the Gold Seal Quality Care Program.

(b) A child care facility, large family child care home, or family day care home that is accredited by an accrediting association approved by the department under subsection (3) and meets all other requirements shall, upon application to the department, receive a separate "Gold Seal Quality Care" designation.

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(2) The department shall adopt rules establishing Gold Seal Quality Care accreditation standards based on the applicable accrediting standards of the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission.

(3)(a) In order to be approved by the department for participation in the Gold Seal Quality Care program, an accrediting association must apply to the department and demonstrate that it:

1. Is a recognized accrediting association.

2. Has accrediting standards that substantially meet or exceed the Gold Seal Quality Care standards adopted by the department under subsection (2).

(b) In approving accrediting associations, the department shall consult with the Department of Education, the Florida Head Start Directors Association, the Florida Association of Child Care Management, the Florida Family Child Care Home Association, the Florida Children's Forum, the Florida Association for the Education of the Young, the Child Development Education Alliance, the Florida Association of Academic Nonpublic Schools, the Association of Early Learning Coalitions, providers receiving exemptions under s. 402.316, and parents.

(4) In order to obtain and maintain a designation as a Gold Seal Quality Care provider, a child care facility, large family child care home, or family day care home must meet the following additional criteria:

(a) The child care provider must not have had any class I violations, as defined by rule, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of a class I violation shall be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class I violations for a period of 2 years.

(b) The child care provider must not have had three or more class II violations, as defined by rule, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of three or more class II violations within a 2-year period shall be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class II violations for a period of 1 year.

(c) The child care provider must not have been cited for the same class III violation, as defined by rule, three or more times and failed to correct the violation within 1 year after the date of each citation, within the 2 years preceding its application for designation as a Gold Seal Quality Care provider. Commission of the same class III violation three or more times and failure to correct within the required time during a 2-year period may be grounds for termination of the designation as a Gold Seal Quality Care provider until the provider has no class III violations for a period of 1 year.

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(5) The Department of Children and Family Services shall adopt rules under ss. 120.536(1) and 120.54 which provide criteria and procedures for reviewing and approving accrediting associations for participation in the Gold Seal Quality Care program, conferring and revoking designations of Gold Seal Quality Care providers, and classifying violations.

**West's F.S.A. § 402.30**

**402.30. Repealed by Laws 1989, c. 89-379, § 15, eff. July 6, 1989**

**West's F.S.A. § 402.301**

**402.301. Child care facilities; legislative intent and declaration of purpose and policy**

It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care. Toward that end:

(1) It is the purpose of ss. 402.301-402.319 to establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing.

(2) It is the intent of the Legislature that all owners, operators, and child care personnel shall be of good moral character.

(3) It shall be the policy of the state to ensure protection of children and to encourage child care providers and parents to share responsibility for and to assist in the improvement of child care programs.

(4) It shall be the policy of the state to promote public and private employer initiatives to establish day care services for their employees.

(5) It is the further legislative intent that the freedom of religion of all citizens shall be inviolate. Nothing in ss. 402.301-402.319 shall give any governmental agency jurisdiction or authority to regulate, supervise, or in any way be involved in any Sunday School, Sabbath School, or religious services or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending such services.

(6) It is further the intent that membership organizations affiliated with national organizations which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures shall not be considered child care facilities and therefore, their personnel shall not be required to be screened.

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(7) It shall be the policy of the state to encourage child care providers to serve children with disabilities. When requested, the department shall provide technical assistance to parents and child care providers in order to facilitate serving children with disabilities.

West's F.S.A. § 402.3015

402.3015. Repealed by Laws 2001, c. 2001-170, § 26, eff. Jan. 1, 2002

Effective: January 1, 2002

West's F.S.A. § 402.3016

402.3016. Renumbered as 411.0104 by Laws 2010, c. 2010-210, § 8, eff. July 1, 2010

Effective: July 1, 2010

West's F.S.A. § 402.3017

402.3017. Renumbered as 411.0103 and amended by Laws 2006, c. 2006-91, § 6, eff. July 1, 2006

Effective: July 1, 2006

West's F.S.A. § 402.3018

402.3018. Renumbered as 411.01015 and amended by Laws 2010, c. 2010-210, § 9, eff. July 1, 2010

Effective: July 1, 2010

West's F.S.A. § 402.302

402.302. Definitions

Effective: July 1, 2013

As used in this chapter, the term:

(1) "Child care" means the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

(2) "Child care facility" includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;

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- (b) Summer camps having children in full-time residence;
- (c) Summer day camps;
- (d) Bible schools normally conducted during vacation periods; and
- (e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.

(3) “Child care personnel” means all owners, operators, employees, and volunteers working in a child care facility. The term does not include persons who work in a child care facility after hours when children are not present or parents of children in a child care facility. For purposes of screening, the term includes any member, over the age of 12 years, of a child care facility operator’s family, or person, over the age of 12 years, residing with a child care facility operator if the child care facility is located in or adjacent to the home of the operator or if the family member of, or person residing with, the child care facility operator has any direct contact with the children in the facility during its hours of operation. Members of the operator’s family or persons residing with the operator who are between the ages of 12 years and 18 years are not required to be fingerprinted but must be screened for delinquency records. For purposes of screening, the term also includes persons who work in child care programs that provide care for children 15 hours or more each week in public or nonpublic schools, family day care homes, or programs otherwise exempted under s. 402.316. The term does not include public or nonpublic school personnel who are providing care during regular school hours, or after hours for activities related to a school’s program for grades kindergarten through 12. A volunteer who assists on an intermittent basis for less than 10 hours per month is not included in the term “personnel” for the purposes of screening and training if a person who meets the screening requirement of s. 402.305(2) is always present and has the volunteer in his or her line of sight. Students who observe and participate in a child care facility as a part of their required coursework are not considered child care personnel, provided such observation and participation are on an intermittent basis and a person who meets the screening requirement of s. 402.305(2) is always present and has the student in his or her line of sight.

(4) “Child welfare provider” means a licensed child-caring or child-placing agency.

(5) “Department” means the Department of Children and Family Services.

(6) “Drop-in child care” means child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted.

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(7) “Evening child care” means child care provided during the evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m. to accommodate parents who work evenings and late-night shifts.

(8) “Family day care home” means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(9) “Household children” means children who are related by blood, marriage, or legal adoption to, or who are the legal wards of, the family day care home operator, the large family child care home operator, or an adult household member who permanently or temporarily resides in the home. Supervision of the operator’s household children shall be left to the discretion of the operator unless those children receive subsidized child care through the school readiness program pursuant to s. 1002.92 to be in the home.

(10) “Indoor recreational facility” means an indoor commercial facility which is established for the primary purpose of entertaining children in a planned fitness environment through equipment, games, and activities in conjunction with food service and which provides child care for a particular child no more than 4 hours on any one day. An indoor recreational facility must be licensed as a child care facility under s. 402.305, but is exempt from the minimum outdoor-square-footage-per-child requirement specified in that section, if the indoor recreational facility has, at a minimum, 3,000 square feet of usable indoor floor space.

(11) “Large family child care home” means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. Household children under 13 years of age, when on the premises of the large family child care home or on a field trip with children enrolled in child care, shall be included

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in the overall capacity of the licensed home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of 8 children from birth to 24 months of age.

(b) A maximum of 12 children, with no more than 4 children under 24 months of age.

(12) “Local licensing agency” means any agency or individual designated by the county to license child care facilities.

(13) “Operator” means any onsite person ultimately responsible for the overall operation of a child care facility, whether or not he or she is the owner or administrator of such facility.

(14) “Owner” means the person who is licensed to operate the child care facility.

(15) “Screening” means the act of assessing the background of child care personnel and volunteers and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation.

(16) “Secretary” means the Secretary of Children and Family Services.

(17) “Substantial compliance” means that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.

(18) “Weekend child care” means child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

West’s F.S.A. § 402.3025

402.3025. Public and nonpublic schools

Effective: July 2, 2013

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For the purposes of ss. 402.301-402.319, the following shall apply:

**(1) Public schools.--**

(a) The following programs for children shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319:

1. Programs for children in 5-year-old kindergarten and grades one or above.

2. Programs for children who are at least 3 years of age, but who are under 5 years of age, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

3. Programs for children under 3 years of age who are eligible for participation in the programs under the existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

(b) The following programs for children shall be deemed to be child care and shall be subject to the provisions of ss. 402.301-402.319:

1. Programs for children who are under 5 years of age when the programs are not operated and staffed directly by the schools.

2. Programs for children under 3 years of age who are not eligible for participation in the programs under existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457.

(c) The monitoring and enforcement of compliance with age-appropriate standards established by rule of the State Board of Education shall be the responsibility of the Department of Education.

**(2) Nonpublic schools.--**

(a) Programs for children under 3 years of age shall be deemed to be child care and subject to the provisions of ss. 402.301-402.319.

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(b) Programs for children in 5-year-old kindergarten and grades one or above shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319.

(c) Programs for children who are at least 3 years of age, but under 5 years of age, shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319 relating to child care facilities, provided the programs in the schools are operated and staffed directly by the schools, provided a majority of the children enrolled in the schools are 5 years of age or older, and provided there is compliance with the screening requirements for personnel pursuant to s. 402.305 or s. 402.3057. A nonpublic school may designate certain programs as child care, in which case these programs shall be subject to the provisions of ss. 402.301-402.319.

(d) 1. Programs for children who are at least 3 years of age, but under 5 years of age, which are not licensed under ss. 402.301-402.319 shall substantially comply with the minimum child care standards promulgated pursuant to ss. 402.305-402.3057.

2. The department or local licensing agency shall enforce compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing the minimum child care standards and staff enforcing other standards under the jurisdiction of the department.

3. The department or local licensing agency may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

a. To protect the health, sanitation, safety, and well-being of all children under care.

b. To enforce its rules and regulations.

c. To use corrective action plans, whenever possible, to attain compliance prior to the use of more restrictive enforcement measures.

d. To make application for injunction to the proper circuit court, and the judge of that court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of ss. 402.301-402.319. Any violation of this section or of the standards applied under ss. 402.305-402.3057 which threatens harm to any child in the school's programs for children who are at least 3 years of age, but are under 5 years of age, or repeated violations of this section or the standards under ss. 402.305-402.3057, shall be grounds to seek an injunction to close a program in a school.

e. To impose an administrative fine, not to exceed \$100, for each violation of the minimum child care standards promulgated pursuant to ss. 402.305-402.3057.

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

a. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

b. Use information from the criminal records obtained under s. 402.305 or s. 402.3055 for any purpose other than screening that person for employment as specified in those sections or release such information to any other person for any purpose other than screening for employment as specified in those sections.

5. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of any person obtained under s. 402.305 or s. 402.3055 for any purpose other than screening for employment as specified in those sections or to release information from such records to any other person for any purpose other than screening for employment as specified in those sections.

(e) The department and the nonpublic school accrediting agencies are encouraged to develop agreements to facilitate the enforcement of the minimum child care standards as they relate to the schools which the agencies accredit.

**(3) Inspection fee.**--The department shall establish a fee for inspection activities performed pursuant to this section, in an amount sufficient to cover costs. However, the amount of such fee for the inspection of a school shall not exceed the fee imposed for child care licensure pursuant to s. 402.315.

West's F.S.A. § 402.3026

402.3026. Full-service schools

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

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

West's F.S.A. § 402.305

402.305. Licensing standards; child care facilities

Effective: July 1, 2013

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**(1) Licensing standards.**--The department shall establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

(a) The standards shall be designed to address the following areas:

1. The health, sanitation, safety, and adequate physical surroundings for all children in child care.

2. The health and nutrition of all children in child care.

3. The child development needs of all children in child care.

(b) All standards established under ss. 402.301-402.319 must be consistent with the rules adopted by the State Fire Marshal for child care facilities. However, if the facility is operated in a public school, the department shall use the public school fire code, as provided in the rules of the State Board of Education, as the minimum standard for firesafety.

(c) The minimum standards for child care facilities shall be adopted in the rules of the department and shall address the areas delineated in this section. The department, in adopting rules to establish minimum standards for child care facilities, shall recognize that different age groups of children may require different standards. The department may adopt different minimum standards for facilities that serve children in different age groups, including school-age children. The department shall also adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure. Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care. After-school programs that otherwise meet the criteria for exclusion from licensure may provide snacks and meals through the federal Afterschool Meal Program (AMP) administered by the Department of Health in accordance with federal regulations and standards. The Department of Health shall consider meals to be provided through the AMP only if the program is actively participating in the AMP, is in good standing with the department, and the meals meet AMP requirements.

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Standards, at a minimum, shall allow for a credentialed director to supervise multiple before-school and after-school sites.

(2) **Personnel.**--Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening. This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter.

(b) The department may grant exemptions from disqualification from working with children or the developmentally disabled as provided in s. 435.07.

(c) Minimum age requirements. Such minimum standards shall prohibit a person under the age of 21 from being the operator of a child care facility and a person under the age of 16 from being employed at such facility unless such person is under direct supervision and is not counted for the purposes of computing the personnel-to-child ratio.

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

a. State and local rules and regulations which govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use and early literacy and

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language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.

g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development associate waiver certificate shall be automatically exempted from the training requirements in sub-subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. The introductory course shall cover recognition and prevention of shaken baby syndrome; prevention of sudden infant death syndrome; recognition and care of infants and toddlers with developmental disabilities, including autism spectrum disorder and Down syndrome; and early childhood brain development within the topic areas identified in this paragraph.

4. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional 1 continuing education unit of approved inservice training, or 10 clock hours of equivalent training, as determined by the department.

5. Child care personnel shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subparagraph 4.

6. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and career programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

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7. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

8. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

9. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

(e) Periodic health examinations.

(f) By January 1, 2000, a credential for child care facility directors. By January 1, 2004, the credential shall be a required minimum standard for licensing.

**(3) Minimum staff credentials.--**By July 1, 1996, for every 20 children in a licensed child care facility, if the facility operates 8 hours or more per week, one of the child care personnel in the facility must have:

(a) A child development associate credential;

(b) A child care professional credential, unless the department determines that such child care professional credential is not equivalent to or greater than a child development associate credential; or

(c) A credential that is equivalent to or greater than the credential required in paragraph (a) or paragraph (b).

The department shall establish by rule those hours of operation, such as during rest periods and transitional periods, when this subsection does not apply.

**(4) Staff-to-children ratio.--**

(a) Minimum standards for the care of children in a licensed child care facility as established by rule of the department must include:

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1. For children from birth through 1 year of age, there must be one child care personnel for every four children.
2. For children 1 year of age or older, but under 2 years of age, there must be one child care personnel for every six children.
3. For children 2 years of age or older, but under 3 years of age, there must be one child care personnel for every 11 children.
4. For children 3 years of age or older, but under 4 years of age, there must be one child care personnel for every 15 children.
5. For children 4 years of age or older, but under 5 years of age, there must be one child care personnel for every 20 children.
6. For children 5 years of age or older, there must be one child care personnel for every 25 children.
7. When children 2 years of age and older are in care, the staff-to-children ratio shall be based on the age group with the largest number of children within the group.

(b) This subsection does not apply to nonpublic schools and their integral programs as defined in s. 402.3025(2)(d) 1. In addition, an individual participating in a community service program activity under s. 445.024(1)(e), or a work experience activity under s. 445.024(1)(f), at a child care facility may not be considered in calculating the staff-to-children ratio.

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**(5) Physical facilities.**--Minimum standards shall include requirements for building conditions, indoor play space, outdoor play space, napping space, bathroom facilities, food preparation facilities, outdoor equipment, and indoor equipment. Because of the nature and duration of drop-in child care, outdoor play space and outdoor equipment shall not be required for licensure; however, if such play space and equipment are provided, then the minimum standards shall apply to drop-in child care. With respect to minimum standards for physical facilities of a child care program for school-age children which is operated in a public school facility, the department shall adopt the State Uniform Building Code for Public Educational Facilities Construction as the minimum standards, regardless of the operator of the program. The Legislature intends that if a child care program for school-age children is operated in a public school, the program need not conform to standards for physical facilities other than the standards adopted by the Commissioner of Education.

**(6) Square footage per child.**--Minimum standards shall be established by the department by rule.

(a) A child care facility that holds a valid license on October 1, 1992, must have a minimum of 20 square feet of usable indoor floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child. Outdoor play area shall be calculated at the rate of 45 feet per child in any group using the play area at one time. A minimum play area shall be provided for one half of the licensed capacity. This standard applies as long as the child care facility remains licensed at the site occupied on October 1, 1992, and shall not be affected by any change in the ownership of the site.

(b) A child care facility that does not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a child care facility must have a minimum of 35 square feet of usable floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child.

The minimum standard for outdoor play area does not apply in calculating square footage for children under 1 year of age. However, appropriate outdoor infant equipment shall be substituted for outdoor play space. The centers shall provide facilities and equipment conducive to the physical activities appropriate for the age and physical development of the child.

**(7) Sanitation and safety.--**

(a) Minimum standards shall include requirements for sanitary and safety conditions, first aid treatment, emergency procedures, and pediatric cardiopulmonary resuscitation. The minimum standards shall require that at least one staff person trained in cardiopulmonary resuscitation, as evidenced by current documentation of course completion, must be present at all times that children are present.

(b) In the case of a child care program for school-age children attending before and after school programs on the public school site, the department shall use the public school fire code, as adopted in the rules of the State Board of Education, as the minimum standard for firesafety. In the case of a child care program for school-age children attending before-school and after-school programs on a site operated by a municipality, the department shall adopt rules for such site and intended use.

(c) Some type of communications system, such as a pocket pager or beeper, shall be provided to a parent whose child is in drop-in child care to ensure the immediate return of the parent to the child, if necessary.

**(8) Nutritional practices.--**Minimum standards shall include requirements for the provision of meals or snacks of a quality and quantity to assure that the nutritional needs of the child are met

**(9) Admissions and recordkeeping.--**

(a) Minimum standards shall include requirements for preadmission and periodic health examinations, requirements

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for immunizations, and requirements for maintaining emergency information and health records on all children.

(b) During the months of August and September of each year, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(c) Because of the nature and duration of drop-in child care, requirements for preadmission and periodic health examinations and requirements for medically signed records of immunization required for child care facilities shall not apply. A parent of a child in drop-in child care shall, however, be required to attest to the child's health condition and the type and current status of the child's immunizations.

(d) Any child shall be exempt from medical or physical examination or medical or surgical treatment upon written request of the parent or guardian of such child who objects to the examination and treatment. However, the laws, rules, and regulations relating to contagious or communicable diseases and sanitary matters shall not be violated because of any exemption from or variation of the health and immunization minimum standards.

**(10) Transportation safety.**--Minimum standards shall include requirements for child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children, requirements for annual inspections of the vehicles, limitations on the number of children in the vehicles, and accountability for children being transported.

**(11) Access.**--Minimum standards shall provide for reasonable access to the child care facility by the custodial parent or guardian during the time the child is in care.

**(12) Child discipline.**--

(a) Minimum standards for child discipline practices shall ensure that age-appropriate, constructive disciplinary practices are used for children in care. Such standards shall include at least the following requirements:

1. Children shall not be subjected to discipline which is severe, humiliating, or frightening.

2. Discipline shall not be associated with food, rest, or toileting.

3. Spanking or any other form of physical punishment is prohibited.

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(b) Prior to admission of a child to a child care facility, the facility shall notify the parents in writing of the disciplinary practices used by the facility.

**(13) Plan of activities.**--Minimum standards shall ensure that each child care facility has and implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child. The written plan must include a program, to be implemented periodically for children of an appropriate age, which will assist the children in preventing and avoiding physical and mental abuse.

**(14) Urban child care facilities.**--Minimum standards shall include requirements for child care facilities located in urban areas. The standards must allow urban child care facilities to substitute indoor play space for outdoor play space, if outdoor play space is not available in the area, and must set forth additional requirements that apply to a facility which makes that substitution, including, but not limited to, additional square footage requirements for indoor space; air ventilation provisions; and a requirement to provide facilities and equipment conducive to physical activities appropriate for the age of the children.

**(15) Transition periods.**--During the periods of time in which children are arriving and departing from the child care facility, notwithstanding local fire ordinances, the provisions of subsection (6) are suspended for a period of time not to exceed 30 minutes.

**(16) Evening and weekend child care.**--Minimum standards shall be developed by the department to provide for reasonable, affordable, and safe evening and weekend child care. Each facility offering evening or weekend child care must meet these minimum standards, regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility. The department may modify by rule the licensing standards contained in this section to accommodate evening child care.

**(17) Specialized child care facilities for the care of mildly ill children.**--Minimum standards shall be developed by the department, in conjunction with the Department of Health, for specialized child care facilities for the care of mildly ill children. The minimum standards shall address the following areas: personnel requirements; staff-to-child ratios; staff training and credentials; health and safety; physical facility requirements, including square footage; client eligibility, including a definition of "mildly ill children"; sanitation and safety; admission and recordkeeping; dispensing of medication; and a schedule of activities.

**(18) Transfer of ownership.**--

(a) One week prior to the transfer of ownership of a child care facility or family day care home, the transferor shall notify the parent or caretaker of each child of the impending transfer.

(b) The department shall, by rule, establish methods by which notice will be achieved and minimum standards by which to implement this subsection.

**West's F.S.A. § 402.30501**

**402.30501. Modification of introductory child care course for community college credit authorized**

**Effective: July 1, 2002**

The Department of Children and Family Services may modify the 40-clock-hour introductory course in child care under s. 402.305 or s. 402.3131 to meet the requirements of articulating the course to community college credit. Any modification must continue to provide that the course satisfies the requirements of s. 402.305(2)(d).

**West's F.S.A. § 402.3051**

**402.3051. Renumbered as 411.01013 and amended by Laws 2010, c. 2010-210, § 10, eff. July 1, 2010**

**Effective: July 1, 2010**

**West's F.S.A. § 402.3052**

**402.3052. Repealed by Laws 2001, c. 2001-170, § 26, eff. Jan. 1, 2002**

**Effective: January 1, 2002**

**West's F.S.A. § 402.3054**

**402.3054. Child enrichment service providers**

**Effective: July 1, 2004**

(1) For the purposes of this section, "child enrichment service provider" means an individual who provides enrichment activities, such as language training, music instruction, educational instruction, and other experiences, to specific children during a specific time that is not part of the regular program in a child care facility.

(2) The child's parent shall provide written consent before a child may participate in activities conducted by a child enrichment service provider that are not part of the regular program of the child care facility. A child enrichment service provider receives compensation from the child's parent or from the child care facility and shall not be considered a volunteer or child care personnel.

(3) A child enrichment service provider shall be of good moral character based upon screening. This screening shall be conducted as provided in chapter 435, using the level 2 standards for screening set forth in that chapter. A child enrichment service provider must meet the screening requirements prior to providing services to a child in a child care facility. A child enrichment service provider who has met the screening standards shall not be required to be under the direct and constant supervision of child care personnel.

West's F.S.A. § 402.3055

402.3055. Child care personnel requirements

**(1) Requirements for child care personnel.--**

(a) The department or local licensing agency shall require that the application for a child care license contain a question that specifically asks the applicant, owner, or operator if he or she has ever had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant, owner, or operator shall attest to the accuracy of the information requested under penalty of perjury. If the applicant, owner, or operator admits that he or she has been a party in such action, the department or local licensing agency shall review the nature of the suspension, revocation, disciplinary action, or fine before granting the applicant a license to operate a child care facility. If the department or local licensing agency determines as the result of such review that it is not in the best interest of the state or local jurisdiction for the applicant to be licensed, a license shall not be granted.

(b) The child care facility employer shall require that the application for a child care personnel position contain a question that specifically asks the applicant if he or she has ever worked in a facility that has had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or been fined while employed in a child care facility. The applicant shall attest to the accuracy of the information requested under penalty of perjury. If the applicant admits that he or she has been a party in such action, the employer shall review the nature of the denial, suspension, revocation, disciplinary action, or fine before the applicant is hired.

**(2) Exclusion from owning, operating, or being employed by a child care facility or other child care program; hearings provided.--**

(a) The department or local licensing agency shall deny, suspend, or revoke a license or pursue other remedies provided in s. 402.310, s. 402.312, or s. 402.319 in addition to or in lieu of denial, suspension, or revocation for failure to comply with this section. The disciplinary actions determination to be made by the department or the local licensing agency and the procedure for hearing for applicants and licensees shall be in accordance with s. 402.310.

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(2).

(c) When the department is the agency initiating the statement regarding noncompliance, the procedures established for hearing under chapter 120 shall be available to the applicant, licensee, or other child care program and to the affected child care personnel, in order to present evidence relating either to the accuracy of the basis of exclusion or

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to the denial of an exemption from disqualification.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. 402.305(2), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(e) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(f) An employee, applicant, licensee, or other child care program shall have the right to appeal a finding of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the permanent employee is employed. The hearing shall be conducted in accordance with the provisions of chapter 120.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(2) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

**West's F.S.A. § 402.3057**

**402.3057. Persons not required to be refingerprinted or rescreened**

**Effective: July 1, 2012**

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 1012, 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(2)(c), 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(6), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

**West's F.S.A. § 402.3058**

**402.3058. Repealed by Laws 2000, c. 2000-337, § 4, eff. June 20, 2000**

**Effective: June 20, 2000**

**West's F.S.A. § 402.306**

**402.306. Designation of licensing agency; dissemination by the department and local licensing agency of information on child care**

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(1) Any county whose licensing standards meet or exceed state minimum standards may:

(a) Designate a local licensing agency to license child care facilities in the county; or

(b) Contract with the department to delegate the administration of state minimum standards in the county to the department.

(2) Child care facilities in any county whose standards do not meet or exceed state minimum standards shall be subject to licensing by the department under state minimum standards.

(3) The department and local licensing agencies, or the designees thereof, shall be responsible for coordination and dissemination of information on child care to the community and shall make available upon request all licensing standards and procedures, in addition to the names and addresses of licensed child care facilities and, where applicable pursuant to s. 402.313, licensed or registered family day care homes.

West's F.S.A. § 402.307

402.307. Approval of licensing agency

(1) Within 30 days after the promulgation of state minimum standards, each county shall provide the department with a copy of its standards if they differ from the state minimum standards. At the same time, each county shall provide the department with the administrative procedures it intends to use for the licensing of child care facilities.

(2) The department shall have the authority to determine if local standards meet or exceed state minimum standards. Within 60 days after the county has submitted its standards and procedures, the department, upon being satisfied that such standards meet or exceed state minimum standards and that there is compliance with all provisions of ss. 402.301-402.319, shall approve the local licensing agency.

(3) Approval to issue licenses for the department shall be renewed annually. For renewal, the local licensing agency shall submit to the department a copy of the licensing standards and procedures applied. An onsite review may be made if deemed necessary by the department.

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(4) If, following an onsite review, the department finds the local licensing agency is not applying the approved standards, the department shall report the specific violations to the county commission of the involved county which shall investigate the violations and take whatever action necessary to correct them.

(5) To ensure that accurate statistical data are available, each local licensing agency shall report annually to the department the number of child care facilities under its jurisdiction, the number of children served, the ages of children served, and the number of revocations or denials of licenses.

West's F.S.A. § 402.308

402.308. Issuance of license

(1) **Annual licensing.**--Every child care facility in the state shall have a license which shall be renewed annually.

(2) **Change of ownership.**--Every child care facility shall reapply for and receive a license prior to the time a new owner assumes responsibility for the facility. The department shall grant or deny the reapplication for license within 45 days from the date upon which the child care facility reapplies.

(3) **State administration of licensing.**--In any county in which the department has the authority to issue licenses, the following procedures shall be applied:

(a) Application for a license or for a renewal of a license to operate a child care facility shall be made in the manner and on the forms prescribed by the department. The applicant's social security number shall be included on the form submitted to the department. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each applicant is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(b) Prior to the renewal of a license, the department shall reexamine the child care facility, including in that process the examination of the premises and those records of the facility as required under s. 402.305, to determine that minimum standards for licensing continue to be met.

(c) The department shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the secretary of the department within 15 days after written notice that such conflict exists.

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(d) The department shall issue or renew a license upon receipt of the license fee and upon being satisfied that all standards required by ss. 402.301-402.319 have been met. 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 of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) and 402.3055.

**(4) Local administration of licensing.--**In any county in which there is a local licensing agency approved by the department, the following procedures shall apply:

(a) Application for a license or for renewal of license to operate a child care facility shall be made in the manner and on the forms prescribed by the local licensing agency.

(b) Prior to the renewal of a license, the agency shall reexamine the child care facility, including in that process the examination of the premises and records of the facility as required in s. 402.305 to determine that minimum standards for licensing continue to be met.

(c) The local agency shall coordinate all inspections of child care facilities. A child care facility is not required to implement a recommendation of one agency that is in conflict with a recommendation of another agency if such conflict arises due to uncoordinated inspections. Any conflict in recommendations shall be resolved by the county commission or its representative within 15 days after written notice that such conflict exists.

(d) The local licensing agency shall issue a license or renew a license upon being satisfied that all standards required by ss. 402.301-402.319 have been met. A license may be issued or renewed if all the screening materials have been timely submitted; however, the local licensing agency shall not issue or renew a license if any of the child care personnel at the applicant facility have failed the screening required by ss. 402.305(2) and 402.3055.

**(5) Issuance of local occupational licenses.--**No county or municipality shall issue an occupational license which is being obtained for the purpose of operating a child care facility regulated under this act without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the department or local licensing agency. The department or local licensing agency shall furnish to local agencies responsible for issuing occupational licenses sufficient instruction for making the above required determinations.

West's F.S.A. § 402.309

**402.309. Provisional license or registration**

**Effective: July 1, 2006**

(1) The local licensing agency or the department, whichever is authorized to license child care facilities in a county, may issue a provisional license for child care facilities, family day care homes, or large family child care homes, or a provisional registration for family day care homes to applicants for an initial license or registration or to licensees or

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registrants seeking a renewal who are unable to meet all the standards provided for in ss. 402.301-402.319.

(2) A provisional license or registration may not be issued unless the operator or owner makes adequate provisions for the health and safety of the child. A provisional license may be issued for a child care facility if all of the screening materials have been timely submitted. A provisional license or registration may not be issued unless the child care facility, family day care home, or large family child care home is in compliance with the requirements for screening of child care personnel in ss. 402.305, 402.3055, 402.313, and 402.3131, respectively.

(3) The provisional license or registration may not be issued for a period that exceeds 6 months; however, it may be renewed one time for a period that may not exceed 6 months under unusual circumstances beyond the control of the applicant.

(4) The provisional license or registration may be suspended or revoked if periodic inspection or review by the local licensing agency or the department indicates that insufficient progress has been made toward compliance.

(5) The department shall adopt rules specifying the conditions and procedures under which a provisional license or registration may be issued, suspended, or revoked.

**West's F.S.A. § 402.310**

**402.310. Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines**

**Effective: July 1, 2006**

(1)(a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. 402.301-402.319, or the rules adopted thereunder:

1. Impose an administrative fine not to exceed \$100 per violation, per day. However, if the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed under this section.

2. Convert a license or registration to probation status and require the licensee or registrant to comply with the terms of probation. A probation-status license or registration may not be issued for a period that exceeds 6 months and the probation-status license or registration may not be renewed. A probation-status license or registration may be suspended or revoked if periodic inspection by the department or local licensing agency finds that the probation-status licensee or registrant is not in compliance with the terms of probation or that the probation-status licensee or registrant is not making sufficient progress toward compliance with ss. 402.301-402.319.

3. Deny, suspend, or revoke a license or registration.

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. 402.301-402.319 have been violated.

2. Actions taken by the licensee or registrant to correct the violation or to remedy complaints.

3. Any previous violations of the licensee or registrant.

(c) The department shall adopt rules to:

1. Establish the grounds under which the department may deny, suspend, or revoke a license or registration or place a licensee or registrant on probation status for violations of ss. 402.301-402.319.

2. Establish a uniform system of procedures to impose disciplinary sanctions for violations of ss. 402.301-402.319. The uniform system of procedures must provide for the consistent application of disciplinary actions across districts and a progressively increasing level of penalties from predisciplinary actions, such as efforts to assist licensees or registrants to correct the statutory or regulatory violations, and to severe disciplinary sanctions for actions that jeopardize the health and safety of children, such as for the deliberate misuse of medications. The department shall implement this subparagraph on January 1, 2007, and the implementation is not contingent upon a specific appropriation.

(d) The disciplinary sanctions set forth in this section apply to licensed child care facilities, licensed large family child care homes, and licensed or registered family day care homes.

(2) When the department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall determine the matter in accordance with procedures prescribed in chapter 120. When the local licensing agency has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall notify the applicant, registrant, or licensee in writing, stating the grounds upon which the license or registration is being denied, suspended, or revoked or an administrative fine is being imposed. If the

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applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days after receipt of the notice, the license shall be deemed denied, suspended, or revoked; the license or registration shall be converted to probation status; or an administrative fine shall be imposed.

(3) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(4) An applicant, registrant, or licensee shall have the right to appeal a decision of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the child care facility, family day care home, or large family child care home is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of chapter 120.

**West's F.S.A. § 402.311**

**402.311. Inspection**

A licensed child care facility shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. 402.305, at reasonable times during regular business hours, to ensure compliance with the provisions of ss. 402.301-402.319. The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing same. Any application for a license or renewal made pursuant to this act or the advertisement to the public for the provision of child care as defined in s. 402.302 shall constitute permission for any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application. In the event a licensed facility refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing same prior to such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. 402.310, for such refusal.

**West's F.S.A. § 402.3115**

**402.3115. Elimination of duplicative and unnecessary inspections; abbreviated inspections**

The Department of Children and Family Services and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition, the department and the local governmental agencies shall develop and implement an abbreviated inspection plan for child care facilities that have had no Class 1 or Class 2 deficiencies, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local governmental agencies as being key indicators of whether the child care facility continues to provide quality care and programming.

**West's F.S.A. § 402.312**

**402.312. License required; injunctive relief**

**Effective: July 1, 2003**

(1) The operation of a child care facility without a license, a family day care home without a license or registration, or a large family child care home without a license is prohibited. If the department or the local licensing agency discovers that a child care facility is being operated without a license, a family day care home is being operated without a license or registration, or a large family child care home is being operated without a license, the department or local licensing agency is authorized to seek an injunction in the circuit court where the facility is located to enjoin continued operation of such facility, family day care home, or large family child care home. When the court is closed for the transaction of judicial business, the department or local licensing agency is authorized to seek an emergency injunction to enjoin continued operation of such unlicensed facility, unregistered or unlicensed family day care home, or unlicensed large family child care home, which injunction shall be continued, modified, or revoked on the next day of judicial business.

(2) Other grounds for seeking an injunction to close a child care facility, family day care home, or a large family child care home are that:

(a) There is any violation of the standards applied under ss. 402.301-402.319 which threatens harm to any child in the child care facility, a family day care home, or large family child care home.

(b) A licensee or registrant has repeatedly violated the standards provided for under ss. 402.301-402.319.

(c) A child care facility, family day care home, or large family child care home continues to have children in attendance after the closing date established by the department or the local licensing agency.

(3) The department or local licensing agency may impose an administrative fine on any child care facility, family day care home, or large family child care home operating without a license or registration, consistent with the provisions of s. 402.310.

**West's F.S.A. § 402.3125**

**402.3125. Display and appearance of license; posting of violations; information to be provided to parents**

**Effective: September 1, 2000**

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(1)(a) Upon receipt of a license issued under s. 402.308 or s. 402.309, the child care facility shall display such license in a conspicuous place within the facility.

(b)1. In addition to posting the license as required under paragraph (a), the child care facility shall post with the license:

a. Each citation for a violation of any standard or requirement of ss. 402.301-402.319 that has resulted in disciplinary action under s. 402.310 or s. 402.312.

b. An explanation, written in simple language, of each citation.

c. A description, written in simple language, of the corrective action, if any, taken by the facility for each citation. Included in the description shall be the dates on which the corrective action was taken.

2. Each citation, explanation, and description of corrective action shall remain posted for 1 year after the citation's effective date.

(2) The department shall ensure that every license it issues under s. 402.308 or s. 402.309 bears the distinctive seals of the State of Florida and of the department and is clearly recognizable by its size, color, seals, and contents to be a state license or provisional license for a child care facility.

(3) Each local licensing agency shall ensure that every license it issues under s. 402.308 or s. 402.309 bears the distinctive seals of the issuing county and of the department and is clearly recognizable by its size, color, seals, and contents to be a county license or provisional license for a child care facility. Noncompliance by a local licensing agency shall be deemed by the department to be failure to meet minimum state standards and shall result in the department immediately assuming licensure authority in the county.

(4) Any license issued pursuant to subsection (2) or subsection (3) shall include the name, address, and telephone number of the licensing agency.

(5) The department shall develop a model brochure for distribution by the department and by local licensing agencies to every child care facility in the state. Pursuant thereto:

(a) Upon receipt of such brochures, each child care facility shall provide a copy of same to every parent, guardian, or other person having entered a child in such facility. Thereafter, a copy of such brochure shall be provided to every parent, guardian, or other person entering a child in such facility upon entrance of the child or prior thereto.

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(b) Each child care facility shall certify to the department or local licensing agency, whichever is appropriate, that it has so provided and will continue to so provide such brochures, which certification shall operate as a condition upon issuance and renewal of licensure. Noncompliance by any child care facility shall be grounds for sanction as provided in ss. 402.310 and 402.312.

(c) The brochure shall, at a minimum, contain the following information:

1. A statement that the facility is licensed and has met state standards for licensure as established by s. 402.305 or that the facility is licensed by a local licensing agency and has met or exceeded the state standards, pursuant to ss. 402.306 and 402.307. Such statement shall include a listing of specific standards that licensed facilities must meet pursuant to s. 402.305.

2. A statement indicating that information about the licensure status of the child care facility can be obtained by telephoning the department office or the office of the local licensing agency issuing the license at a telephone number or numbers which shall be printed upon or otherwise affixed to the brochure.

3. The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual cases of child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

4. The date that the current license for the facility was issued and the date of its scheduled expiration if it is not renewed.

5. Any other information relating to competent child care that the department deems would be helpful to parents and other caretakers in their selection of a child care facility.

(d) The department shall prepare a brochure containing substantially the same information as specified in paragraph (c) and shall make such brochure available to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers.

**West's F.S.A. § 402.313**

**402.313. Family day care homes**

**Effective: July 1, 2010**

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(1) Family day care homes shall be licensed under this act if they are presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.

(a) If not subject to license, family day care homes shall register annually with the department, providing the following information:

1. The name and address of the home.

2. The name of the operator.

3. The number of children served.

4. Proof of a written plan to provide at least one other competent adult to be available to substitute for the operator in an emergency. This plan shall include the name, address, and telephone number of the designated substitute.

5. Proof of screening and background checks.

6. Proof of successful completion of the 30-hour training course, as evidenced by passage of a competency examination, which shall include:

a. State and local rules and regulations that govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.

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f. Specialized areas, including early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators of family day care homes.

7. Proof that immunization records are kept current.

8. Proof of completion of the required continuing education units or clock hours.

(b) A family day care home may volunteer to be licensed under this act.

(c) The department may provide technical assistance to counties and family day care home providers to enable counties and family day care providers to achieve compliance with family day care homes standards.

(2) This information shall be included in a directory to be published annually by the department to inform the public of available child care facilities.

(3) Child care personnel in family day care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) and 402.3055. For purposes of screening in family day care homes, the term includes any member over the age of 12 years of a family day care home operator's family, or persons over the age of 12 years residing with the operator in the family day care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years shall not be required to be fingerprinted, but shall be screened for delinquency records.

(4) Operators of family day care homes must successfully complete an approved 30-clock-hour introductory course in child care, as evidenced by passage of a competency examination, before caring for children.

(5) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of family day care homes shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

(6) Operators of family day care homes shall be required to complete 0.5 continuing education unit of approved training in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (5).

(7) Operators of family day care homes shall be required annually to complete a health and safety home inspection

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self-evaluation checklist developed by the department in conjunction with the statewide resource and referral program. The completed checklist shall be signed by the operator of the family day care home and provided to parents as certification that basic health and safety standards are being met.

(8) Family day care home operators may avail themselves of supportive services offered by the department.

(9) The department shall prepare a brochure on family day care for distribution by the department and by local licensing agencies, if appropriate, to family day care homes for distribution to parents utilizing such child care, and to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers. The brochure shall, at a minimum, contain the following information:

(a) A brief description of the requirements for family day care registration, training, and fingerprinting and screening.

(b) A listing of those counties that require licensure of family day care homes. Such counties shall provide an addendum to the brochure that provides a brief description of the licensure requirements or may provide a brochure in lieu of the one described in this subsection, provided it contains all the required information on licensure and the required information in the subsequent paragraphs.

(c) A statement indicating that information about the family day care home's compliance with applicable state or local requirements can be obtained by telephoning the department office or the office of the local licensing agency, if appropriate, at a telephone number or numbers which shall be affixed to the brochure.

(d) The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

(e) Any other information relating to competent child care that the department or local licensing agency, if preparing a separate brochure, deems would be helpful to parents and other caretakers in their selection of a family day care home.

(10) On an annual basis, the department shall evaluate the registration and licensure system for family day care homes. Such evaluation shall, at a minimum, address the following:

(a) The number of family day care homes registered and licensed and the dates of such registration and licensure.

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(b) The number of children being served in both registered and licensed family day care homes and any available slots in such homes.

(c) The number of complaints received concerning family day care, the nature of the complaints, and the resolution of such complaints.

(d) The training activities utilized by child care personnel in family day care homes for meeting the state or local training requirements.

The evaluation shall be utilized by the department in any administrative modifications or adjustments to be made in the registration of family day care homes or in any legislative requests for modifications to the system of registration or to other requirements for family day care homes.

(11) In order to inform the public of the state requirement for registration of family day care homes as well as the other requirements for such homes to legally operate in the state, the department shall institute a media campaign to accomplish this end. Such a campaign shall include, at a minimum, flyers, newspaper advertisements, radio advertisements, and television advertisements.

(12) Notwithstanding any other state or local law or ordinance, any family day care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. A licensed family day care home may not be charged commercial utility rates.

(13) The department shall, by rule, establish minimum standards for family day care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be licensed. The standards should include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards.

(14) During the months of August and September of each year, each family day care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

**West's F.S.A. § 402.3131**

**402.3131. Large family child care homes**

**Effective: June 10, 2009**

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(1) Large family child care homes shall be licensed under this section.

(a) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home.

(b) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

(2) Child care personnel in large family child care homes shall be subject to the applicable screening provisions contained in ss. 402.305(2) and 402.3055. For purposes of screening child care personnel in large family child care homes, the term "child care personnel" includes any member of a large family child care home operator's family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family child care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25.

(4) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of large family child care homes who have completed the required introductory course shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.

(5) Operators of large family child care homes shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (4).

(6) The department shall prepare a brochure on large family child care homes for distribution to the general public.

(7) The department shall, by rule, establish minimum standards for large family child care homes. The standards shall include, at a minimum, requirements for staffing, maintenance of immunization records, minimum health standards, minimum safety standards, minimum square footage, and enforcement of standards.

(8) Prior to being licensed by the department, large family child care homes must be approved by the state or local fire marshal in accordance with standards established for child care facilities.

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(9) During the months of August and September of each year, each large family child care home shall provide parents of children enrolled in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

West's F.S.A. § 402.3135

402.3135. Repealed by Laws 2010, c. 2010-210, § 12, eff. July 1, 2010

Effective: July 1, 2010

West's F.S.A. § 402.314

402.314. Supportive services

The department shall provide consultation services, technical assistance, and inservice training, when requested and as available, to operators, licensees, registrants, and applicants to help improve programs, homes, and facilities for child care, and shall work cooperatively with other organizations and agencies concerned with child care.

West's F.S.A. § 402.3145

402.3145. Renumbered as 411.01014 and amended by Laws 2010, c. 2010-210, § 13, eff. July 1, 2010

Effective: July 1, 2010

West's F.S.A. § 402.315

402.315. Funding; license fees

Effective: July 1, 2010

(1) If the county designates a local agency to be responsible for the licensing of child care facilities, the county shall bear at least 75 percent of the costs involved.

(2) The department shall bear the costs of the licensing of child care facilities when contracted to do so by a county or when directly responsible for licensing in a county which fails to meet or exceed state minimum standards.

(3) The department shall collect a fee for any license it issues for a child care facility, family day care home, or large family child care home pursuant to ss. 402.305, 402.313, and 402.3131.

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(a) For a child care facility licensed pursuant to s. 402.305, such fee shall be \$1 per child, based on the licensed capacity of the facility, except that the minimum fee shall be \$25 per facility and the maximum fee shall be \$100 per facility.

(b) For a family day care home registered pursuant to s. 402.313, such fee shall be \$25.

(c) For a family day care home licensed pursuant to s. 402.313, such fee shall be \$50.

(d) For a large family child care home licensed pursuant to s. 402.3131, such fee shall be \$60.

(4) Any county may collect a fee for any license it issues pursuant to s. 402.308.

(5) All moneys collected by the department for child care licensing shall be held in a trust fund of the department to be reallocated to the department during the following fiscal year to fund child care licensing activities, including the Gold Seal Quality Care program created pursuant to s. 402.281.

**West's F.S.A. § 402.316**

**402.316. Exemptions**

(1) The provisions of ss. 402.301-402.319, except for the requirements regarding screening of child care personnel, shall not apply to a child care facility which is an integral part of church or parochial schools conducting regularly scheduled classes, courses of study, or educational programs accredited by, or by a member of, an organization which publishes and requires compliance with its standards for health, safety, and sanitation. However, such facilities shall meet minimum requirements of the applicable local governing body as to health, sanitation, and safety and shall meet the screening requirements pursuant to ss. 402.305 and 402.3055. Failure by a facility to comply with such screening requirements shall result in the loss of the facility's exemption from licensure.

(2) Any county or city with state or local child care licensing programs in existence on July 1, 1974, will continue to license the child care facilities as covered by such programs, notwithstanding the provisions of subsection (1), until and unless the licensing agency makes a determination to exempt them.

(3) Any child care facility covered by the exemption provisions of subsection (1), but desiring to be included in this act, is authorized to do so by submitting notification to the department. Once licensed, such facility cannot withdraw from the act and continue to operate.

**West's F.S.A. § 402.317**

**402.317. Prolonged child care**

**Effective: July 1, 2006**

Notwithstanding the time restriction specified in s. 402.302(1), child care may be provided for 24 hours or longer for a child whose parent or legal guardian works a shift of 24 hours or more. The requirement that a parent or legal guardian work a shift of 24 hours or more must be certified in writing by the employer, and the written certification shall be maintained in the facility by the child care provider and made available to the licensing agency. The time that a child remains in child care, however, may not exceed 72 consecutive hours in any 7-day period. During a declared state of emergency, the child care licensing agency may temporarily waive the time limitations provided in this section.

**West's F.S.A. § 402.318**

**402.318. Advertisement**

**Effective: July 1, 2011**

A person, as defined in s. 1.01(3), may not advertise a child care facility, family day care home, or large family child care home without including within such advertisement the state or local agency license number or registration number of such facility or home. Violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**West's F.S.A. § 402.319**

**402.319. Penalties**

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

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 all information required under those sections or a material fact used in making a determination as to such person's qualifications to be child care personnel, as defined in s. 402.302, in a child care facility, family day care home, or other child care program.

(b) Operate or attempt to operate a child care facility without having procured a license as required by this act.

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(c) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(d) Operate or attempt to operate a child care facility or family day care home under a license that is suspended, revoked, or terminated.

(e) Misrepresent, by act or omission, a child care facility or family day care home to be duly licensed pursuant to this act without being so licensed.

(f) Make any other misrepresentation, by act or omission, regarding the licensure or operation of a child care facility or family day care home to a parent or guardian who has a child placed in the facility or is inquiring as to placing a child in the facility, or to a representative of the licensing authority, or to a representative of a law enforcement agency, including, but not limited to, any misrepresentation as to:

1. The number of children at the child care facility or the family day care home;

2. The part of the child care facility or family day care home designated for child care;

3. The qualifications or credentials of child care personnel;

4. Whether a family day care home or child care facility complies with the screening requirements of s. 402.305; or

5. Whether child care personnel have the training as required by s. 402.305.

(2) If any child care personnel makes any misrepresentation in violation of this section to a parent or guardian who has placed a child in the child care facility or family day care home, and the parent or guardian relied upon the misrepresentation, and the child suffers great bodily harm, permanent disfigurement, permanent disability, or death as a result of an intentional act or negligence by the child care personnel, then the child care personnel commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**West's F.S.A. § 402.33**

**402.33. Department authority to charge fees for services provided**

**Effective: July 1, 2010**

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

(a) “Benefit payments” means cash payments from retirement, survivors, or disability insurance or from supplemental security income programs, and includes, but is not limited to, payments from social security, railroad retirement, and the United States Department of Veterans Affairs.

(b) “Client” means any natural person receiving services provided by the department, including supervision, care, and maintenance, but not as a licensee subject to regulation by the department for purposes of licensure.

(c) “Department” means the Department of Children and Family Services, the Department of Health, and the Agency for Persons with Disabilities.

(d) “Fee collections” means all fees collected by the department for services provided to clients.

(e) “Representative payee” means an individual or entity which acts on behalf of a client as the receiver of any or all benefits owing to the client.

(f) “Responsible party” means any person legally responsible for the financial support of the client and may include a minor client’s natural or adoptive parent, a client’s spouse, and an estate or trust established for the financial support of a client, but not a payor of third-party benefits.

(g) “State and federal aid” means cash assistance or cash equivalent benefits based on an individual’s proof of financial need, including, but not limited to, temporary cash assistance and food assistance.

(h) “Third-party benefits” means moneys received by or owing to a client or responsible party because of the client’s need for or receipt of services such as those provided by the department. Such benefits include, but are not limited to, benefits from insurers, Medicare, and workers’ compensation.

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

(a) Diagnosis and evaluation procedures necessary to determine the client’s eligibility and need for services

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provided by the department;

(b) Customary and routine information and referral services;

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

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

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

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

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

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

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

(3) Fees not specifically set elsewhere by statute shall be reasonably related to the cost of providing the service but may not exceed the average cost of the service, and the client receiving or benefiting from the service or the client's responsible party shall be liable for any such fee assessed. The department may actively assist a client or his or her responsible party in obtaining any financial benefits he or she is entitled to by law, or as the beneficiary of a trust, annuity, retirement fund, or insurance contract. Designation of payee or assignment of benefits shall comply with rules adopted by the department. The department may serve as the representative payee in receiving such benefits for the client or responsible party and shall use such benefits received to reduce the client's or responsible party's liability for fees assessed. Before reducing such liability, the department shall provide for the client's incidental personal expenses allowed by departmental rule and shall bill any insurer or other payor of third-party benefits who may be obligated by contract or law to provide, or to participate in the cost of providing, the service or services to the client for which the fees have been assessed.

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(4) The department shall:

(a) At least annually, determine or establish the cost of providing services for which charges will be made. A determination of this cost shall be made within 90 days of the effective date of this act.

(b) Annually review uniform criteria for determining ability to pay, or to participate in, the cost of service.

(5) The payment of charges shall not be a prerequisite to treatment or care.

(6)(a) The department may not require a client or responsible party to pay fees it may assess that exceed the client's or responsible party's ability to pay. Such ability to pay shall be based upon the income of the client or responsible party, including any inheritance or bequests he or she may receive, and shall be determined according to uniform criteria and rules adopted by the department, unless the amount of the fee is specifically established by statute. The department shall assess the effects upon clients, responsible parties, services, and revenues of determining the ability to pay based upon:

1. The client's or responsible party's gross income, the number of persons dependent on that income, and the number of such persons who are clients; and

2. The client's or responsible party's income less fixed domestic expenses, including a maximum amount of expenses as set forth by the department for each category of domestic expense so that any expenditures by the client or responsible party which exceed the maximum allowed will not be deducted from gross income for the purpose of determining ability to pay.

(b) The department is authorized to require financial information from a client or his or her responsible party, in order to determine the client's or responsible party's ability to pay, including the source of current or potential income or benefits that might be available to pay the cost of services provided or assets that may be available to assure payment of the fees. If the required information is not furnished within a time period established by departmental rule, the department may enter suit to enforce the requirement or may bill the client or responsible party for the full cost of services, less reimbursements from third-party payors for such services. The department shall verify such financial information in accordance with the most economical uniform procedures. If the cost of services, less recoveries from third-party payors, exceeds the client's or responsible party's ability to pay, the department shall reduce the client's or responsible party's liability for fees assessed to an amount not in excess of the amount which the client or responsible party has been determined to be able to pay.

(7)(a) The department shall by rule establish procedures for clients or responsible parties to request a review of

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assessed fees. Further, the department shall advise such clients or responsible parties of the criteria which are used to make determinations on requests for reduction or waiver of fees.

(b) If the department denies a request for a fee reduction or waiver, it shall inform the client or responsible party of his or her right to appeal the decision pursuant to the provisions of chapter 120.

(8)(a) Unpaid fees for services provided by the department to a client constitute a lien on any property owned by the client or the client's responsible party which property is not exempt by s. 4, Art. X of the State Constitution. If fees are not paid within 6 months after they are billed, the department shall charge interest on the unpaid balance at a rate equal to the average rate of interest earned by the State Treasury on state funds deposited in commercial banks as reported by the Chief Financial Officer for the previous year. The department is authorized to negotiate and settle any delinquent account, and to charge off any delinquent account even though the claim of the department may be against the client, a responsible party, or a payor of third-party benefits, either directly for the department or as a fiduciary for the client or responsible party.

(b) If negotiation and settlement cannot be effected within a time period established by its rules, and if charging off the account is not appropriate, the department shall, if it is cost-effective to do so, file the lien for the unpaid fees for recordation by the clerk of the circuit court in such county or counties which the department determines to be in the best interest of the state. Services for which fees were charged shall constitute a claim against the client, the client's responsible party, or any insurer obligated to pay for the services provided. Such liens and claims shall be enforced on behalf of the state by the department. Liens and claims upon recordation with the clerk of the circuit court shall be continuing obligations until 3 years after the demise of the client or the client's responsible party, unless satisfied earlier.

(c) Upon the death of a person against whom the department has a claim, the department shall file such caveats as are in the best interest of the state. If the department effects recovery, the fund from which the filing fee for the caveat was paid shall be reimbursed.

(9)(a) The department should exert every lawful and reasonable effort to collect all delinquent and unpaid fees for services and to maximize the recovery of fees.

(b) In collecting delinquent or unpaid fees, the department may employ the services of a collection agency. The collection agency must be registered and in good standing under chapter 559. The department may pay a collection agency from any amount collected under the claim a fee that the department and the agency have agreed upon, or may authorize the agency to deduct the fee from the amount collected.

**West's F.S.A. § 402.34**

**402.34. Body corporate**

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The department is a body corporate and shall adopt and have a corporate seal. It shall have the power to contract and be contracted with, to sue and be sued in actions in ex contractu but not in torts, and to have and to possess corporate powers for all purposes necessary to administer this chapter. The department shall have the power to accept payment for services rendered pursuant to rules and regulations of the department.

West's F.S.A. § 402.35

402.35. Employees

Effective: July 1, 2011

All personnel of the Department of Children and Family Services shall be governed by rules and regulations adopted and promulgated by the Department of Management Services relative thereto except the director and persons paid on a fee basis. The Department of Children and Family Services may participate with other state departments and agencies in a joint merit system.

West's F.S.A. § 402.36

402.36. Repealed by Laws 1984, c. 84-115, § 9

West's F.S.A. § 402.37

402.37. Repealed by Laws 1997, c. 97-237, § 126, eff. July 1, 1997

West's F.S.A. § 402.40

402.40. Child welfare training and certification

Effective: October 1, 2011

**(1) Legislative intent.**--In order to enable the state to provide a systematic approach to staff development and training for persons providing child welfare services that will meet the needs of such staff in their discharge of duties, it is the intent of the Legislature that the Department of Children and Family Services work in collaboration with the child welfare stakeholder community, including department-approved third-party credentialing entities, to ensure that staff have the knowledge, skills, and abilities necessary to competently provide child welfare services. It is the intent of the Legislature that each person providing child welfare services in this state earns and maintains a professional certification from a professional credentialing entity that is approved by the Department of Children and Family Services. The Legislature further intends that certification and training programs will aid in the reduction of poor staff morale and of staff turnover, will positively impact on the quality of decisions made regarding children and families who require assistance from programs providing child welfare services, and will afford better quality care of children who must be removed from their families.

**(2) Definitions.**--As used in this section, the term:

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(a) “Child welfare certification” means a professional credential awarded by a department-approved third-party credentialing entity to individuals demonstrating core competency in any child welfare practice area.

(b) “Child welfare services” means any intake, protective investigations, preprotective services, protective services, foster care, shelter and group care, and adoption and related services program, including supportive services and supervision provided to children who are alleged to have been abused, abandoned, or neglected or who are at risk of becoming, are alleged to be, or have been found dependent pursuant to chapter 39.

(c) “Core competency” means the minimum knowledge, skills, and abilities necessary to carry out work responsibilities.

(d) “Person providing child welfare services” means a person who has a responsibility for supervisory, direct care, or support-related work in the provision of child welfare services pursuant to chapter 39.

(e) “Preservice curriculum” means the minimum statewide training content based upon the core competencies which is made available to all persons providing child welfare services.

(f) “Third-party credentialing entity” means a department-approved nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.

**(3) Third-party credentialing entities.--**The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(a) Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.

(b) Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

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(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

**(4) Child Welfare Training Trust Fund.--**

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the Department of Children and Family Services for the purpose of funding the professional development of persons providing child welfare services.

(b) One dollar from every noncriminal traffic infraction collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be deposited into the Child Welfare Training Trust Fund.

(c) In addition to the funds generated by paragraph (b), the trust fund shall receive funds generated from an additional fee on birth certificates and dissolution of marriage filings, as specified in ss. 382.0255 and 28.101, respectively, and may receive funds from any other public or private source.

(d) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

**(5) Core competencies.--**

(a) The Department of Children and Family Services shall approve the core competencies and related preservice curricula that ensures that each person delivering child welfare services obtains the knowledge, skills, and abilities to competently carry out his or her work responsibilities.

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, sheriffs' offices conducting child protection investigations, and child welfare legal services providers.

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(c) Community-based care agencies, sheriffs' offices, and the department may contract for the delivery of preservice and any additional training for persons delivering child welfare services if the curriculum satisfies the department-approved core competencies.

(d) Department-approved credentialing entities shall, for a period of at least 12 months after implementation of the third-party child welfare certification programs, grant reciprocity and award a child welfare certification to individuals who hold current department-issued child welfare certification in good standing, at no cost to the department or the certificateholder.

**(6) Adoption of rules.**--The Department of Children and Family Services shall adopt rules necessary to carry out the provisions of this section.

**West's F.S.A. § 402.401**

**402.401. Florida Child Welfare Student Loan Forgiveness Program**

**Effective: July 1, 2008**

There is created the Florida Child Welfare Student Loan Forgiveness Program to be administered by the Department of Children and Family Services. The program shall provide loan reimbursement to eligible employees in child welfare positions that are critical to the department's mission, as determined by the department, and that are within the department, sheriff's offices, or contracted community-based care agencies. To be eligible for a program loan, the employee's outstanding student loans may not be in a default status. This section shall be implemented only as specifically funded.

**West's F.S.A. § 402.41**

**402.41. Educational materials and training concerning HIV infections and AIDS**

The Department of Health shall develop educational materials and training about the transmission, control, and prevention of human immunodeficiency virus infections and acquired immune deficiency syndrome and other communicable diseases relevant for use in those facilities licensed under the provisions of this chapter.

**West's F.S.A. § 402.45**

**402.45. Repealed by Laws 2012, c. 2012-184, § 89, eff. April 27, 2012**

**Effective: April 27, 2012**

**West's F.S.A. § 402.47**

**402.47. Foster grandparent and retired senior volunteer services to high-risk and handicapped children**

**Effective: July 1, 2000**

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

(a) “Foster grandparent” means an individual who volunteers to provide support services to high-risk and handicapped children.

(b) “Foster grandparent program” means a program established under the Domestic Volunteer Service Act of 1973, Pub. L. No. 93-113, to provide opportunities for low-income persons 60 years of age and older to give support services to high-risk and handicapped children.

(c) “Retired senior volunteer” means an individual who volunteers to provide services under the retired senior volunteer program.

(d) “Retired senior volunteer program” means a program established under the Domestic Volunteer Service Act of 1973, Pub. L. No. 93-113, for the purpose of providing volunteer opportunities for any person 60 years of age or older who wants to use his or her experience and talents in useful service to others in the community.

(2) The Department of Children and Family Services shall:

(a) Establish a program to provide foster grandparent and retired senior volunteer services to high-risk and handicapped children. Foster grandparent services and retired senior volunteer services to high-risk and handicapped children shall be under the supervision of the department, in coordination with intraagency and interagency programs and agreements as provided for in s. 411.203.

(b) In authorized districts, contract with foster grandparent programs and retired senior volunteer programs for services to high-risk and handicapped children, utilizing funds appropriated for handicap prevention.

(c) Develop guidelines for the provision of foster grandparent services and retired senior volunteer services to high-risk and handicapped children, and monitor and evaluate the implementation of the program.

(d) Coordinate with the Federal Action State Office regarding the development of criteria for program elements and funding.

(3) The department may adopt rules necessary to implement the provisions of this section.

**West’s F.S.A. § 402.475**

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402.475. Renumbered as 381.87 and amended by Laws 1997, c. 97-237, § 51, eff. July 1, 1997

West's F.S.A. § 402.48

402.48. Renumbered as 400.980 by Laws 2000, c. 2000-349, § 24, eff. Sept. 1, 2000

Effective: September 1, 2000

West's F.S.A. § 402.49

402.49. Mediation process established

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

(2)(a) The department shall appoint at least one mediation panel in each of the department's service districts. Each panel shall have at least three and not more than five members and shall include a representative from the department, a representative of an agency that provides similar services to those provided by the agency that is a party to the dispute, and additional members who are mutually acceptable to the department and the agency that is a party to the dispute. Such additional members may include laypersons who are involved in advocacy organizations, members of boards of directors of agencies similar to the agency that is a party to the dispute, members of families of department clients, members of department planning councils in the area of services that are the subject of the dispute, and interested and informed members of the local community.

(b) If the parties to the conflict agree, a mediation panel may hear a complaint that is filed outside of the panel's service district.

(3) Prior to bringing a complaint before a mediation panel, each party must agree to abide by the decision of the panel. A final decision of the panel may not be appealed under chapter 120. However, this section does not limit the right of the department or any agency under contract with the department to file a proceeding under chapter 120 if either party fails to request mediation or refuses to participate in mediation as provided in this section.

West's F.S.A. § 402.56

402.56. Children's cabinet; organization; responsibilities; annual report

Effective: July 1, 2012

(1) **Short title.**--This act may be cited as the "Children and Youth Cabinet Act."

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**(2) Legislative findings and intent.--**

(a) The Legislature finds that all state agencies and programs that touch the lives of children and youth must work in a coordinated and comprehensive fashion, with an emphasis on providing a continuum of services that benefit children from prenatal care through programs supporting successful transition to self-sufficient adulthood. The Legislature further finds that creating a Children and Youth Cabinet is the best method by which the state might achieve the visions and plans necessary to ensure that this state is the first place families think of when asked, "Where do you want to raise a child?"

(b) The Legislature, in collaboration with the Governor, intends to develop and implement a shared vision among the branches of government in order to improve child and family outcomes in this state. By working collaboratively, the Legislature intends to invest in the education and skills of our children and youth, develop a cohesive vision and plan that ensures a long-term commitment to children and youth issues, align public resources serving children and youth to support their healthy growth and development, and promote increased efficiency and improved service delivery by all governmental agencies that provide services for children, youth, and their families.

**(3) Organization.--**There is created the Children and Youth Cabinet, which is a coordinating council as defined in s. 20.03.

(a) The cabinet shall ensure that the public policy of this state relating to children and youth is developed to promote interdepartmental collaboration and program implementation in order that services designed for children and youth are planned, managed, and delivered in a holistic and integrated manner to improve the children's self-sufficiency, safety, economic stability, health, and quality of life.

(b) The cabinet is created in the Executive Office of the Governor, which shall provide administrative support and service to the cabinet.

(c) The cabinet shall meet at least four times each year, but no more than six times each year, in different regions of the state in order to solicit input from the public and any other individual offering testimony relevant to the issues considered. Each meeting must include a public comment session.

**(4) Members.--**The cabinet shall consist of 14 members including the Governor and the following persons:

(a) 1. The Secretary of Children and Family Services;

2. The Secretary of Juvenile Justice;

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3. The director of the Agency for Persons with Disabilities;
  4. The director of the Office of Early Learning;
  5. The State Surgeon General;
  6. The Secretary of Health Care Administration;
  7. The Commissioner of Education;
  8. The director of the Statewide Guardian Ad Litem Office;
  9. The director of the Office of Child Abuse Prevention; and
  10. Five members representing children and youth advocacy organizations, who are not service providers and who are appointed by the Governor.
- (b) The President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Attorney General, and the Chief Financial Officer, or their appointed designees, shall serve as ex officio members of the cabinet.
- (c) The Governor or the Governor's designee shall serve as the chair of the cabinet.
- (d) Nongovernmental members of the cabinet shall serve without compensation, but are entitled to receive per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

**(5) Duties and responsibilities.--**The Children and Youth Cabinet shall:

- (a) Develop and implement a shared and cohesive vision using integrated services to improve child, youth, and family outcomes in this state.

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(b) Develop, no later than December 31, 2007, a strategic plan to achieve the goals of the shared and cohesive vision. The plan shall be centered upon a long-term commitment to children and youth issues and align all public resources to serve children and youth and their families in a manner that supports the healthy growth and development of children. The plan shall prepare the children and youth to be responsible citizens and productive members of the workforce. The plan shall include a continuum of services that will benefit children from prenatal care through services for youth in transition to adulthood.

(c) Develop and implement measurable outcomes for each state department, agency, and program that are consistent with the strategic plan. The cabinet shall establish a baseline measurement for each outcome and regularly report on the progress made toward achieving the desired outcome.

(d) Design and implement actions that will promote collaboration, creativity, increased efficiency, information sharing, and improved service delivery between and within state governmental organizations that provide services for children and youth and their families. In particular, the efforts shall include the long-range planning process mandated by s. 216.013.

(e) Foster public awareness of children and youth issues and develop new partners in the effort to serve children and youth.

(f) Create a children and youth impact statement for evaluating proposed legislation, requested appropriations, and programs. The impact statement shall be shared with the Legislature in their deliberative process.

(g) Identify existing and potential funding streams and resources for children's services, including, but not limited to, public funding, foundation and organization grants, and other forms of private funding opportunities, including public-private partnerships.

(h) Develop a children-and-youth-based budget structure and nomenclature that includes all relevant departments, funding streams, and programs. The budget shall facilitate improved coordination and efficiency, explore options for and allow maximization of federal financial participation, and implement the state's vision and strategic plan.

(i) Engage in other activities that will implement improved collaboration of agencies in order to create, manage, and promote coordinated policies, programs, and service delivery systems that support children and youth.

**(6) Advisory board.**--The Governor may appoint an advisory board to assist the cabinet in its tasks. The board shall include persons who can provide to the cabinet the best available technical and professional research and assistance. If an advisory board is created, it shall include representatives of children and youth advocacy organizations and youth, wherever practicable, who have been recipients of services and programs operated or funded by state agencies.

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**(7) Annual report.**--The Children and Youth Cabinet shall, by February 1 of each year, provide an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the public concerning its activities and progress towards making this state the first place families think of when asked, "Where do they want to raise their children?" The annual report may include recommendations for needed legislation or rulemaking authority.

West's F.S.A. § 402.60

402.60. Renumbered as 381.88 and amended by Laws 1997, c. 97-237, § 52, eff. July 1, 1997

West's F.S.A. § 402.61

402.61. Renumbered as 381.89 and amended by Laws 1997, c. 97-237, § 53, eff. July 1, 1997

West's F.S.A. § 402.70

402.70. Interagency agreement between Department of Health and Department of Children and Family Services

The Department of Health and the Department of Children and Family Services shall enter into an interagency agreement to ensure coordination and cooperation in identifying client populations, developing service delivery systems, and meeting the needs of the state's residents. The interagency agreement must address cooperative programmatic issues, rules-development issues, and any other issues that must be resolved to ensure the continued working relationship among the health and family services programs of the two departments.

West's F.S.A. § 402.71

402.71. Transfer of funds, positions, and budget authority within department

(1) The secretary may transfer funds, positions, and budget authority within the department, pursuant to chapter 216, provided the department comports generally with legislative intent.

(2) The secretary may transfer salary rate within the department with the prior approval of the Executive Office of the Governor and in accordance with chapter 216.

(3) The secretary may establish, abolish, or consolidate district programs and other offices and may reallocate duties and functions within the department without regard to established service areas. Administrative services may be delivered at the institutional level or higher, as determined by the secretary to be in the best interests of efficient delivery of support services.

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West's F.S.A. § 402.72

402.72. Repealed by Laws 2005, c. 2005-222, § 6, eff. July 1, 2005

Effective: July 1, 2005

West's F.S.A. § 402.73

402.73. Contracting and performance standards

Effective: July 1, 2005

(1) The Department of Children and Family Services shall adopt, by rule, provisions for including in its contracts incremental penalties to be imposed by its contract managers on a service provider due to the provider's failure to comply with a requirement for corrective action. Any financial penalty that is imposed upon a provider may not be paid from funds being used to provide services to clients, and the provider may not reduce the amount of services being delivered to clients as a method for offsetting the impact of the penalty. If a financial penalty is imposed upon a provider that is a corporation, the department shall notify, at a minimum, the board of directors of the corporation. The department may notify, at its discretion, any additional parties that the department believes may be helpful in obtaining the corrective action that is being sought. Further, the rules adopted by the department must include provisions that permit the department to deduct the financial penalties from funds that would otherwise be due to the provider, not to exceed 10 percent of the amount that otherwise would be due to the provider for the period of noncompliance. If the department imposes a financial penalty, it shall advise the provider in writing of the cause for the penalty. A failure to include such deductions in a request for payment constitutes a ground for the department to reject that request for payment. The remedies identified in this subsection do not limit or restrict the department's application of any other remedy available to it in the contract or under law. The remedies described in this subsection may be cumulative and may be assessed upon each separate failure to comply with instructions from the department to complete corrective action.

(2) The Agency for Persons with Disabilities must implement systems and controls to ensure financial integrity and service provision quality in the developmental services Medicaid waiver service system.

(3) The department shall include in its standard contract document a requirement that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of the state funds provided for at least 5 years from the date of purchase or the completion of the improvements or as further required by law. The contract must include a provision that, as a condition of receipt of state funding for this purpose, the provider agrees that, if it disposes of the property before the department's interest is vacated, the provider will refund the proportionate share of the state's initial investment, as adjusted by depreciation.

(4) Nothing contained in chapter 287 shall require competitive bids for health services involving examination, diagnosis, or treatment.

West's F.S.A. § 402.7305

402.7305. Department of Children and Family Services; procurement of contractual services; contract management

Effective: July 1, 2013

**(1) Definitions.--**As used in this section, the term:

(a) “Contract manager” means the department employee who is responsible for enforcing the compliance with administrative and programmatic terms and conditions of a contract. The contract manager is the primary point of contact through which all contracting information flows between the department and the contractor. The contract manager is responsible for day-to-day contract oversight, including approval of contract deliverables and invoices. All actions related to the contract shall be initiated by or coordinated with the contract manager. The contract manager maintains the official contract files.

(b) “Contract monitor” means the department employee who is responsible for observing, recording, and reporting to the contract manager and other designated entities the information necessary to assist the contract manager and program management in determining whether the contractor is in compliance with the administrative and programmatic terms and conditions of the contract.

(c) “Department” means the Department of Children and Family Services.

(d) “Outsourcing” means the process of contracting with an external service provider to provide a service, in whole or in part, while the department retains the responsibility and accountability for the service.

**(2) Procurement of commodities and contractual services.--**

(a) Notwithstanding s. 287.057(3)(e) 12., if the department intends to contract with a public postsecondary institution to provide a service, the department must allow all public postsecondary institutions in this state that are accredited by the Southern Association of Colleges and Schools to bid on the contract. Thereafter, notwithstanding any other provision of law, if a public postsecondary institution intends to subcontract for any service awarded in the contract, the subcontracted service must be procured by competitive procedures.

(b) When it is in the best interest of a defined segment of its consumer population, the department may competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each participating provider. The department must ensure that all providers that participate in the treatment or service system meet all applicable statutory, regulatory, service quality, and cost control requirements. If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the department shall

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formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes matching funds to support the system of treatment or contracted service and if the match constitutes at least 25 percent of the value of the contract, the department shall afford the governmental match contributor an opportunity to name an employee as one of the persons required by s. 287.057(16) to evaluate or negotiate certain contracts, unless the department sets forth in writing the reason why the inclusion would be contrary to the best interest of the state. Any employee so named by the governmental match contributor shall qualify as one of the persons required by s. 287.057(16). A governmental entity or unit of special purpose government may not name an employee as one of the persons required by s. 287.057(16) if it, or any of its political subdivisions, executive agencies, or special districts, intends to compete for the contract to be awarded. The governmental funding entity or contributor of matching funds must comply with all procurement procedures set forth in s. 287.057 when appropriate and required.

(c) The department may procure and contract for or provide assessment and case management services independently from treatment services.

**(3) Contract management requirements and process.**--The Department of Children and Family Services shall review the time period for which the department executes contracts and shall execute multiyear contracts to make the most efficient use of the resources devoted to contract processing and execution. Whenever the department chooses not to use a multiyear contract, a justification for that decision must be contained in the contract. Notwithstanding s. 287.057(14), the department is responsible for establishing a contract management process that requires a member of the department's Senior Management or Selected Exempt Service to assign in writing the responsibility of a contract to a contract manager. The department shall maintain a set of procedures describing its contract management process which must minimally include the following requirements:

(a) The contract manager shall maintain the official contract file throughout the duration of the contract and for a period not less than 6 years after the termination of the contract.

(b) The contract manager shall review all invoices for compliance with the criteria and payment schedule provided for in the contract and shall approve payment of all invoices before their transmission to the Department of Financial Services for payment.

(c) The contract manager shall maintain a schedule of payments and total amounts disbursed and shall periodically reconcile the records with the state's official accounting records.

(d) For contracts involving the provision of direct client services, the contract manager shall periodically visit the physical location where the services are delivered and speak directly to clients receiving the services and the staff responsible for delivering the services.

(e) The contract manager shall meet at least once a month directly with the contractor's representative and maintain records of such meetings.

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(f) The contract manager shall periodically document any differences between the required performance measures and the actual performance measures. If a contractor fails to meet and comply with the performance measures established in the contract, the department may allow a reasonable period for the contractor to correct performance deficiencies. If performance deficiencies are not resolved to the satisfaction of the department within the prescribed time, and if no extenuating circumstances can be documented by the contractor to the department's satisfaction, the department must terminate the contract. The department may not enter into a new contract with that same contractor for the services for which the contract was previously terminated for a period of at least 24 months after the date of termination. The contract manager shall obtain and enforce corrective action plans, if appropriate, and maintain records regarding the completion or failure to complete corrective action items.

(g) The contract manager shall document any contract modifications, which shall include recording any contract amendments as provided for in this section.

(h) The contract manager shall be properly trained before being assigned responsibility for any contract.

**(4) Contract monitoring requirements and process.**--The department shall establish contract monitoring units staffed by career service employees who report to a member of the Selected Exempt Service or Senior Management Service and who have been properly trained to perform contract monitoring. At least one member of the contract monitoring unit must possess specific knowledge and experience in the contract's program area. The department shall establish a contract monitoring process that includes, but is not limited to, the following requirements:

(a) Performing a risk assessment at the start of each fiscal year and preparing an annual contract monitoring schedule that considers the level of risk assigned. The department may monitor any contract at any time regardless of whether such monitoring was originally included in the annual contract monitoring schedule.

(b) Preparing a contract monitoring plan, including sampling procedures, before performing onsite monitoring at external locations of a service provider. The plan must include a description of the programmatic, fiscal, and administrative components that will be monitored on site. If appropriate, clinical and therapeutic components may be included.

(c) Conducting analyses of the performance and compliance of an external service provider by means of desk reviews if the external service provider will not be monitored on site during a fiscal year.

(d) Unless the department sets forth in writing the need for an extension, providing a written report presenting the results of the monitoring within 30 days after the completion of the onsite monitoring or desk review.

(e) Developing and maintaining a set of procedures describing the contract monitoring process.

Notwithstanding any other provision of this section, the department shall limit monitoring of a child-caring or child-placing services provider under this subsection to only once per year. Such monitoring may not duplicate

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administrative monitoring that is included in the survey of a child welfare provider conducted by a national accreditation organization specified under s. 402.7306(1).

**West's F.S.A. § 402.7306**

**402.7306. Administrative monitoring of child welfare providers, and administrative, licensure, and programmatic monitoring of mental health and substance abuse service providers**

**Effective: July 1, 2013**

The Department of Children and Family Services, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, community-based care lead agencies, managing entities as defined in s. 394.9082, and agencies who have contracted with monitoring agents shall identify and implement changes that improve the efficiency of administrative monitoring of child welfare services, and the administrative, licensure, and programmatic monitoring of mental health and substance abuse service providers. For the purpose of this section, the term "mental health and substance abuse service provider" means a provider who provides services to this state's priority population as defined in s. 394.674. To assist with that goal, each such agency shall adopt the following policies:

(1) Limit administrative monitoring to once every 3 years if the child welfare provider is accredited by an accrediting organization whose standards incorporate comparable licensure regulations required by this state. If the accrediting body does not require documentation that the state agency requires, that documentation shall be requested by the state agency and may be posted by the service provider on the data warehouse for the agency's review. Notwithstanding the survey or inspection of an accrediting organization specified in this subsection, an agency specified in and subject to this section may continue to monitor the service provider as necessary with respect to:

(a) Ensuring that services for which the agency is paying are being provided.

(b) Investigating complaints or suspected problems and monitoring the service provider's compliance with resulting negotiated terms and conditions, including provisions relating to consent decrees that are unique to a specific service and are not statements of general applicability.

(c) Ensuring compliance with federal and state laws, federal regulations, or state rules if such monitoring does not duplicate the accrediting organization's review pursuant to accreditation standards.

Medicaid certification and precertification reviews are exempt from this subsection to ensure Medicaid compliance.

(2) Limit administrative, licensure, and programmatic monitoring to once every 3 years if the mental health or substance abuse service provider is accredited by an accrediting organization whose standards incorporate comparable licensure regulations required by this state. If the services being monitored are not the services for

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which the provider is accredited, the limitations of this subsection do not apply. If the accrediting body does not require documentation that the state agency requires, that documentation, except documentation relating to licensure applications and fees, must be requested by the state agency and may be posted by the service provider on the data warehouse for the agency's review. Notwithstanding the survey or inspection of an accrediting organization specified in this subsection, an agency specified in and subject to this section may continue to monitor the service provider as necessary with respect to:

- (a) Ensuring that services for which the agency is paying are being provided.
  
- (b) Investigating complaints, identifying problems that would affect the safety or viability of the service provider, and monitoring the service provider's compliance with resulting negotiated terms and conditions, including provisions relating to consent decrees that are unique to a specific service and are not statements of general applicability.
  
- (c) Ensuring compliance with federal and state laws, federal regulations, or state rules if such monitoring does not duplicate the accrediting organization's review pursuant to accreditation standards.

Federal certification and precertification reviews are exempt from this subsection to ensure Medicaid compliance.

(3) Allow private sector development and implementation of an Internet-based, secure, and consolidated data warehouse and archive for maintaining corporate, fiscal, and administrative records of child welfare, mental health, or substance abuse service providers. A service provider shall ensure that the data is up to date and accessible to the applicable agency under this section and the appropriate agency subcontractor. A service provider shall submit any revised, updated information to the data warehouse within 10 business days after receiving the request. An agency that conducts administrative monitoring of child welfare, mental health, or substance abuse service providers under this section must use the data warehouse for document requests. If the information provided to the agency by the provider's data warehouse is not current or is unavailable from the data warehouse and archive, the agency may contact the service provider directly. A service provider that fails to comply with an agency's requested documents may be subject to a site visit to ensure compliance. Access to the data warehouse must be provided without charge to an applicable agency under this section. At a minimum, the records must include the service provider's:

- (a) Articles of incorporation.
  
- (b) Bylaws.
  
- (c) Governing board and committee minutes.
  
- (d) Financial audits.

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- (e) Expenditure reports.
- (f) Compliance audits.
- (g) Organizational charts.
- (h) Governing board membership information.
- (i) Human resource policies and procedures.
- (j) Staff credentials.
- (k) Monitoring procedures, including tools and schedules.
- (l) Procurement and contracting policies and procedures.
- (m) Monitoring reports.

**West's F.S.A. § 402.731**

**402.731. Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care**

**Effective: October 1, 2011**

(1) The Department of Children and Family Services is authorized to approve third-party credentialing entities, as defined in s. 402.40, for its employees and service providers to ensure that only qualified employees and service providers provide client services.

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. 110.205(2)(i), in accordance with the authority provided in s. 216.262(1)(c) 1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career service employees.

West's F.S.A. § 402.80

402.80. Office of Community Partners

Effective: July 1, 2001

There is established the Office of Community Partners within the Department of Health for the purpose of receiving, coordinating, and dispensing federal funds set aside to expand the delivery of social services through eligible private community organizations and programs. The office shall provide policy direction and promote civic initiatives which seek to preserve and strengthen families and communities. The Department of Health, the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Corrections may request transfer of general revenue funds between agencies, as approved by the Legislative Budget Commission, as necessary to match federal funds received by the Office of Community Partners for these initiatives.

West's F.S.A. § 402.81

402.81. Pharmaceutical expense assistance

Effective: July 2, 2013

**(1) Program established.**--A program is established in the Agency for Health Care Administration to provide pharmaceutical expense assistance to individuals diagnosed with cancer or individuals who have received organ transplants who were medically needy recipients prior to January 1, 2006.

**(2) Eligibility.**--Eligibility for the program is limited to an individual who:

- (a) Is a resident of this state;
- (b) Was a Medicaid recipient under the Florida Medicaid medically needy program prior to January 1, 2006;
- (c) Is eligible for Medicare;
- (d) Is a cancer patient or an organ transplant recipient; and

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(e) Requests to be enrolled in the program.

**(3) Benefits.--**Subject to an appropriation in the General Appropriations Act and the availability of funds, the Agency for Health Care Administration shall pay, using Medicaid payment policies, the Medicare Part B prescription drug coinsurance and deductibles for Medicare Part B medications that treat eligible cancer and organ transplant patients.

**(4) Administration.--**The pharmaceutical expense assistance program shall be administered by the agency, in collaboration with the Department of Elderly Affairs and the Department of Children and Family Services. By January 1 of each year, the agency shall report to the Legislature on the operation of the program. The report shall include information on the number of individuals served, use rates, and expenditures under the program.

**(5) Nonentitlement.--**The pharmaceutical expense assistance program established by this section is not an entitlement. The agency may develop a waiting list based on application dates to use in enrolling individuals when funds become available for unfilled enrollment slots.

West's F.S.A. § 402.82

402.82. Electronic benefits transfer program

Effective: October 1, 2013

(1) The Department of Children and Families shall establish an electronic benefits transfer program for the dissemination of food assistance benefits and temporary cash assistance payments, including refugee cash assistance payments, asylum applicant payments, and child support disregard payments. If the Federal Government does not enact legislation or regulations providing for dissemination of supplemental security income by electronic benefits transfer, the state may include supplemental security income in the electronic benefits transfer program.

(2) The department shall, in accordance with applicable federal laws and regulations, develop minimum program requirements and other policy initiatives, including enforcement procedures, for the electronic benefits transfer program.

(3) The department shall enter into public-private contracts for all provisions of electronic transfer of public assistance benefits.

(4) Use or acceptance of an electronic benefits transfer card is prohibited at the following locations or for the following activities:

(a) An establishment licensed under the Beverage Law to sell distilled spirits as a vendor and restricted as to the

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types of products that can be sold under ss. 565.04 and 565.045 or a bottle club as defined in s. 561.01.

(b) An adult entertainment establishment as defined in s. 847.001.

(c) A pari-mutuel facility as defined in s. 550.002.

(d) A slot machine facility as defined in s. 551.102.

(e) A commercial bingo facility that operates outside the provisions of s. 849.0931.

(f) A casino, gaming facility, or gambling facility, or any gaming activities authorized under part II of chapter 285.

**West's F.S.A. § 402.86**

**402.86. Rulemaking authority for refugee assistance program**

**Effective: July 1, 2011**

(1) The Department of Children and Family Services has the authority to administer the refugee assistance program in accordance with 45 C.F.R. parts 400 and 401. The Department of Children and Family Services or a child-placing or child-caring agency designated by the department may petition in circuit court to establish custody. Upon making a finding that a child is an Unaccompanied Refugee Minor as defined in 45 C.F.R. s. 400.111, the court may establish custody and placement of the child in the Unaccompanied Refugee Minor Program.

(2) The Department of Children and Family Services shall adopt any rules necessary for the implementation and administration of this section.

**West's F.S.A. § 402.87**

**402.87. Services to immigrant survivors of human trafficking, domestic violence, and other serious crimes**

**Effective: July 1, 2011**

The Department of Children and Family Services shall establish a structure by which the department shall:

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(1) Provide services to immigrant survivors of human trafficking, domestic violence, and other serious crimes, during the interim period between the time the survivor applies for a visa and receives such visa from the United States Department of Homeland Security or receives certification from the United States Department of Health and Human Services.

(2) Ensure that immigrant survivors of serious crimes are eligible to receive existing state and local benefits and services to the same extent that refugees receive those benefits and services.

(3) Ensure that immigrant survivors of serious crimes have access to state-funded services that are equivalent to the federal programs that provide cash, medical services, and social service for refugees.

(4) Provide survivors of serious crimes with medical care, mental health care, and basic assistance in order to help them secure housing, food, and supportive services.

(5) Create a state-funded component of the cash, medical, and social services programs for refugees for the purpose of serving immigrant survivors during the temporary period while they wait for federal processing to be completed.

(6) Provide that a sworn statement by a survivor is sufficient evidence for the purposes of determining eligibility if that statement is supported by at least one item of additional evidence, including, but not limited to:

(a) Police and court records;

(b) News articles;

(c) Documentation from a professional agency;

(d) Physical evidence; or

(e) A statement from an individual having knowledge of the circumstances providing the basis for the claim.

(7) Develop a public awareness program for employers and other organizations that may come into contact with immigrant survivors of human trafficking in order to provide education and raise awareness of the problem.

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