

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Sobel, Chair**  
**Senator Altman, Vice Chair**

**MEETING DATE:** Thursday, February 5, 2015  
**TIME:** 9:00 —11:00 a.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Sobel, Chair; Senator Altman, Vice Chair; Senators Dean, Detert, Garcia, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 320</b> Gaetz	Adoption and Foster Care; Directing the Department of Children and Families to establish an adoption incentive program for certain agencies and subcontractors; requiring that the department conduct a comprehensive baseline assessment of lead agencies and provider performance and compile annual data for the most recent 5 years of available data; providing certain amounts payable to a qualifying adoptive employee who adopts specified children under certain circumstances subject to a specific appropriation to the department, etc.  CF      02/05/2015 AHS FP	
2	Demographic Changes in Florida - Amy Baker, Coordinator, Florida Legislature, Office of Economic and Demographic Research		
3	Future of Aging in Florida:  - Larry Polivka, Executive Director, Claude Pepper Center, Florida State University - Randy Hunt, President, Florida Association of Area Agencies on Aging - Sam Veghese, Secretary, Department of Elder Affairs		
Consideration of proposed bill:			
4	<b>SPB 7018</b>	State Ombudsman Program; Revising legislative intent with respect to citizen ombudsmen; deleting references to ombudsman councils and transferring their responsibilities to representatives of the Office of State Long-Term Care Ombudsman; revising the duties and authority of the state ombudsman; requiring the state ombudsman to designate and direct program districts; providing conditions under which a representative of the office could be found to have a conflict of interest, etc.	

Other Related Meeting Documents

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Thursday, February 5, 2015, 9:00 —11:00 a.m.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 320

INTRODUCER: Senator Gaetz

SUBJECT: Adoption and Foster Care

DATE: January 26, 2015

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Preston	Hendon	CF	<b>Pre-meeting</b>

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**I. Summary:**

SB 320 makes numerous additions to statutes to improve the adoption of children from foster care. The bill creates a program to award incentive payments to community-based care lead agencies and their subcontractors for achieving specified adoption performance standards.

The bill re-creates a program to provide an additional adoption benefit for qualifying employees of state agencies who adopt a child from the foster care system.

The bill also requires the Governor to select and recognize one or more individuals, families, or entities that have made significant contributions to the adoption of children from foster care each year.

The bill is anticipated to have a fiscal impact on state government.

The bill has an effective date of July 1, 2015.

**II. Present Situation:**

**Financial Incentives to Increase Adoptions of Children from Foster Care**

In 1997, Congress enacted the Adoption and Safe Families Act (ASFA) as part of a larger strategy to reduce the number of children in foster care.<sup>1</sup> Whether it was the impact of the adoption incentive payments to states, other changes mandated by ASFA, or a combination of multiple factors, adoptions of children from the foster care system have increased over the past decade and a half. Before ASFA, 25,700 children had been adopted from foster care in 1995 nationwide. Those numbers started to increase eventually reaching over 50,000 by 2000, and the

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<sup>1</sup> Pub. L. No. 105-89.

number of adoptions has exceeded more than 50,000 almost every year since, with a high of more than 57,000 in 2009.<sup>2</sup>

A major provision of ASFA related to adoption created an incentive fund under Title IV-E of the Social Security Act to reward states if they increased adoptions of children in the foster care system. If states increased the number of children adopted from foster care over a previous year's high mark, they were awarded an incentive of \$2,000 to \$4,000 per child.<sup>3</sup>

The funding for the program has been reauthorized every 5 years.<sup>4</sup> With each reauthorization came changes in the how incentive amounts were determined. The "baseline" or the number of adoptions a state must finalize to receive a share of the funds was reset. This helped states that had missed out the year before because some states now had a decreased number of children in foster care reducing the potential pool of children awaiting adoption. Some of these same states that had missed an incentive in a year were still making progress despite lower numbers because their rates of adoption placements were actually higher.<sup>5</sup>

In the 2003 and 2008 reauthorizations of the incentive fund, Congress provided an additional incentive to encourage states to increase the adoptions of "older" children. Older children were defined as a child nine years of age or older. This is because the children most likely to be adopted are under the age of five. Beginning at the age of nine, children tend to be harder to place in adoptive families. The incentive was set at \$4,000 per adoption increase, \$4,000 per special needs adoption increase and now \$8,000 per older child adoption increase.<sup>6</sup>

An additional provision of the 2008 reauthorization was the inclusion of an incentive for states that increased their "rate" of adoptions. This new rate incentive was to assist states that had successfully continued to place children in adoptive families while the actual numbers of adoption went down due to decreased numbers of children in foster care.<sup>7</sup> The 2014 reauthorization includes provisions to incentivize timely adoptions and placements into subsidized guardianships.<sup>8</sup>

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<sup>2</sup> U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, 2013. *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013*, available at [http://www.acf.hhs.gov/sites/default/files/cb/children\\_adopted.pdf](http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf). (last visited January 31, 2015).

<sup>3</sup> PL 105-89.

<sup>4</sup> The Adoption Promotion Act of 2003 (PL 108-145), the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351), and the Preventing Sex Trafficking and Strengthening Families Act in 2014 (PL 113-183).

<sup>5</sup> State Policy Advocacy and Reform Center. *The Reauthorization of the Adoption Incentive Fund: Opportunities to Expand Reinvestment of State Funds into Child Welfare Services*, 2013, available at <https://childwelfaresparc.files.wordpress.com/2013/08/the-reauthorization-of-the-adoption-incentive-fund.pdf>. (last visited Jan. 2015).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> County Welfare Directors Association of California, 2014. *Summary of Public Law 113-183*, available at [www.cwda.org/downloads/tools/csec/HR-4980-Summary-and-link-to-law.pdf](http://www.cwda.org/downloads/tools/csec/HR-4980-Summary-and-link-to-law.pdf). (last visited Jan. 31, 2015).

Since 2008, Florida has received one of the largest amounts of those incentives, second only to Texas.<sup>9,10</sup>

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>Incentives Earned</b>	\$9.75M	\$6.45M	\$3.84M	\$1.99M	\$3.69M	\$3.49M <sup>11</sup>
<b>Foster Child Adoptions</b>	3,870	3,735	3,391	2,945	3,294	3,415

States are required to spend incentive funding to provide to children of families any activity or service, including post-adoption services, that may be provided under Part B or E of Title IV of the Social Security Act. Florida has always used 100 percent of this funding to offset the cost of Maintenance Adoption Subsidies.<sup>12</sup>

In Florida, community-based care (CBC) lead agencies are responsible for providing pre and post-adoption services, and maintenance adoption subsidies for children adopted from the foster care system. While the department monitors performance measures and captures certain data related to adoption, the CBCs and their subcontractors do not currently receive state incentive payments for meeting the performance measures in their contract or other accountability reports.<sup>13</sup>

**Adoption Benefits for Parents Adopting Children from Foster Care**

***Current Benefits***

Under s. 409.166, F.S., the Department of Children and Families (DCF or department) is authorized to pay a maintenance adoption subsidy (MAS) to parents adopting “special needs” children. The term “special needs child” means all three of these conditions must be met:

- A child whose permanent custody has been awarded to the department or to a licensed child-placing agency;
- A child who has established significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is:
  - Eight years of age or older;
  - Developmentally disabled;
  - Physically or emotionally handicapped;
  - Of black or racially mixed parentage; or

<sup>9</sup> U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, 2013. *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013*, available at [http://www.acf.hhs.gov/sites/default/files/cb/children\\_adopted.pdf](http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf). (last visited Jan. 31, 2015).

<sup>10</sup> Florida has not, however, taken advantage of a provision in the Fostering Connections to Success and Increasing Adoptions Act of 2008 allowing states to extend MAS to the age of 21.

<sup>11</sup> Florida has to date only received 57 percent of the 2013 award and will receive the remaining balance when additional funding becomes available. Communication from the Department of Children and Families, *Office of Child Welfare* (February 1, 2015). (On file with the Senate Committee on Children, Families and Elder Affairs).

<sup>12</sup> *Id.*

<sup>13</sup> Florida Department of Children and Families. *Senate Bill 320 Analysis* (Jan.27, 2015) (on file with the Senate Committee on Children, Families and Elder Affairs)

- A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- Except when the child is being adopted by the child's foster parents or relative caregivers, a child for whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy.<sup>14</sup>

The MAS is to be paid to the adoptive parents in the amount of \$5,000 annually, paid on a monthly basis, for the support and maintenance of a child until the 18th birthday of such child or in an amount other than \$5,000 annually as determined by the adoptive parents and the department. The agreement shall take into consideration the circumstances of the adoptive parents and the needs of the child being adopted. The amount of subsidy may be adjusted based upon changes in the needs of the child or circumstances of the adoptive parents, however, in no case shall the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.<sup>15</sup>

The department may also provide adoption assistance to the adoptive parents, for medical assistance initiated after the adoption of the child for medical, surgical, hospital, and related services needed as a result of a physical or mental condition of the child which existed before the adoption and is not covered by Medicaid, Children's Medical Services, or Children's Mental Health Services. Such assistance may be initiated at any time but shall terminate on or before the child's 18th birthday.<sup>16</sup>

Adoptive parents are also eligible to be reimbursed, retroactive to January 1, 1987, for up to \$1,000 in nonrecurring expenses related to the adoption of a child which have been incurred by adoptive parents. Nonrecurring expenses are one-time expenses, such as attorney's fees, court costs, birth certificate fees, travel expenses, agency fees, and physical examination fees.<sup>17</sup>

Children who were adopted from the department after May 5, 1997, are also exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs, at a Florida College System institution, or at a state university. The exemption remains valid until the student reaches 28 years of age.<sup>18</sup> In addition, a child who was at least 16 years of age and was adopted from foster after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption is eligible for post-secondary services and support under the Road-to-Independence Program.<sup>19</sup>

#### ***Additional Benefit for State Employees Adopting Children from Foster Care***

In 2000, the Legislature created a program to provide a cash benefit to any employee of the state or of a water management district who adopted a child. Qualifying employees adopting a child defined as a special-needs child under s. 409.166, F.S., were eligible to receive a monetary

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<sup>14</sup> Section 409.166, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Section 1009.25, F.S.

<sup>19</sup> Section 409.1451, F.S.

benefit in the amount of \$10,000 per child; qualifying employees adopting a child other than a special-needs child were eligible to receive a monetary benefit in the amount of \$5,000 per child.<sup>20</sup> This allowed for the benefit to be paid for both private and foreign adoptions.

The law was amended in 2001 to restrict the program to state employees who adopted a child from the foster care system.<sup>21</sup>

The benefit program was expanded in 2007 to include county school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind, in the list of employees eligible to receive the benefit. Administration of the program was also transferred from the Department of Management Services (DMS) to the department.<sup>22</sup>

The Legislature funded the program at approximately \$1.8 million each year. This funding was unable to provide an incentive for every state employee who adopted during a budget year. The bill analysis for CS/HB 803 (2007) that expanded the program to include categories of educational employees and moved the program to DCF stated:

- Significant benefit funding shortfalls have occurred the past two years. For example, in 2004, although almost \$1.8 million was appropriated, funding proved to be inadequate to fund all 243 eligible applications and, therefore, only 179 were funded. In 2005, \$888,000 was appropriated, but only 89 of 167 eligible applications were funded.
- Total appropriations for the program for years 2000 – 2005 have been \$3,063, 687, however, only 50 percent, or 300 of 602, of the eligible adoptions were funded.

The program was funded for ten years before being repealed in 2010.<sup>23</sup>

### **Annual Adoption Achievement Awards**

While currently there is no statutory requirement for the Governor to present an adoption achievement award, there is typically support for adoption particularly of children from the foster care system, from the Governor's Office.

November is National Adoption Month and throughout the month the Governor's Office of Adoption and Child Protection, the department, CBC lead agencies, and community partners recognize National Adoption Month throughout the state with celebrations, awareness runs, parties, finalizations, and more. The Chief Child Advocate attended and participated in several finalization events to show the support of the Governor's Office.<sup>24</sup>

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<sup>20</sup> Section 110.152, F.S. (2000). Chapter 2000-241, Laws of Florida.

<sup>21</sup> Section 110.52, F.S. (2001). Chapter 2001-256, Laws of Florida.

<sup>22</sup> Section 409.1663, F.S. (2007). Chapter 2007-119, Laws of Florida.

<sup>23</sup> Chapter 2010-158, Laws of Florida.

<sup>24</sup> Florida Governor's Office of Adoption and Child Protection. 2014 Annual Report, available at [http://www.flgov.com/wp-content/uploads/childadvocacy/OACP\\_2014\\_FINAL.pdf](http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf). (last visited January 31, 2015).

Governor Scott issued a proclamation announcing November 2014 as Florida Adoption Month and National Adoption Day on Saturday, November 22, 2014. Additionally, First Lady Scott made a video encouraging Floridians to consider adopting a child from foster care. The proclamation and video were posted to the Explore Adoption website throughout November and December.<sup>25</sup>

On November 12, 2014, the Governor's Cabinet met in Tallahassee and Florida's Chief Child Advocate reported on Florida's recent successes in adoption. Local adoptive parents were also invited to share their adoption story. During the meeting, the Cabinet issued a resolution of congratulations and best wishes to all families celebrating National Adoption Day on November 22, 2014.<sup>26</sup>

### III. Effect of Proposed Changes:

**Section 1.** creates s. 409.1662, F.S., to establish an adoption incentive program to award incentive payments to CBCs and their sub-contractors, for meeting specific adoption performance standards. The section also requires the department to complete a baseline assessment of CBC lead agency performance regarding these measures. At a minimum, the assessment must identify:

- Number of families attempting to adopt from foster care;
- Number of families who have completed the adoption process;
- Number of children eligible for adoption;
- Number of children whose adoption has been finalized;
- Amount of time eligible children wait to be adopted;
- The number of disruptions;
- The number of dissolutions;
- Number of disruptions and dissolutions that could have been prevented by the CBC;
- The time it takes to complete each phase of the adoption process;
- Expenditures made toward the recruitment of adoptive families;
- Any program or performance to improve and streamline the adoption process; and
- Results from any feedback from prospective and adoptive parents.

Once the baseline has been established for the adoption measures, the department will establish measurable outcome targets, define the methods for measuring these targets, determine the level of performance required to earn an incentive payment, and the amount of payment that can be earned for each target.<sup>27</sup>

**Section 2.** creates s.409.1664, F.S., to reestablish an adoption benefit program for state employees who adopt children from the foster care system. The benefit program proposed in the bill is the same as the program that was repealed in 2010, providing the same amount of benefit

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<sup>25</sup> Available at [www.adoptflorida.org](http://www.adoptflorida.org). Last visited January 28, 2015.

<sup>26</sup> Florida Governor's Office of Adoption and Child Protection. 2014 Annual Report. Available at [http://www.flgov.com/wp-content/uploads/childadvocacy/OACP\\_2014\\_FINAL.pdf](http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf). Last visited January 31, 2015

<sup>27</sup> Florida Department of Children and Families. Senate Bill 320 Analysis. (January 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs)

payment for the adoption of a child within the child welfare system, with a higher benefit amount for adoptions of children with special needs as defined in s. 409.166, F.S.

Historically, the majority of children who are adopted from the foster care system have been adopted by either their foster parents or relative who are individuals and families with whom the child has made an emotional bond. For example, in 2013 statewide data shows:

- 27% were adopted by their foster parents;
- 50% were adopted by relatives; and
- 22% were adopted by recruited parents.<sup>28</sup>

It is unknown how many of those foster parents and relatives who adopted 78 percent of the children adopted were state employees and would have been eligible for the incentive payment under the provisions of the bill. The proposed benefit program, like the former program, does not provide for means testing. The program would be limited by the amount of the appropriation

**Section 3.** creates s. 409.1666, F.S., to require the Governor to select and recognize one or more individuals, families, or entities that have made significant contributions towards efforts to find children in care permanent homes through adoption. The department is required to create categories and criteria for the awards and seek nominations of potential recipients in each category.

While the bill specifies that the direct support organization established with the Governor's Office of Adoption and Child Protection may accept donations to be given to award recipients and may also provide other tokens of recognition, currently no direct support organization has been established.<sup>29</sup>

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

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<sup>28</sup> *Id.*

<sup>29</sup> Section 39.001, F.S.

**B. Private Sector Impact:**

SB 320 will provide financial incentives to community based care lead agencies for specified achievement and to state employees who adopt children who are in the child welfare system.

**C. Government Sector Impact:****Incentive Program for CBCs**

The bill does not contain a specific appropriation for this program. Currently the department does not collect data on all of the measures to be included in the baseline assessment and therefore, cannot determine the amount of the incentive payment which may be earned for each target at this time.

While the Florida Safe Families Network (FSFN) has the capability to obtain several of the measures for the baseline assessment, there are some measures that will require enhancements. According to the department, the FSFN work estimate related to these changes is 2,441 hours of effort, or \$268,510. This includes changes necessary to the web pages and all underlying components, including business logic and database changes, changes to the reporting environment to include the information, and modifications to system documentation.

In order for the department to monitor the time it takes to complete each phase of an adoption, a formal definition of the adoption phases would need to be established in rule. Once established, DCF would be able to determine which phases currently are being tracked in FSFN and what additional resources are needed.

**Benefit Program for State Employees**

The bill does not contain a specific appropriation for this program. An additional FTE will be needed by the department to implement this program – Salary, Benefits, Expense and HR Package nonrecurring cost of \$74,644 (recurring cost of \$71,762) The FTE would be used to establish rules, develop operating procedures, and process and approve all incoming applications for the adoption incentive payments and review and approve the applications for the state employee adoption benefit program.<sup>30</sup>

**Governor's Achievement Award**

Since there is no direct support organization already established to administer this awards process, it is unclear what entity will assume responsibility for funding.

**VI. Technical Deficiencies:**

None.

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<sup>30</sup> *Id.*

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 409.1662, 409.1664, and 409.1666.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Gaetz

1-00809-15

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1 A bill to be entitled  
 2 An act relating to adoption and foster care; creating  
 3 s. 409.1662, F.S.; providing the purpose of the  
 4 adoption incentive program; directing the Department  
 5 of Children and Families to establish an adoption  
 6 incentive program for certain agencies and  
 7 subcontractors; requiring that the department conduct  
 8 a comprehensive baseline assessment of lead agencies  
 9 and provider performance and compile annual data for  
 10 the most recent 5 years of available data; providing a  
 11 nonexclusive list of factors for the assessment to  
 12 identify; requiring that the department negotiate an  
 13 outcome-based agreement; requiring that several  
 14 factors be included in the agreement; requiring the  
 15 department to allocate incentive payments; creating s.  
 16 409.1664, F.S.; defining terms; providing certain  
 17 amounts payable to a qualifying adoptive employee who  
 18 adopts specified children under certain circumstances  
 19 subject to a specific appropriation to the department;  
 20 providing prorated payments for a part-time employee  
 21 and limiting the monetary benefit to one award per  
 22 child; requiring that a qualifying adoptive employee  
 23 apply to the agency head for the monetary benefit on  
 24 forms approved by the department and include a  
 25 certified copy of the final order of adoption;  
 26 providing that the rights offered by this act do not  
 27 preclude a qualifying adoptive employee who adopts a  
 28 special needs child to receive any other assistance or  
 29 incentive; requiring that parental leave for

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 qualifying adoptive employees be provided; requiring  
 31 the department to adopt rules; requiring the Chief  
 32 Financial Officer to submit payment to a qualifying  
 33 adoptive employee depending on where he or she works;  
 34 requiring state agencies to develop uniform procedures  
 35 for informing employees about this benefit and for  
 36 assisting the department in making eligibility  
 37 determinations and processing applications; creating  
 38 s. 409.1666, F.S.; requiring the Governor to annually  
 39 select and recognize certain individuals, families, or  
 40 organizations for adoption achievement awards;  
 41 requiring the department to define categories for the  
 42 achievement awards and seek nominations for potential  
 43 recipients; authorizing a direct-support organization  
 44 established by the Office of Adoption and Child  
 45 Protection to accept donations of products or services  
 46 from private sources to be given to the recipients of  
 47 the adoption achievement awards; providing an  
 48 effective date.

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

51  
 52 Section 1. Section 409.1662, Florida Statutes, is created  
 53 to read:  
 54 409.1662 Children within the child welfare system; adoption  
 55 incentive program.-  
 56 (1) PURPOSE.-The purpose of the adoption incentive program  
 57 is to advance the state's achievement of permanency and  
 58 stability in living arrangements for children in foster care who

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59 cannot be reunited with their families. The department shall  
 60 establish the adoption incentive program to award incentive  
 61 payment to community-based care lead agencies, as defined in s.  
 62 409.986, and their subcontractors that are involved in the  
 63 adoption process for achievement of specific and measureable  
 64 adoption performance standards.

65 (2) ADMINISTRATION OF THE PROGRAM.—

66 (a) The department shall conduct a comprehensive baseline  
 67 assessment of the performance of lead agencies and providers  
 68 related to adoption of children from foster care. The assessment  
 69 shall compile annual data for each of the most recent 5 years  
 70 for which data is available. At a minimum, the assessment shall  
 71 identify:

72 1. The number of families attempting to adopt children from  
 73 foster care and the number of families completing the adoption  
 74 process.

75 2. The number of children eligible for adoption and the  
 76 number of children whose adoptions were finalized.

77 3. The amount of time eligible children waited for  
 78 adoption.

79 4. The number of adoptions that resulted in disruption or  
 80 dissolution and the subset of those disrupted adoptions that  
 81 were preventable by the lead agency or the subcontracted  
 82 provider.

83 5. The time taken to complete each phase of the adoption  
 84 process.

85 6. The expenditures made to recruit adoptive homes and a  
 86 description of any initiative to improve adoption performance or  
 87 streamline the adoption process.

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88 7. The results of any specific effort to gather feedback  
 89 from prospective adoptive parents and adoptive parents.

90 (b) Using the information from the baseline assessment, the  
 91 department shall negotiate an outcome-based agreement with lead  
 92 agencies and their subcontracted providers that are involved in  
 93 the adoption process. The agreement shall establish measureable  
 94 outcome targets, define the method for measuring performance and  
 95 for determining the level of performance required to earn the  
 96 incentive payment, and the amount of the incentive payment which  
 97 may be earned for each target. The department shall update the  
 98 assessment annually.

99 (3) INCENTIVE PAYMENTS.—

100 (a) The department shall allocate incentive payments to  
 101 performance improvement targets in a manner that ensures that  
 102 total payments do not exceed the amount appropriated for this  
 103 purpose.

104 (b) The department shall ensure that the amount of the  
 105 incentive payments are proportionate to the value of the  
 106 performance improvement.

107 Section 2. Section 409.1664, Florida Statutes, is created  
 108 to read:

109 409.1664 Adoption benefits for qualifying adoptive  
 110 employees of state agencies.—

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

112 (a) "Child within the child welfare system" has the same  
 113 meaning as in s. 409.166.

114 (b) "Qualifying adoptive employee" means a full-time or  
 115 part-time employee of a state agency who is paid from regular  
 116 salary appropriations, or otherwise meets the state agency

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117 employer's definition of a regular rather than temporary  
 118 employee, and who adopts a child within the child welfare system  
 119 pursuant to chapter 63. The term includes instructional  
 120 personnel, as defined in s. 1012.01, employed by the Florida  
 121 School for the Deaf and the Blind.

122 (c) "State agency" means a branch, department, or agency of  
 123 state government for which the Chief Financial Officer processes  
 124 payroll requisitions, a state university or Florida College  
 125 System institution as defined in s. 1000.21, a school district  
 126 unit as defined in s. 1001.30, or a water management district as  
 127 defined in s. 373.019.

128 (2) A qualifying adoptive employee that adopts a child  
 129 within the child welfare system who has additional special needs  
 130 as described in s. 409.166 is eligible to receive a lump-sum  
 131 monetary benefit in the amount of \$10,000 per child within the  
 132 child welfare system, subject to applicable taxes. A qualifying  
 133 adoptive employee that adopts a child within the child welfare  
 134 system who has no additional special needs as described in s.  
 135 409.166 is eligible to receive a lump-sum monetary benefit in  
 136 the amount of \$5,000 per child within the child welfare system,  
 137 subject to applicable taxes.

138 (a) Benefits paid to a qualifying adoptive employee who is  
 139 a part-time employee must be prorated based on the qualifying  
 140 adoptive employee's full-time equivalency at the time of  
 141 applying for the benefits.

142 (b) Monetary benefits are limited to one award per adopted  
 143 child within the child welfare system.

144 (c) The payment of a lump-sum monetary benefit for adopting  
 145 a child within the child welfare system under this section is

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146 subject to a specific appropriation to the department for such  
 147 purpose.

148 (3) A qualifying adoptive employee must apply to his or her  
 149 agency head to obtain the monetary benefit provided in  
 150 subsection (2). Applications must be on forms approved by the  
 151 department and must include a certified copy of the final order  
 152 of adoption naming the applicant as the adoptive parent.

153 (4) This section does not affect the right of any  
 154 qualifying adoptive employee who adopts a special needs child  
 155 that is not a child within the child welfare system to receive  
 156 adoption assistance under s. 409.166 or any other statute that  
 157 provides financial incentives for the adoption of children.

158 (5) Parental leave for a qualifying adoptive employee must  
 159 be provided in accordance with the personnel policies and  
 160 procedures of the employee's state agency employer.

161 (6) The department shall adopt rules to administer this  
 162 section. The rules may provide for an application process such  
 163 as, but not limited to, an open enrollment period during which  
 164 qualifying adoptive employees may apply for monetary benefits  
 165 under this section.

166 (7) The Chief Financial Officer shall disburse a monetary  
 167 benefit to a qualifying adoptive employee upon the department's  
 168 submission of a payroll requisition. The Chief Financial Officer  
 169 shall transfer funds from the department to a state university,  
 170 Florida College System institution, school district unit, or  
 171 water management district, as appropriate, to enable payment to  
 172 the qualifying adoptive employee through the payroll systems as  
 173 long as funds are available for such purpose.

174 (8) Each state agency shall develop a uniform procedure for

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175 informing employees about this benefit and for assisting the  
176 department in making eligibility determinations and processing  
177 applications. Any procedure adopted by a state agency is valid  
178 and enforceable if the procedure does not conflict with the  
179 express terms of this section.

180 Section 3. Section 409.1666, Florida Statutes, is created  
181 to read:

182 409.1666 Annual adoption achievement awards.—Each year, the  
183 Governor shall select and recognize one or more individuals,  
184 families, or organizations that make significant contributions  
185 to enabling this state’s foster children to achieve permanency  
186 through adoption. The department shall define appropriate  
187 categories for the achievement awards and seek nominations for  
188 potential recipients in each category from individuals and  
189 organizations knowledgeable about foster care and adoption.

190 (1) The award shall recognize persons whose contributions  
191 involve extraordinary effort or personal sacrifice in order to  
192 provide caring and permanent homes for foster children.

193 (2) A direct-support organization established in accordance  
194 with s. 39.0011 by the Office of Adoption and Child Protection  
195 within the Executive Office of the Governor may accept donations  
196 of products or services from private sources to be given to the  
197 recipients of the adoption achievement awards. The direct-  
198 support organization may also provide suitable plaques, framed  
199 certificates, pins, and other tokens of recognition.

200 Section 4. This act shall take effect July 1, 2015.

# Florida's Economic Future & the Impact of Aging

Senate Committee on  
Children, Families, and Elder Affairs

February 5, 2015

Presented by:



The Florida Legislature  
Office of Economic and  
Demographic Research  
850.487.1402  
<http://edr.state.fl.us>

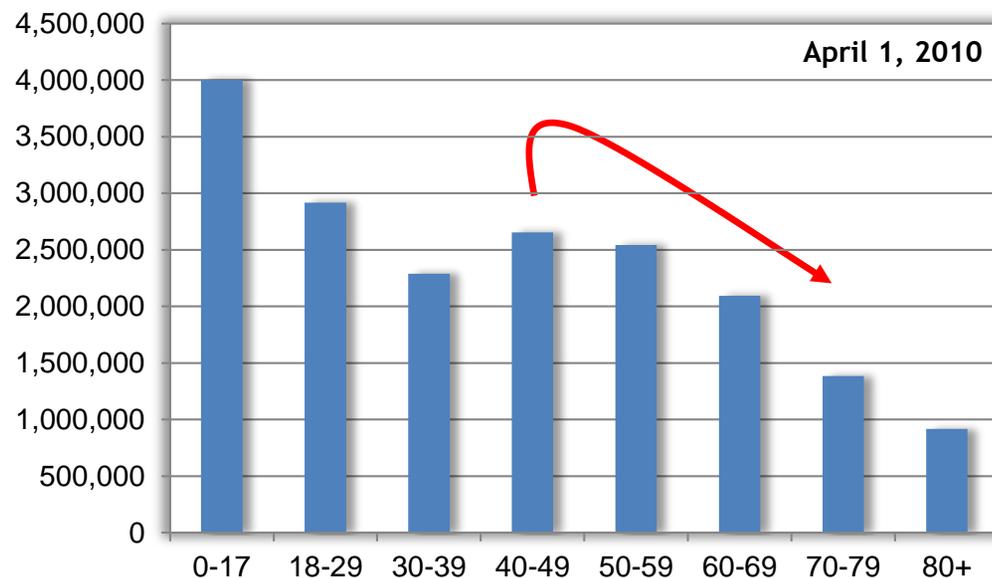
# Baby Boom Cohort...

- Birth Cycle: 1946 – 1964
- 2010 Census count of 46-64 year olds:
  - US: 77.0 million
  - FL: 4.8 million
- Entry into the Workforce: 1967 – 1985
- Entry into Retirement: 2011 – 2029

2050



# Population by Age Group: A Snapshot

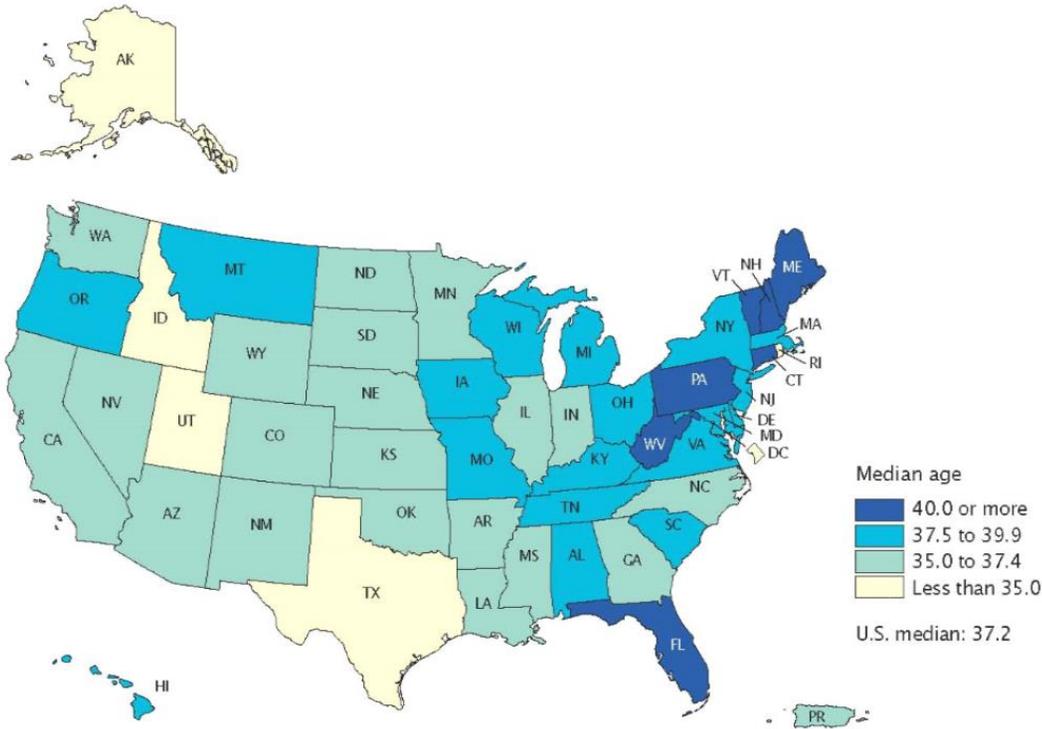


As of April 1, 2010, there were:

- 4.0 million Floridians under the age of 18
- 2.9 million Floridians between 18 and 29
- 2.7 million Floridians in their 40s
- 2.5 million Floridians in their 50s
- 2.3 million Floridians in their 30s
- 2.1 million Floridians in their 60s
- 1.4 million Floridians in their 70s
- Almost 1.0 million Floridians 80 or older



# Median Age...



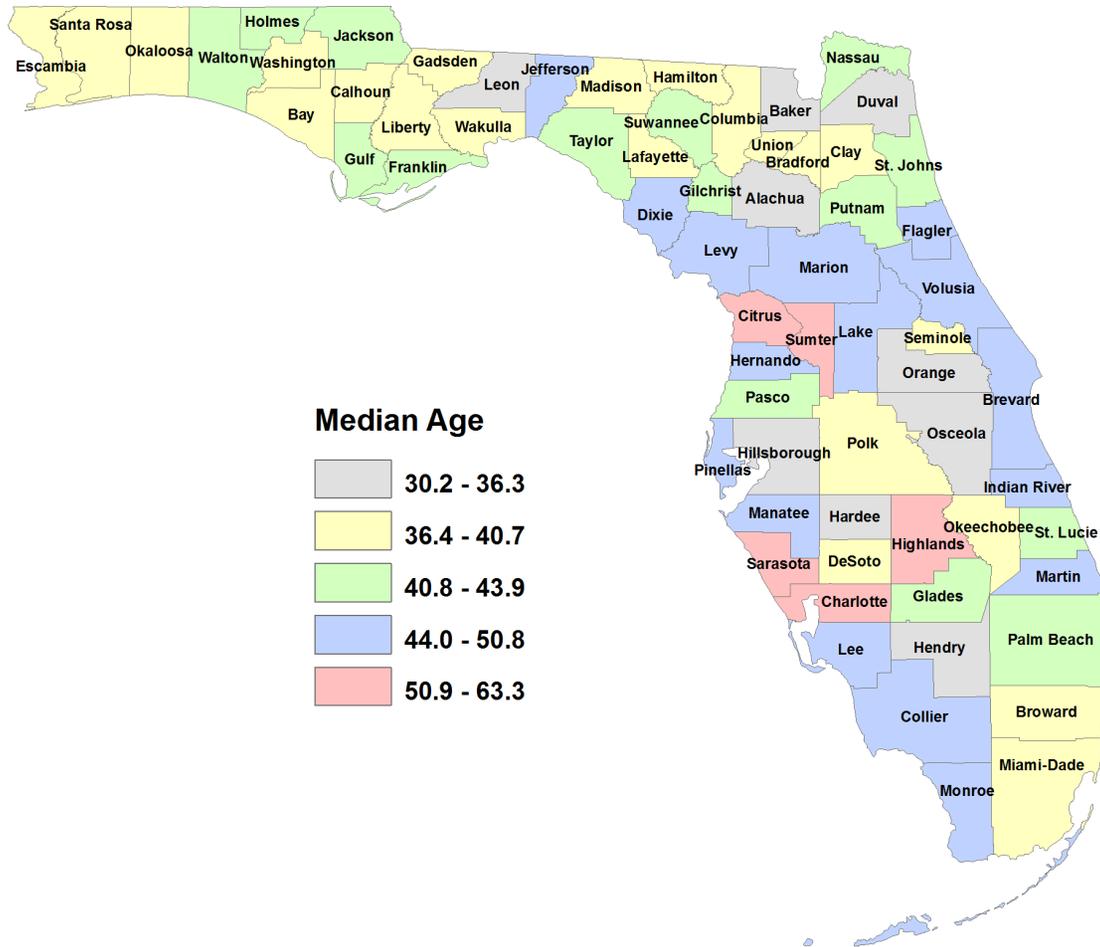
Source: U.S. Census Bureau, 2010 Census Summary File 1.

- In 2010, Florida did not have the highest median age, but compared to other states that also had a median age of 40 or above, Florida had the greatest number and percentage of residents age 65 and over.
- Four of the nation's top ten places with the highest percentage of population age 65 and over were in Florida:
  - Clearwater (19.8%)
  - Hialeah (19.1%)
  - Cape Coral (17.0%)
  - Miami (16.0%)
- Median age of Florida's population age 65 years and older was 74.3

State	Total Population	Population 65 years and over		Median Age
		Number	Percent	
Connecticut	3,574,097	506,559	14.2	40.0
Florida	18,801,310	3,259,602	17.3	40.7
Maine	1,328,361	211,080	15.9	42.7
New Hampshire	1,316,470	178,268	13.5	41.1
Pennsylvania	12,702,379	1,959,307	15.4	40.1
Vermont	625,741	91,078	14.6	41.5
West Virginia	1,852,994	297,404	16.0	41.3

# Median Age of Floridians...

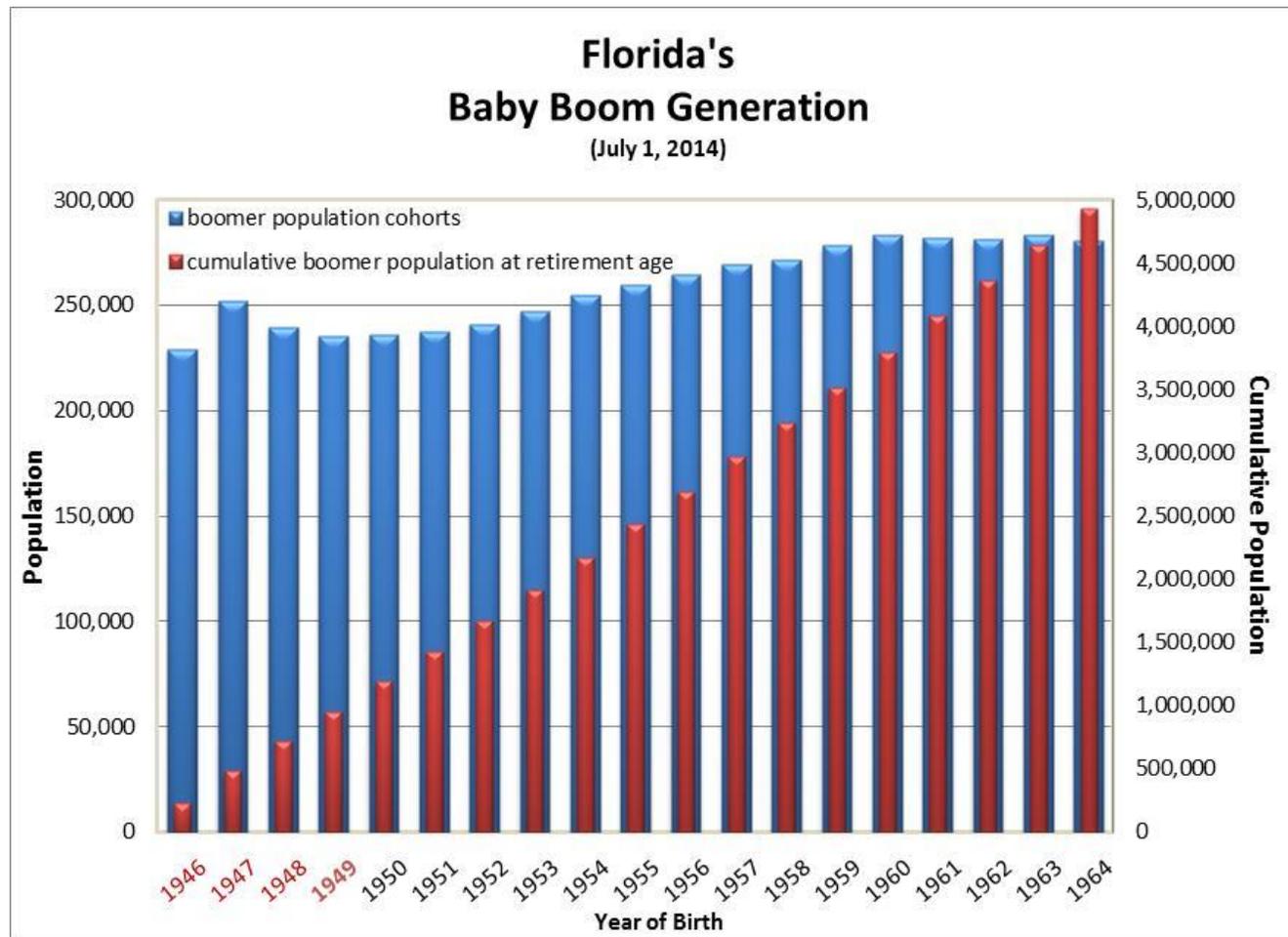
(April 1, 2013)



- The median age of Florida residents was estimated to be **41.1** years as of April 1, 2013.
- The county with the lowest median age was Leon County at 30.2.
- There were 6 counties with a median age of 50 and older: Sumter (63.3), Charlotte (56.2), Citrus (54.6), Sarasota (53.3), Highlands (52.4), and Martin (50.8).



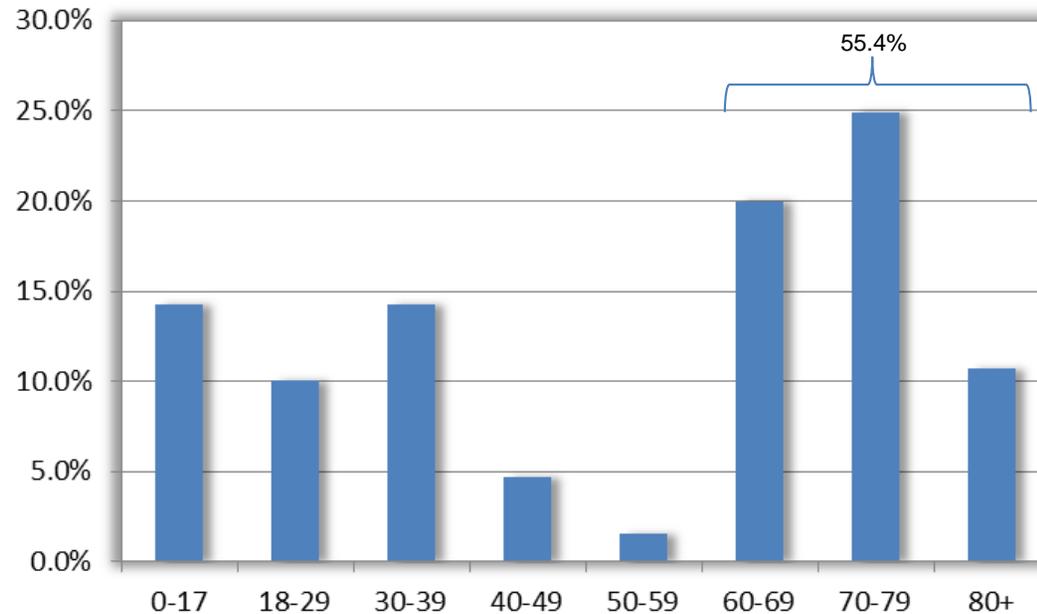
# Florida's Current Baby Boomers...



- The first cohort of Baby Boomers became eligible for retirement (turned age 65) in 2011. Only four cohorts have entered the retirement phase: 2011, 2012, 2013 and 2014. This represents 19.4% of all boomers in Florida today.
- In 2000, Florida's working age population (ages 25-54) represented 41.5 percent of the total population. With the aging Baby Boom generation, this population now represents 38.8 percent of Florida's total population and is expected to represent 36.2 percent by 2030.

# Population Growth by Age Group...

Growth between April 1, 2010 to April 1, 2030

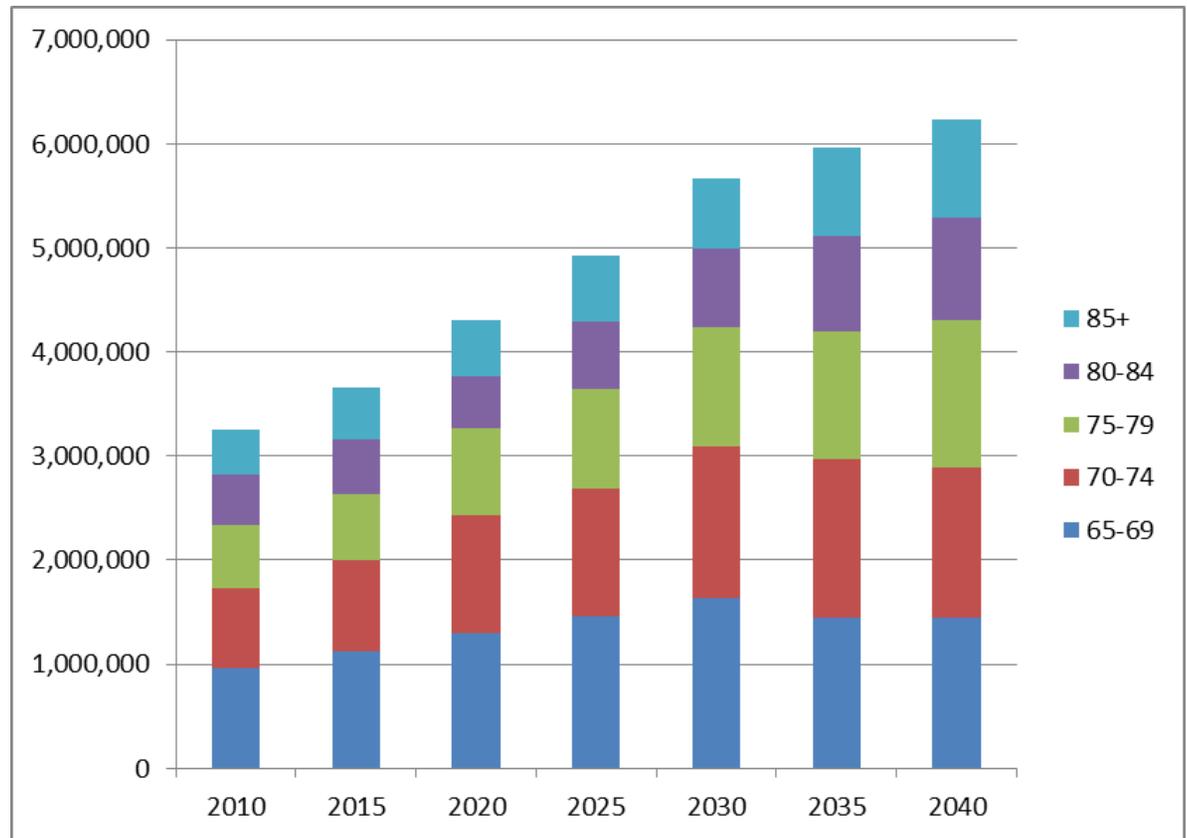


- Between 2010 and 2030, Florida's population is forecast to grow by almost 5 million.
- Florida's population aged 60 and older will account for most of Florida's population growth, representing 55.4 percent of the gains.
- Population aged 65 and over is forecast to represent 24.0 percent of the total population in 2030.



# Florida's Older Population...

- Between 2010 and 2040, Florida's older population is expected to almost double.
- The 75-79, 80-84, and 85+ age groups will more than double over this time horizon.
- Population aged 75 and over currently represents slightly under half of the 65 and over age group and is expected to increase to slightly over half of that age group by 2040.



# Language and Foreign Born...

Language Spoken at Home	Estimate
<b>Population 5 years and over</b>	18,478,811
English only	13,411,845
Language other than English	5,066,966
Speak English less than "very well"	41.9%
Spanish	3,764,501
Speak English less than "very well"	43.7%
Other Indo-European languages	924,774
Speak English less than "very well"	35.2%
Asian and Pacific Islander languages	280,117
Speak English less than "very well"	44.3%
Other languages	97,574
Speak English less than "very well"	29.6%

Language Spoken at Home	Estimate
<b>Population 65 years and over</b>	3,644,283
English only	2,932,052
Language other than English	712,231
Speak English less than "very well"	64.7%
Spanish	477,241
Speak English less than "very well"	72.7%
Other Indo-European languages	180,476
Speak English less than "very well"	46.5%
Asian and Pacific Islander languages	284,245
Speak English less than "very well"	58.1%
Other languages	112,657
Speak English less than "very well"	46.9%

- In 2013, 5 million Floridians (age 5 or older) spoke a language other than English at home, of which 41.9% spoke English less than “very well”.
- In comparison, over 700,000 Floridians aged 65 or older spoke a language other than English at home, of which 64.7 % spoke English less than “very well”.
- Statewide, 19.4% of the population is foreign born; whereas for the population aged 65 or older this percentage increases to 20.9%.

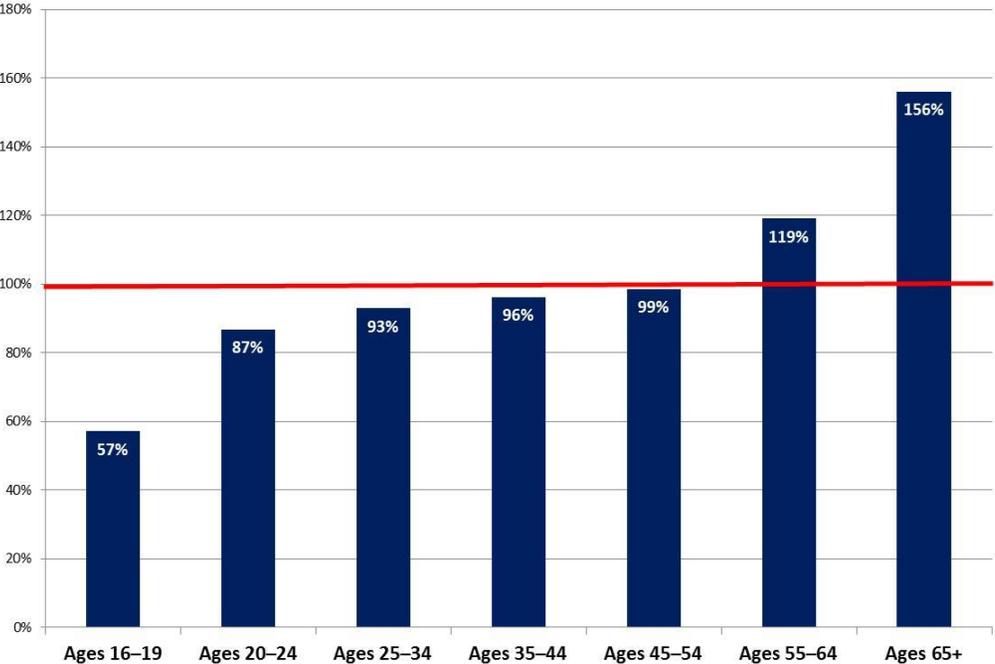
# Long-Term Workforce Trends...

- The ratio of taxpaying workers to retirees will fall as baby boomers age:
  - US today, 4:1
  - FL today, 3:1
  - FL in 2030, 2:1
- Pool of workers will shrink: new retirees will not be fully replaced by younger workers.
- Worker shortages (especially among highly educated and skilled) will become the norm.



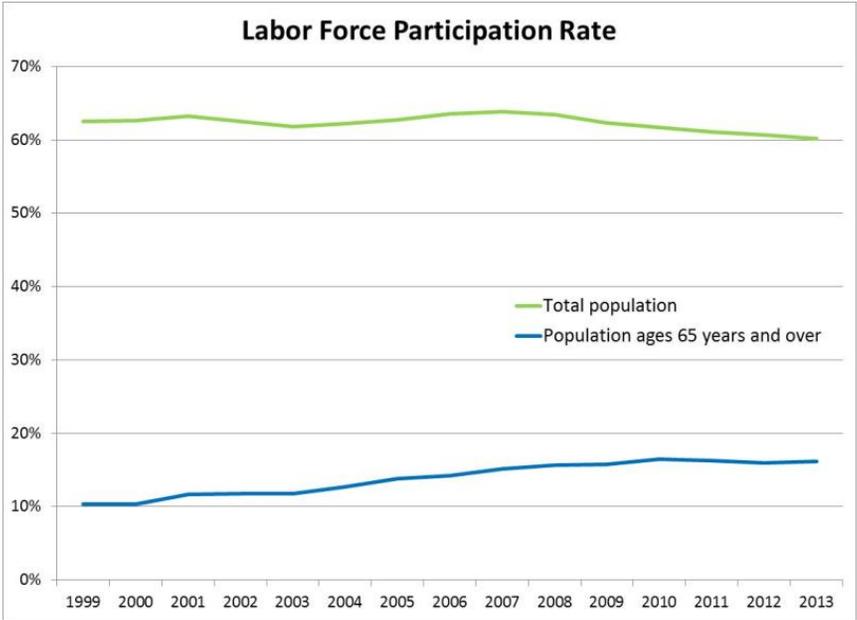
# Florida Labor Force Participation Rates...

2013 Participation Rate as Percent of 1999



The Great Recession, which reduced the value of retiree savings and home values, is contributing to this trend.

Older workers are staying in the workforce longer. Participation rates for older workers aged 65+ have increased from 10.3% in 2000 to a high of 16.5% in 2010 and have stayed above 16% since then, while the participation rates of all workers fluctuated between 61.8 and 63.8 during that time period.



# Health Care...

- About one-fourth of Florida residents age 65 and over live alone.
- Today, elderly and disabled Medicaid recipients account for an estimated 29.83% of the total caseload -- but 63.12% of Medicaid spending.
  - Use of acute and long-term care services is high.
  - The majority of nursing home residents rely on Medicaid support after the cost of their care exhausts their savings and they qualify for assistance.
  - An increasing array of new services, procedures and drugs prolong life – but also the potential for chronic problems.
  - The number of available family caregivers will diminish in relation to the number who need care.



# Disability Characteristics...

	Total Population	With a Disability	Percent with a Disability
Population 65 years and over	3,578,397	1,219,925	34.1%
With a hearing difficulty	(X)	491,831	13.7%
With a vision difficulty	(X)	230,244	6.4%
With a cognitive difficulty	(X)	317,136	8.9%
With an ambulatory difficulty	(X)	776,857	21.7%
With a self-care difficulty	(X)	266,589	7.4%
With an independent living difficulty	(X)	487,743	13.6%

- About one-third of Florida residents age 65 years and older have a Census-defined disability. (2013 ACS)
  - 21.7% reported having an ambulatory difficulty
    - Serious difficulty walking or climbing stairs
  - 13.6% reported having an independent living difficulty
    - Because of a physical, mental, or emotional condition, they had difficulty “doing errands alone such as visiting a doctor’s office or shopping”
  - 13.7% reported having a hearing difficulty
    - Deaf or ... had serious difficulty hearing



# Housing...

- 1.9% of Floridians age 65 and over lived in nursing facilities / skilled-nursing facilities, compared to 3.1% nationally. The majority of these Floridians age 65 and over in these facilities (69.2%) were females, although the split between males and females in the total population is roughly equal. (2010 Census)

- 64.8% of Florida's occupied housing units were owner occupied. For those householders age 65 and over, 82.5% were owner occupied units (2013 ACS).
- 59.1% of Florida's housing units had a mortgage. However for those householders age 65 and over, 36.0% had a mortgage (2013 ACS).
- The first Baby Boomers will hit 85 in 2031.

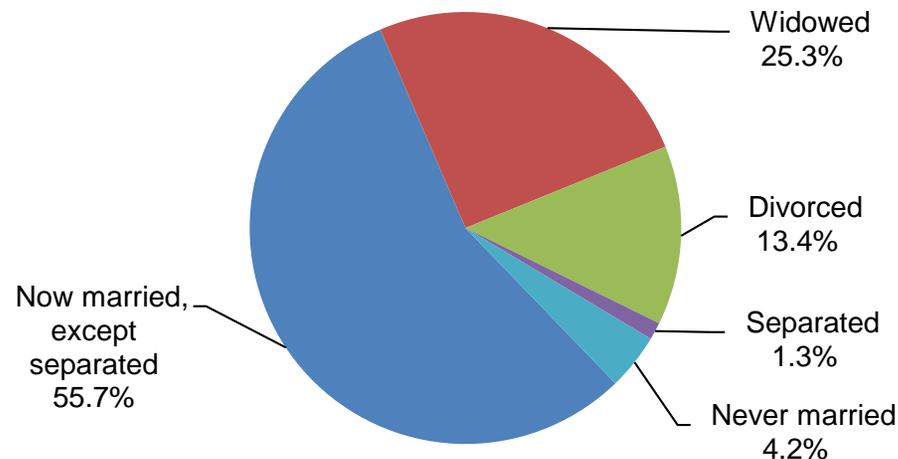
Percentage of Age Group Population in a Skilled-Nursing Facility		
Age	US	Florida
65 to 69 years	0.7%	0.5%
70 to 74 years	1.2%	0.7%
75 to 79 years	2.3%	1.4%
80 to 84 years	4.4%	2.7%
85 and over	11.6%	7.1%

As age increases, the share of the older population in a skilled-nursing facility also increases (2010 Census).

# Marital Status...

- Based on ACS data for 2013 ...
  - 55.7% of Florida's population aged 65 years and over identified themselves as married, compared to 45.9% in the general population (Floridians aged 15 years and over).
  - Widows represented 25.3% of Florida's population age 65 and over, while only 7.1% of the general population.
  - 13.4% of Floridians aged 65 years and over were categorized as divorced or separated. The divorce rate among the elderly is very close to the divorce rate in the general population 15 years and over.

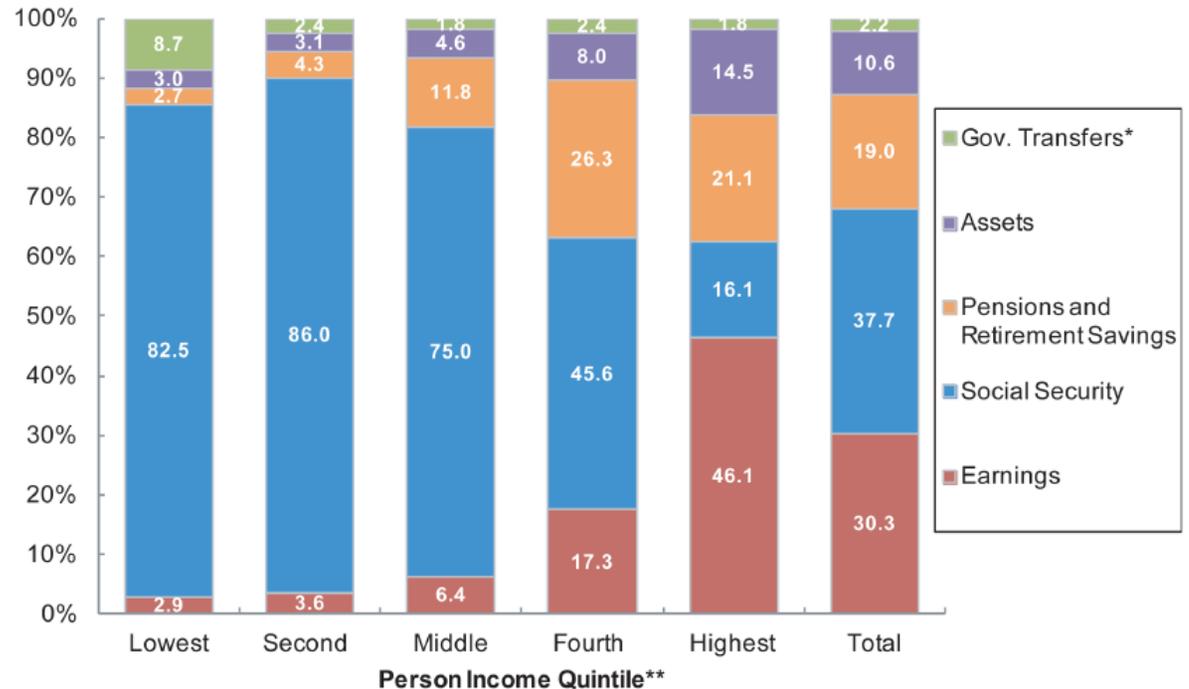
**Florida  
Marital Status of the Population 65 Years and over  
2013**



# Sources of Income...

- Nationally, Social Security represents 37.7 percent of income for persons aged 65 and older.
- Florida had more than 800,000 seniors relying on Social Security for 90 percent or more of their family income.
- A preliminary estimate for 2030 would indicate nearly 1.7 million Floridians will rely on Social Security for 90% or more of their income.

Income Sources as a Percent of Total Income for People Aged 65 and Older, 2012



Note: Numbers do not sum to 100 percent because other cash income, such as family financial assistance, is not shown.

Source: AARP Public Policy Institute tabulation of U.S. Bureau of the Census, March 2013 CPS, Annual Social and Economic Supplement.

\*Government cash transfers include unemployment compensation, workers' compensation, veterans' benefits, SSI, TANF, and education assistance.

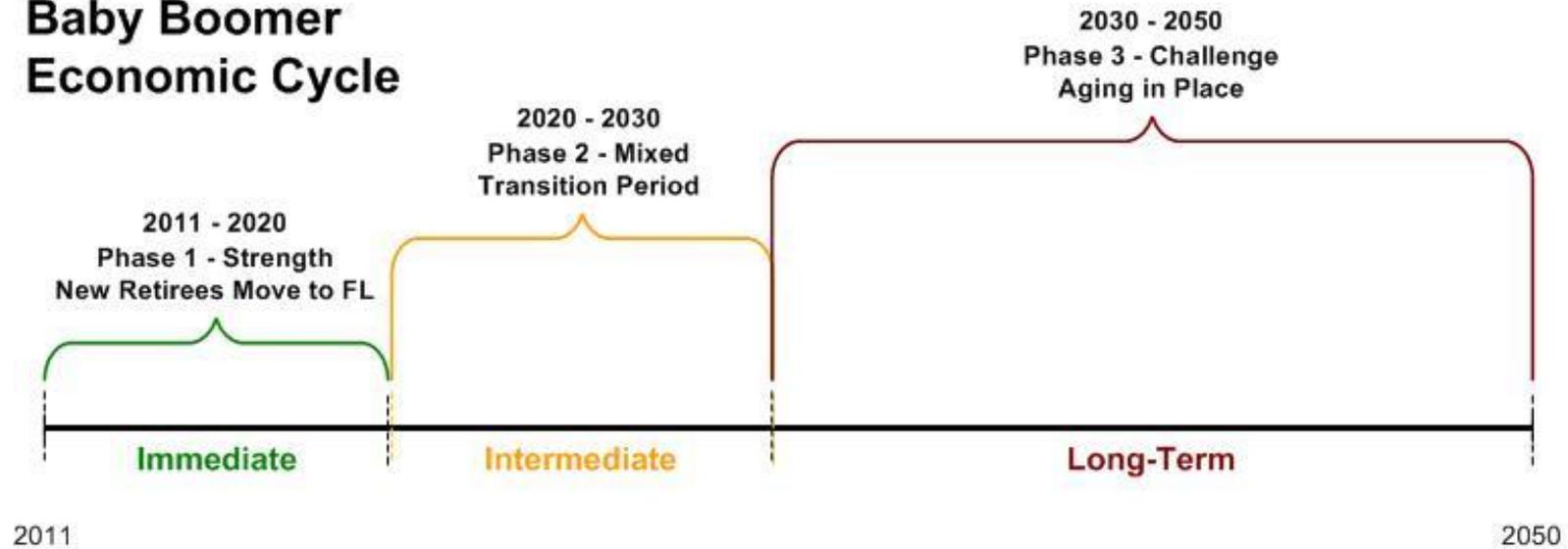
\*\*Income quintiles are based on personal total income. Quintile limits are as follows: \$10,080, \$16,043, \$24,274, and \$43,259.

Area	Social Security is 50% or More of Family Income		Social Security is 90% or More of Family Income	
	Number of Americans Aged 65 and Older	Percent	Number of Americans Aged 65 and Older	Percent
Florida	1,688,399	51.6%	886,878	27.2%
United States	21,040,681	49.4%	10,064,153	23.6%

Source: AARP Public Policy Institute estimates from the March 2011-2013 Current Population Survey, US Bureau of the Census.

Note: The US total is for 2012 and, therefore, is not equal to the sum of the state totals.

# Baby Boomer Economic Cycle



## OVER THE SHORTER-TERM ... (between now and 2020)

The Baby Boomers retiring to Florida will generally be financially better off than the average retiree; most will come with assets (at least from the sale of their homes).

Many will buy new homes in Florida and then outfit them --- generating additional tax revenues, largely as a result new money coming in to Florida from outside the state (earned elsewhere). New infusion of dollars has the greatest multiplier effect.

They will also tend to be younger retirees, and therefore healthier and more active --- meaning their demand for consumer services will be higher, strengthening the economy, while their demand for government services will be at its minimum.

## OVER THE LONGER-TERM ... (between now and 2030)

As the Baby Boomers retire, they will be leaving vacant more jobs than there are workers to fill them.

The ability to create new jobs will be constrained by the numbers of qualified workers available to fill those jobs.

Both of these factors will lead to increased demand for workers and upward pressure on wages as the skilled supply of workers fails to keep pace with the demand.

Inflated wages will hurt economic growth, as well as make government services more costly to provide—just as the Boomers increase their need for government-supported services.

The increased cost of government services (due to higher prices and larger caseloads) and suppressed economic growth will make budget gaps worsen (diminished revenues and higher costs for the same services and more services being demanded). This situation will be exacerbated by the fact that retirees tend to spend more on services and less on taxable goods.

# **Issues & Trends in Aging Services** **in Florida**

Larry Polivka, Ph.D.

Claude Pepper Center, Florida State University

Presentation to the Senate Committee on Children,  
Families, and Elder Affairs

February 5, 2015

## I. Issues and Trends: The Aging Network & MLTC

- Managed LTC (MLTC) has emerged and gained momentum at the state (including Florida) and federal levels with the potential to displace the Aging Network, which largely built the HCBS system now in place over the last 30 years.
- The Aging Network Administered Community Care for the Elderly (CCE) programs was the linchpin for Florida's HCBS system from the 1970s till late 1990s and remains a program critical to meeting the needs of low income elderly who aren't Medicaid eligible.

## I. Issues and Trends: The Aging Network & MLTC

- The three AARP LTC snapshot surveys have documented extensive Aging Network HCBS systems for several years and the role they have played in reducing per capita nursing home use since 2000.
- Several states now provide more than half of their LTC in Aging Network managed HCBS programs and spend over 50% of their public LTC funds, mainly Medicaid, on Aging Network HCBS programs.

## I. Issues and Trends: The Aging Network & MLTC

- Several studies have generated findings that support the relative cost-effectiveness of aging HCBS programs, including OAA programs.
- The Aging Network should continue to play a major role in Florida's community based LTC programs through the CCE, Alzheimer's and OAA programs and partnerships with Managed Care Organizations.

## II. Issues & Trends: The Role of Assisted Living (AL)

What is the proper role of assisted living in publicly supported LTC systems?

- Community residential care, including assisted living and adult foster care, has played a major role in most of the states that have done the most to expand their HCBS alternatives to nursing homes and to create well balanced LTC systems.

## II. Issues & Trends: The Role of Assisted Living (AL)

- This trend reflects the fact that many nursing home residents or potential residents have housing needs that may be as substantial as their physical and cognitive needs and assisted living is often a better, less restrictive and expensive alternative than nursing home placement.

## II. Issues & Trends: The Role of Assisted Living (AL)

- This does not mean, however, that states should ignore the possibility of becoming overly reliant on assisted living to reduce costs by limiting nursing home use. The typical profile of long term residents in assisted living and nursing homes is still substantially different and should probably remain so.

## II. Issues & Trends: The Role of Assisted Living (AL)

- Assisted living has gradually developed the capacity to serve a more impaired resident population but may now be approaching the threshold of resident impairment (functional and medical needs) that must be preserved in order to maintain its qualitatively distinct difference from living in a nursing home.

## II. Issues & Trends: The Role of Assisted Living (AL)

- The regulatory framework for assisted living needs the enhancements recommended by the Governor's Task Force in 2011 and 2012 and included in legislation proposed over the last three sessions.
- Steps have been taken by AHCA to enhance the enforcement of current regulations and DOEA has elevated the quality of staff training.
- These constructive initiatives, however, are not sufficient responses to many quality of care and life issues identified by the Task Force and addressed in proposed legislation since 2012.

## II. Issues & Trends: The Role of Assisted Living (AL)

- These issues include;
  - increased ALF Administrator qualifications,
  - improved resident discharge process with appeal rights,
  - resident data system,
  - several issues related to improved care for residents with mental illness, including requiring a LMH license for ALFs serving any (one or more) residents with mental illness, and
  - implementing a ALF Policy Review Council and testing a more consultative model of ALF regulation to supplement the current approach.

### III. Issues & Trends: The Role of Consumer Directed Care (CDC)

Should Consumer Directed Care (CDC) play a major role in LTC services for the elderly?

- CDC has been relatively slow to develop in the LTC system for the elderly even though a number of evaluation studies conducted since the late 1990s indicate that it can be a cost-effective program for this population

### III. Issues & Trends: The Role of Consumer Directed Care (CDC)

- In fact, there is some reason to think that a substantial minority of the elderly needing LTC services (publicly and privately funded) would embrace CDC if the option were available.
- CDC can also be an effective form of caregiver support, which we do not provide enough of in any form.

### III. Issues & Trends: The Role of Consumer Directed Care (CDC)

- CDC can be provided on an expansive basis regardless of a states organizational and administrative structure (aging network or HMO structures) for delivering and paying for LTC services.

## IV. Issues & Trends: The Role of Nursing Homes

What should be the role of nursing homes in the future of LTC?

- Some form of relatively intensive care in a residential environment for seriously impaired individuals will need to remain a part of any comprehensive LTC system in the future.

## IV. Issues & Trends: The Role of Nursing Homes

- It is not at all clear, however, that the current nursing home model, with 75 to 120 beds, shared rooms, and an institutional atmosphere and poorly paid caregiving staff with few benefits and a high turnover rate, is the best the nation can do in meeting the LTC needs of the most impaired elderly and younger disabled adults.

## IV. Issues & Trends: The Role of Nursing Homes

- The quality of care in nursing homes has improved substantially over the last 20 to 25 years and, to a lesser extent, so has the quality of life.
- The Eden factor was one of the early efforts to improve the quality of life by making the nursing home environment more home like and less institutional in terms of day to day life.

## IV. Issues & Trends: The Role of Nursing Homes

- Supporters of the Eden program have developed a more advanced model, The Greenhouse Initiative, of how nursing home residents should be able to live.

## IV. Issues & Trends: The Role of Nursing Homes

- Instead of a 100 bed facility, The Greenhouse model calls for separate facilities with no more than 12 residents, living in their own apartments, and food prepared on the premises in facility kitchens. Residential programs for the Intellectually/Developmentally Disabled moved in this direction decades ago.

## IV. Issues & Trends: The Role of Nursing Homes

- The model also calls for caregiving staff who are trained to provide a range of services and given more autonomy in carrying out these services than is allowed in a conventional nursing home.
- Evaluations of the Greenhouse program have found that the program has a positive impact on residents and staff and is relatively cost effective (see CPC paper on the Greenhouse program).

## IV. Issues & Trends: The Role of Nursing Homes

- Why shouldn't the Greenhouse model become the standard, through regulation and funding, for all new construction and staffing of facilities and services for all LTC recipients in need of residential care?

# **Florida's Area Agencies on Aging**

## ***Roles & Responsibilities & Emerging Issues Affecting Seniors***

Presented to:

The Florida Senate Committee on Children, Families, and Elder Affairs

by

Randy Hunt, President, Florida Association of Area Agencies on Aging

**February 5, 2015**

# Florida's Area Agencies on Aging (AAAs)

## *Roles & Responsibilities*

- AAAs established under Chapter 430, Florida Statutes & Federal Older Americans Act
- 11 private, not-for-profit, regionally located AAAs; operate under contract with Dept. of Elder Affairs
- A One-Stop Shop for Information & Access to Long Term Care Services
- Locally operate Florida's 1-800-Elder & Disabled Help Line
  - Annually, field hundreds of thousands of calls from seniors and adults with disabilities, caregivers, and families
  - Information & Referral – Important service connecting seniors and adults with disabilities to services available in their community

# Florida's Area Agencies on Aging (AAAs)

## *Roles & Responsibilities continued...*

- Locally manage and administer \$256 million in non-Medicaid-funded home and community care services:

Older Americans Act  
Alzheimer's Respite Care  
Adult Care Food Program  
Local Service Programs

Community Care for the Elderly  
Emergency Home Energy Assistance  
Medicare Counseling  
Veterans Home & Community Care

- AAAs provide contract management, competitive procurement, quality assurance, financial monitoring, and work to ensure consumer satisfaction. We locally manage provider contracts and achieve best value and highest quality.

# Florida's Area Agencies on Aging (AAAs)

## Responsibilities Under Medicaid Managed Long Term Care

- AAAs play a critical role under Medicaid Managed Long Term Care:
  - **Consumer information, education, & referral**
  - **Intake & program eligibility screening – ALL new MMLTC program applicants (seniors & adults with disabilities) enter the community care-side of MMLTC through the Area Agencies on Aging**
  - **Medicaid financial eligibility application assistance**
  - **Enrollment management system (priority list releases)**
  - **Obtaining the 3008 physician level of care form**
  - **Annual waiting list rescreening**
  - **Consumer grievance/complaint intake-assistance**

# Florida's Area Agencies on Aging (AAAs)

## Responsibilities Under Medicaid Managed Long Term Care

### **Area Agency on Aging Guiding Principles under Medicaid Managed Long Term Care:**

1. To help seniors, adults with disabilities, and caregivers navigate successfully through the eligibility and enrollment maze, quickly and efficiently
2. To 'hand-off' an 'enrollment-ready' client to the AHCA Enrollment *Broker*

AAAs are trained & best suited to provide this compassionate consumer assistance

*AAAs help the 90 year old widow, living alone, with multiple health conditions, who is hard of hearing, has some dementia, and no one else to help her. She does not do well on her own, navigating the automated DCF ACCESS system and the overall Medicaid Managed Long Term Care program eligibility/enrollment process. She just wants to remain in her home.*

# Emerging Issues (Actually, they're already occurring)

- Growth in Elder Population
  - Increasing Elder Helpline Calls for Assistance;
  - Increasing Waiting Lists for in-home care services – Seniors want to remain at home
  - Managed Care helps the most frail – but they must qualify for nursing home level of care and meet Medicaid financial eligibility criteria
  - Concern about the REST of the senior population (non-Medicaid-eligibles)
    - The non-Medicaid eligibles; the 4.6 million seniors who have retired in Florida
    - Planned well; just didn't plan to live to 85, 90, and older – outliving financial resources;
    - Spend-down happens quickly if only option is Medicaid nursing home care
- Caregiver Support – caregivers as old as the person they're caring for
- Resources for Area Agencies on Aging due to Florida's demographics

# Future Recommendations

- Focus on Health & Wellness education and programming
  - Reduce number of seniors that need institutional care and by Increased Education with Evidenced Base programs in:
    - Falls Prevention; Chronic disease self-management of Diabetes, Heart Disease, etc.**
    - A 1% increase in 'well elders' can save millions of dollars annually**
- Caregiver Support & Respite
  - Cost-effective; prevent caregiver burn-out; help keep caregivers employed
- Increase Elder Abuse, Neglect, & Exploitation Education
- Technology & Efficiencies

# Department of Elder Affairs

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SECRETARY SAMUEL P. VERGHESE

FEBRUARY 5, 2015

SENATE CHILDREN, FAMILIES & ELDER AFFAIRS



# Department Mission and Vision

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- **MISSION:** To foster an environment that promotes well-being for Florida's elders and enables them to remain in their homes and communities
- **VISION:** All Floridians aging with dignity, purpose, and independence
- **GOALS:**
  - Strengthening our Partnerships
  - Safeguarding our Resources
  - Honoring our Elders



# Seniors in Florida

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- More than 4.8 million Floridians age 60 and older
- More than 1.6 million Floridians age 75 and older
- Florida ranks 1<sup>st</sup> in the nation in the percentage of citizens who are elders
- Florida's elders contribute \$2,850 more to the state and local economy than they consume in public services
- In 2012, Florida's elders volunteered more than 205 million hours
- More than 1 million seniors received services funded through Department programs



# DOEA Planning Processes

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- Office of Strategic Initiatives
  - Long Range Program Plan (LRPP)
  - State Plan on Aging
  - Statewide Needs Assessment Report
  - Elder Needs Index
- Purple Ribbon Task Force
  - State Plan on Alzheimer's Disease and Related forms of Dementia



# Accomplishments

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- Statewide Medicaid Managed Care Long-Term Care
- Expansion of the Statewide Public Guardianship Program
- SHINE Program has the highest number of volunteers in the program's history
  - 524 volunteers with another 300+ pending
- Increased funding for DOEA programs
- Silver Alert expansion



# Contact Information

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- Main Line: 850-414-2000
- Elder Helpline: 1-800-96-ELDER (1-800-963-5337)
- Fax: 850-414-2004
- Website: [elderaffairs.state.fl.us](http://elderaffairs.state.fl.us)
- Secretary Samuel P. Verghese
  - 850-414-2039
- Legislative Affairs Director, Jo Morris
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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SPB 7018

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: State Ombudsman Program

DATE: February 2, 2015

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Crosier	Hendon		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7018 revises the operating structure and internal procedures of the State Long-Term Care Ombudsman Program (LTCOP), housed in the Department of Elder Affairs (DOEA), to reflect current practices, maximize operational and program efficiencies and conform to the federal Older Americans Act. The bill revises the appointment process for three at-large positions to the State Long-Term Care Council whereby the appointments are no longer made by the Governor but by the Secretary of DOEA.

The bill has an effective date of July 1, 2015, and has no fiscal impact.

**II. Present Situation:**

**Older Americans Act**

The Older Americans Act (OAA) was enacted in 1965 to assist elders to lead independent, meaningful, and dignified lives in their own communities rather than in more costly residential or nursing home settings. The OAA programs are administered through area agencies on aging under the Department of Elder Affairs (DOEA). To be eligible for OAA programs, individuals must be 60 years of age or older. Spouses and disabled adults younger than 60 years of age may receive services in certain circumstances. Preference is given to elders with the greatest economic or social needs, particularly low-income minority individuals; however, no means testing is allowed. The OAA was most recently reauthorized in 2006 to supply funding for several nutritional programs and in-home and supportive services for elders.

Florida's Long-Term Care Ombudsman Program (LTCOP) was created in 1975 as a result of the OAA. The OAA grants a special set of residents' rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities, and adult family care homes.

## Long-Term Care Ombudsman Program

In Florida, a long-term care ombudsman is a volunteer who helps to improve the lives of people who live in long-term care settings by investigating and resolving their complaints against the facility.

As Florida's elders' transition into long-term care facilities, they need a strong support system. Unfortunately, many long-term care residents do not have anyone to look out for their best interests when it comes to personal health, safety, welfare and rights. The LTCOP is made up of more than 300 volunteers who are advocates for the residents to improve their quality of life.

The LTCOP is administratively housed within DOEA. The LTCOP undertakes to discover, investigate, and determine the presence of conditions which constitute a threat to the rights, health, safety, or welfare of the residents of long-term care facilities. The LTCOP accomplishes these tasks by conducting investigations of complaints filed by or on behalf of residents and by conducting annual administrative assessments of such facilities. An administrative assessment is a resident-centered, unannounced review of conditions in the facility which have an impact on the rights, health, safety, and welfare of residents with the purpose of noting needed improvements and making recommendations to enhance the quality of life for residents.

The LTCOP has no enforcement and regulatory oversight authority for long-term care facilities. The Agency for Health Care Administration (AHCA) has the responsibility for licensing long-term care facilities. Instead, ombudsmen, after completing specified statutory requirements, are certified as independent advocates, working solely on behalf of residents to mediate disputes between residents and long-term care facilities on an informal basis. The LTCOP provides residents with the opportunity to develop personal and confidential relationships with the ombudsmen to create an environment that allows a resident to candidly voice complaints. If a complaint is verified by the ombudsman that could violate the facility's licensure or be criminal activity, the LTCOP refers the issue to AHCA, Adult Protective Services within the Department of Children and Families (DCF), the Attorney General's Office, or other agencies as appropriate.<sup>1</sup>

In August 2003, the Administration on Aging, Department of Health and Human Services, issued its Compliance Review of the State of Florida Long-Term Ombudsman Program<sup>2</sup> The Review identified the designation of local ombudsmen, legislative advocacy and information dissemination as areas that the State of Florida's policies and practices were out of compliance with the Older Americans Act. Statutory changes are necessary to bring state law into conformity with the federal law.

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<sup>1</sup> Department of Elder Affairs, *Senate Bill 508 Fiscal Analysis* (Dec. 31, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>2</sup> Administration on Aging, Department of Health and Human Services, *Compliance Review of the State of Florida Long-Term Care Ombudsman Program* (August 30, 2011)(on file with the Senate Committee on Children, Families, and Elder Affairs).

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### III. Effect of Proposed Changes:

**Section 1** amends s. 400.0060, F.S., to revise and create definitions of terms used in the ombudsman statute. Definitions for “long-term care facility,” and “ombudsman” are updated. The term “representative of the office” is defined to include the state ombudsman, employees, and certified ombudsmen. The term “state ombudsman” is defined as the person appointed by the secretary of DOEA to administer the ombudsman program. The term “resident” is revised to include persons over 18 years of age who reside in a long-term care facility. The term “district” refers to geographical areas in the state designated by the state ombudsman and each district may have more than one local unit of ombudsmen.

**Section 2** amends s. 400.0061, F.S., which provides legislative findings and intent, to conform existing text to newly defined terms.

**Section 3** amends s. 400.0063, F.S., which establishes the office of state ombudsman and to conform existing text to newly defined terms.

**Section 4** amends s. 400.0065, F.S., relating to duties of the state ombudsman, to give the state ombudsman the final authority to make appointments of individuals serving as ombudsman; to update position titles of individuals to receive the annual ombudsman program report; and to revise terminology to conform to new definitions.

**Section 5** amends s. 400.0067, F.S., relating to the State Long-Term Care Ombudsman Council, to update terminology. Currently, appointments to the three at-large positions to the Council are made by the Governor. Under the bill, the district manager, in consultation with the district ombudsmen, will select a district ombudsman as a representative to the Council. The state ombudsman will submit the names to the secretary of DOEA who will make the appointment to the three at-large positions on the state council.

**Section 6** amends 400.0069, F.S., relating to the local ombudsman councils. The councils are renamed as districts and are designated by the state ombudsman. The bill provides for development of family councils within facilities; clarifies that ombudsmen may serve in a different district for good cause shown; and clarifies the application, background screening, and training requirements needed to become a certified ombudsman. The section also requires that each district convene a public meeting every quarter. The section provides that ombudsmen identify, investigate, and resolve complaints made by or on behalf of residents relating to actions or omissions by providers of long term care services, other public agencies, guardians, or representative payees which may adversely affect the health, safety, welfare, or rights of a resident.

**Section 7** amends s. 400.0070, F.S., relating to ombudsman conflicts of interest to conform to newly-defined terms.

**Section 8** amends s. 400.0071, F.S., relating to how ombudsmen investigate and resolve complaints. The bill separates and removes references to the administrative assessment process from the complaint process.

**Section 9** amends s. 400.0073, F.S., relating to complaint investigations, access to long-term care facilities by ombudsmen, reporting procedures in the event access is denied to the facility or resident and conforms to newly defined terms.

**Section 10** amends s. 400.0074, F.S., to provide an onsite administrative assessment at least annually, which must be resident-centered and focus on the rights, health, safety, and welfare of the residents. The assessment must not impose an unreasonable burden on the long-term care facility. The bill moves the rulemaking authority from s. 400.072, F.S., and conforms to newly-defined terms.

**Section 11** amends s. 400.0075, F.S., relating to complaint resolutions, to conform to newly-defined terms and to clarify complaint reporting procedures.

**Section 12** revises s. 400.0078, F.S., relating to access to the ombudsmen, to add-email as a way to make complaints. The bill also requires long-term care facilities to notify all residents and their families upon admission that retaliation against residents making complaints to the ombudsman is prohibited by law.

**Section 13** amends s. 400.0079, F.S., relating to immunity for persons making complaints, to conform to newly-defined terms.

**Section 14** amends s. 400.0081, F.S., relating to ombudsman access to long-term care facilities, including access to medical and social records of a resident as necessary to resolve a complaint. This section also provides conformity to newly-defined terms, and deletes the limitation that ombudsmen have access to residents only for investigating a complaint.

**Section 15** amends s. 400.0083, F.S., relating to interference with the ombudsman; to make technical and conforming changes.

**Section 16** amends s. 400.0087, F.S., relating to oversight of the ombudsman program by DOEA, to make technical and conforming changes.

**Section 17** amends 400.0089, F.S., relating to information on ombudsman complaints, to make technical and conforming changes.

**Section 18** amends s. 400.0091, F.S., relating to ombudsman training, to clarify training requirements and make conforming changes.

**Sections 19 – 44** amends ss. 20.41, 400.021, 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 145.107, 429.02, 429.07, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85, F.S., to conform to newly-defined terms and to make technical changes.

**Section 45** provides an effective date of July 1, 2015.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.41, 400.0060, 400.0061, 400.0063, 400.0065, 400.0067, 400.0069, 400.0070, 400.0071, 400.0073, 400.0074, 400.0075, 400.0078, 400.0079, 400.0081, 400.0083, 400.0087, 400.0089, 400.0091, 400.021, 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, and 429.85.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

None.

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B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate

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House

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The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 400.0060, Florida Statutes, is amended  
to read:

400.0060 Definitions.—When used in this part, unless the  
context clearly dictates otherwise, the term:

(1) "Administrative assessment" means a review of  
conditions in a long-term care facility which impact the rights,



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11 health, safety, and welfare of residents with the purpose of  
12 noting needed improvement and making recommendations to enhance  
13 the quality of life for residents.

14 (2) "Agency" means the Agency for Health Care  
15 Administration.

16 (3) "Department" means the Department of Elderly Affairs.

17 (4) "District" means a geographical area designated by the  
18 state ombudsman in which individuals certified as ombudsmen  
19 carry out the duties of the State Long-Term Care Ombudsman  
20 Program. A district may have one or more local councils.

21 (5)~~(4)~~ "Local council" means a local long-term care  
22 ombudsman council designated by the ombudsman pursuant to s.  
23 400.0069. Local councils are also known as district long-term  
24 care ombudsman councils or district councils.

25 (6)~~(5)~~ "Long-term care facility" means a nursing home  
26 facility, assisted living facility, adult family-care home,  
27 board and care facility, or any other similar residential adult  
28 care facility.

29 (7)~~(6)~~ "Office" means the Office of the State Long-Term  
30 Care Ombudsman Program created by s. 400.0063.

31 (8)~~(7)~~ "Ombudsman" means an individual who has been  
32 certified by the state ombudsman as meeting the requirements of  
33 ss. 400.0069, 400.0070, and 400.0091 ~~the individual appointed by~~  
34 ~~the Secretary of Elderly Affairs to head the Office of State~~  
35 ~~Long-Term Care Ombudsman.~~

36 (9) "Representative of the State Long-Term Care Ombudsman  
37 Program" means the state ombudsman, an employee of the state or  
38 district office certified as an ombudsman or an individual  
39 certified as an ombudsman serving on the state or a local



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40 council.

41 (10)~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age  
42 or older who resides in a long-term care facility.

43 (11)~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

44 (12)~~(10)~~ "State council" means the State Long-Term Care  
45 Ombudsman Council created by s. 400.0067.

46 (13) "State ombudsman" means the State Long-Term Care  
47 Ombudsman, who is the individual appointed by the Secretary of  
48 Elderly Affairs to head the State Long-Term Care Ombudsman  
49 Program.

50 (14) "State ombudsman program" means the State Long-Term  
51 Care Ombudsman Program operating under the direction of the  
52 State Long Term Care Ombudsman.

53 Section 2. Section 400.0061, Florida Statutes, is amended  
54 to read:

55 400.0061 Legislative findings and intent; long-term care  
56 facilities.—

57 (1) The Legislature finds that conditions in long-term care  
58 facilities in this state are such that the rights, health,  
59 safety, and welfare of residents are not fully ensured by rules  
60 of the Department of Elderly Affairs or the Agency for Health  
61 Care Administration or by the good faith of owners or operators  
62 of long-term care facilities. Furthermore, there is a need for a  
63 formal mechanism whereby a long-term care facility resident, a  
64 representative of a long-term care facility resident, or any  
65 other concerned citizen may make a complaint against the  
66 facility or its employees, or against other persons who are in a  
67 position to restrict, interfere with, or threaten the rights,  
68 health, safety, or welfare of a long-term care facility



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69 resident. The Legislature finds that concerned citizens are  
70 often more effective advocates for the rights of others than  
71 governmental agencies. The Legislature further finds that in  
72 order to be eligible to receive an allotment of funds authorized  
73 and appropriated under the federal Older Americans Act, the  
74 state must establish and operate an Office of State Long-Term  
75 Care Ombudsman, to be headed by the State Long-Term Care  
76 Ombudsman, and carry out a long-term care ombudsman program.

77 (2) It is the intent of the Legislature, therefore, to use  
78 ~~utilize~~ voluntary citizen ombudsman councils under the  
79 leadership of the State Long-Term Care Ombudsman ~~ombudsman~~, and,  
80 through them, to operate a state ~~an~~ ombudsman program, which  
81 shall, without interference by any executive agency, undertake  
82 to discover, investigate, and determine the presence of  
83 conditions or individuals that ~~which~~ constitute a threat to the  
84 rights, health, safety, or welfare of the residents of long-term  
85 care facilities. To ensure that the effectiveness and efficiency  
86 of such investigations are not impeded by advance notice or  
87 delay, the Legislature intends that the representatives of the  
88 State Long-Term Care Ombudsman Program ~~ombudsman and ombudsman~~  
89 ~~councils and their designated representatives~~ not be required to  
90 obtain warrants in order to enter into or conduct investigations  
91 or onsite administrative assessments of long-term care  
92 facilities. It is the further intent of the Legislature that the  
93 environment in long-term care facilities be conducive to the  
94 dignity and independence of residents and that investigations by  
95 representatives of the State Long-Term Care Ombudsman Program  
96 ~~ombudsman councils~~ shall further the enforcement of laws, rules,  
97 and regulations that safeguard the health, safety, and welfare



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98 of residents.

99 Section 3. Section 400.0063, Florida Statutes, is amended  
100 to read:

101 400.0063 Establishment of the ~~Office of~~ State Long-Term  
102 Care Ombudsman Program; designation of ombudsman and legal  
103 advocate.—

104 (1) There is created the ~~an Office of~~ State Long-Term Care  
105 Ombudsman Program in the Department of Elderly Affairs.

106 (2) (a) The ~~Office of~~ State Long-Term Care Ombudsman Program  
107 shall be headed by the State Long-Term Care Ombudsman, who shall  
108 serve on a full-time basis and shall personally, or through  
109 representatives of the state ombudsman program office, carry out  
110 its ~~the~~ purposes and functions ~~of the office~~ in accordance with  
111 state and federal law.

112 (b) The state ombudsman shall be appointed by and shall  
113 serve at the pleasure of the Secretary of Elderly Affairs. The  
114 secretary shall appoint a person who has expertise and  
115 experience in the fields of long-term care and advocacy to serve  
116 as state ombudsman.

117 (3) (a) There is created in the office the position of legal  
118 advocate, who shall be selected by and serve at the pleasure of  
119 the state ombudsman and shall be a member in good standing of  
120 The Florida Bar.

121 (b) The duties of the legal advocate shall include, but not  
122 be limited to:

123 1. Assisting the state ombudsman in carrying out the duties  
124 of the office with respect to the abuse, neglect, exploitation  
125 or violation of rights of residents of long-term care  
126 facilities.



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127           2. Assisting the representatives of the State Long-Term  
128 Care Ombudsman Program ~~state and local councils~~ in carrying out  
129 their responsibilities under this part.

130           3. Pursuing administrative, legal, and other appropriate  
131 remedies on behalf of residents.

132           4. Serving as legal counsel to the representatives of the  
133 State Long-Term Care Ombudsman Program in ~~state and local~~  
134 ~~councils, or individual members thereof, against whom~~ any suit  
135 or other legal action that is initiated in connection with the  
136 performance of the official duties of the representatives of the  
137 State Long-Term Care Ombudsman Program ~~councils or an individual~~  
138 ~~member~~.

139           Section 4. Section 400.0065, Florida Statutes, is amended  
140 to read:

141           400.0065 State Long-Term Care Ombudsman Program; duties and  
142 responsibilities.—

143           (1) The purpose of the ~~Office of~~ State Long-Term Care  
144 Ombudsman Program ~~is~~ shall be to:

145           (a) Identify, investigate, and resolve complaints made by  
146 or on behalf of residents of long-term care facilities relating  
147 to actions or omissions by providers or representatives of  
148 providers of long-term care services, other public or private  
149 agencies, guardians, or representative payees that may adversely  
150 affect the health, safety, welfare, or rights of the residents.

151           (b) Provide services that assist in protecting the health,  
152 safety, welfare, and rights of residents.

153           (c) Inform residents, their representatives, and other  
154 citizens about obtaining the services of the State Long-Term  
155 Care Ombudsman Program and its representatives.



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156 (d) Ensure that residents have regular and timely access to  
157 the services provided through the State Long-Term Care Program  
158 ~~office~~ and that residents and complainants receive timely  
159 responses from representatives of the State Long-Term Care  
160 Program office to their complaints.

161 (e) Represent the interests of residents before  
162 governmental agencies and seek administrative, legal, and other  
163 remedies to protect the health, safety, welfare, and rights of  
164 the residents.

165 (f) Administer the state and local councils.

166 (g) Analyze, comment on, and monitor the development and  
167 implementation of federal, state, and local laws, rules, and  
168 regulations, and other governmental policies and actions, that  
169 pertain to the health, safety, welfare, and rights of the  
170 residents, with respect to the adequacy of long-term care  
171 facilities and services in the state, and recommend any changes  
172 in such laws, rules, regulations, policies, and actions as the  
173 office determines to be appropriate and necessary.

174 (h) Provide technical support for the development of  
175 resident and family councils to protect the well-being and  
176 rights of residents.

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

179 (a) Establish and coordinate districts and local councils  
180 throughout the state.

181 (b) Perform the duties specified in state and federal law,  
182 rules, and regulations.

183 (c) Within the limits of appropriated federal and state  
184 funding, employ such personnel ~~as are~~ necessary to perform



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185 adequately the functions of the office and provide or contract  
186 for legal services to assist the representatives of the State  
187 Long-Term Care Ombudsman Program ~~state and local councils~~ in the  
188 performance of their duties. Staff positions established for the  
189 purpose of coordinating the activities of each local council and  
190 assisting its members may be filled by the ombudsman after  
191 approval by the secretary. Notwithstanding any other provision  
192 of this part, upon certification by the ombudsman that the staff  
193 member hired to fill any such position has completed the initial  
194 training required under s. 400.0091, such person shall be  
195 considered a representative of the State Long-Term Care  
196 Ombudsman Program for purposes of this part.

197 (d) Contract for services necessary to carry out the  
198 activities of the office.

199 (e) Apply for, receive, and accept grants, gifts, or other  
200 payments, including, but not limited to, real property, personal  
201 property, and services from a governmental entity or other  
202 public or private entity or person, and make arrangements for  
203 the use of such grants, gifts, or payments.

204 (f) Coordinate, to the greatest extent possible, state and  
205 local ombudsman services with the protection and advocacy  
206 systems for individuals with developmental disabilities and  
207 mental illnesses and with legal assistance programs for the poor  
208 through adoption of memoranda of understanding and other means.

209 ~~(g) Enter into a cooperative agreement with the Statewide~~  
210 ~~Advocacy Council for the purpose of coordinating and avoiding~~  
211 ~~duplication of advocacy services provided to residents.~~

212 (g)(h) Enter into a cooperative agreement with the Medicaid  
213 Fraud Division as prescribed under s. 731(e)(2)(B) of the Older



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214 Americans Act.

215        ~~(h)(i)~~ Prepare an annual report describing the activities  
216 carried out by the office, the state council, the districts and  
217 the local councils in the year for which the report is prepared.  
218 The state ombudsman shall submit the report to the secretary,  
219 the United States Assistant Secretary for Aging, the Governor,  
220 the President of the Senate, the Speaker of the House of  
221 Representatives, the Secretary of Children and Families, and the  
222 Secretary of the Agency for Health Care Administration at least  
223 30 days before the convening of the regular session of the  
224 Legislature. ~~The secretary shall in turn submit the report to~~  
225 ~~the United States Assistant Secretary for Aging, the Governor,~~  
226 ~~the President of the Senate, the Speaker of the House of~~  
227 ~~Representatives, the Secretary of Children and Families, and the~~  
228 ~~Secretary of Health Care Administration.~~ The report must shall,  
229 at a minimum:

230            1. Contain and analyze data collected concerning complaints  
231 about and conditions in long-term care facilities and the  
232 disposition of such complaints.

233            2. Evaluate the problems experienced by residents.

234            3. Analyze the successes of the State Long-Term Care  
235 Ombudsman Program ~~ombudsman program~~ during the preceding year,  
236 including an assessment of how successfully the program has  
237 carried out its responsibilities under the Older Americans Act.

238            4. Provide recommendations for policy, regulatory, and  
239 statutory changes designed to solve identified problems; resolve  
240 residents' complaints; improve residents' lives and quality of  
241 care; protect residents' rights, health, safety, and welfare;  
242 and remove any barriers to the optimal operation of the State



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243 Long-Term Care Ombudsman Program.

244 5. Contain recommendations from the State Long-Term Care  
245 Ombudsman Council regarding program functions and activities and  
246 recommendations for policy, regulatory, and statutory changes  
247 designed to protect residents' rights, health, safety, and  
248 welfare.

249 6. Contain any relevant recommendations from the  
250 representatives of the State Long-Term Care Ombudsman Program  
251 ~~local councils~~ regarding program functions and activities.

252 Section 5. Section 400.0067, Florida Statutes, is amended  
253 to read:

254 400.0067 State Long-Term Care Ombudsman Council; duties;  
255 membership.—

256 (1) There is created within the ~~Office of~~ State Long-Term  
257 Care Ombudsman Program, the State Long-Term Care Ombudsman  
258 Council.

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

260 (a) Serve as an advisory body to assist the state ombudsman  
261 in reaching a consensus among districts and local councils on  
262 issues affecting residents and impacting the optimal operation  
263 of the program.

264 (b) Serve as an appellate body in receiving from the  
265 districts or local councils complaints not resolved at the  
266 district or local level. Any individual member or members of the  
267 state council may enter any long-term care facility involved in  
268 an appeal, pursuant to the conditions specified in s.  
269 400.0074(2).

270 (c) Assist the ombudsman to discover, investigate, and  
271 determine the existence of abuse or neglect in any long-term



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272 care facility, and work with the adult protective services  
273 program as required in ss. 415.101-415.113.

274 (d) Assist the ombudsman in eliciting, receiving,  
275 responding to, and resolving complaints made by or on behalf of  
276 residents.

277 (e) Elicit and coordinate state, district, local, and  
278 voluntary organizational assistance for the purpose of improving  
279 the care received by residents.

280 (f) Assist the state ombudsman in preparing the annual  
281 report described in s. 400.0065.

282 (3) The State Long-Term Care Ombudsman Council consists  
283 ~~shall be composed~~ of one active certified ombudsman from each  
284 local council in a district member elected by each local council  
285 plus three at-large members appointed by the Governor.

286 (a) Each local council in a district must select ~~shall~~  
287 ~~elect by majority vote~~ a representative of its choice to serve  
288 ~~from among the council members to represent the interests of the~~  
289 ~~local council~~ on the state council. ~~A local council chair may~~  
290 ~~not serve as the representative of the local council on the~~  
291 ~~state council.~~

292 (b)1. The state ombudsman ~~secretary, after consulting with~~  
293 ~~the ombudsman,~~ shall submit to the secretary ~~Governor~~ a list of  
294 individuals ~~persons~~ recommended for appointment to the at-large  
295 positions on the state council. The list may ~~shall~~ not include  
296 the name of any individual ~~person~~ who is currently serving in a  
297 district ~~on a local council.~~

298 2. The secretary ~~Governor~~ shall appoint three at-large  
299 members chosen from the list.

300 ~~3. If the Governor does not appoint an at-large member to~~



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301 ~~fill a vacant position within 60 days after the list is~~  
302 ~~submitted, the secretary, after consulting with the ombudsman,~~  
303 ~~shall appoint an at-large member to fill that vacant position.~~

304 (4) (a) (e)1. All state council members shall serve 3-year  
305 terms.

306 2. A member of the state council may not serve more than  
307 two consecutive terms.

308 3. A local council may recommend replacement ~~removal~~ of its  
309 selected ~~elected~~ representative from the state council ~~by a~~  
310 ~~majority vote~~. If the council votes to replace ~~remove~~ its  
311 representative, the local council chair shall immediately notify  
312 the state ombudsman. ~~The secretary shall advise the Governor of~~  
313 ~~the local council's vote upon receiving notice from the~~  
314 ~~ombudsman.~~

315 4. The position of any member missing three state council  
316 meetings within a 1-year period without cause may be declared  
317 vacant by the state ombudsman. The findings of the state  
318 ombudsman regarding cause shall be final and binding.

319 (b) 5. Any vacancy on the state council shall be filled in  
320 the same manner as the original appointment.

321 (c) (d)1. The state council shall elect a chair to serve for  
322 a term of 1 year. A chair may not serve more than two  
323 consecutive terms.

324 2. The chair shall select a vice chair from among the  
325 members. The vice chair shall preside over the state council in  
326 the absence of the chair.

327 3. The chair may create additional executive positions as  
328 necessary to carry out the duties of the state council. Any  
329 person appointed to an executive position shall serve at the



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330 pleasure of the chair, and his or her term shall expire on the  
331 same day as the term of the chair.

332 4. A chair may be immediately removed from office before  
333 ~~prior to~~ the expiration of his or her term by a vote of two-  
334 thirds of all state council members present at any meeting at  
335 which a quorum is present. If a chair is removed from office  
336 before ~~prior to~~ the expiration of his or her term, a replacement  
337 chair shall be chosen during the same meeting in the same manner  
338 as described in this paragraph, and the term of the replacement  
339 chair shall begin immediately. The replacement chair shall serve  
340 for the remainder of the term and is eligible to serve two  
341 subsequent consecutive terms.

342 ~~(d)-(e)~~1. The state council shall meet upon the call of the  
343 chair or upon the call of the state ombudsman. The state council  
344 shall meet at least quarterly but may meet more frequently as  
345 needed.

346 2. A quorum shall be considered present if more than 50  
347 percent of all active state council members are in attendance at  
348 the same meeting.

349 3. The state council may not vote on or otherwise make any  
350 decisions resulting in a recommendation that will directly  
351 impact the state council, the district, or any local council,  
352 outside of a publicly noticed meeting at which a quorum is  
353 present.

354 ~~(e)-(f)~~ Members may not shall receive ~~no~~ compensation for  
355 attendance at state council meetings but shall, with approval  
356 from the state ombudsman, be reimbursed for per diem and travel  
357 expenses as provided in s. 112.061.

358 Section 6. Section 400.0069, Florida Statutes, is amended



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359 to read:

360 400.0069 Long-term care ombudsman districts; local long-  
361 term care ombudsman councils; duties; appointment membership.~~-~~

362 (1) (a) The state ombudsman shall designate districts and  
363 each district shall designate local long-term care ombudsman  
364 councils to carry out the duties of the State Long-Term Care  
365 Ombudsman Program within local communities. Each district local  
366 ~~council~~ shall function under the direction of the state  
367 ombudsman.

368 (b) The state ombudsman shall ensure that there is at least  
369 one employee of the department certified as a long-term care  
370 ombudsman and a least one local council operating in each  
371 ~~district of the department's planning and service areas.~~ The  
372 state ombudsman may create additional local councils as  
373 necessary to ensure that residents throughout the state have  
374 adequate access to State Long-Term Care Ombudsman Program  
375 services. ~~The ombudsman, after approval from the secretary,~~  
376 ~~shall designate the jurisdictional boundaries of each local~~  
377 ~~council.~~

378 (c) Each district shall convene a public meeting every  
379 quarter or as needed.

380 (2) The duties of the representatives of the State Long-  
381 Term Care Ombudsman Program local councils are to:

382 (a) Provide services to assist in ~~Serve as a third-party~~  
383 ~~mechanism for~~ protecting the health, safety, welfare, and ~~civil~~  
384 ~~and human~~ rights of residents.

385 (b) Discover, investigate, and determine the existence of  
386 abuse, ~~or~~ neglect, or exploitation in any long-term care  
387 facility and to use the procedures provided for in ss. 415.101-



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388 415.113 when applicable.

389 (c) Identify ~~Elicit, receive,~~ investigate, ~~respond to,~~ and  
390 resolve complaints made by or on behalf of residents relating to  
391 actions or omissions by providers of long-term care services,  
392 other public agencies, guardians, or representative payees which  
393 may adversely affect the health, safety, welfare, or rights of  
394 residents.

395 (d) Review and, if necessary, comment on all existing or  
396 proposed rules, regulations, and other governmental policies and  
397 actions relating to long-term care facilities that may  
398 potentially have an effect on the ~~rights,~~ health, safety,  
399 welfare, and rights welfare of residents.

400 (e) Review personal property and money accounts of  
401 residents who are receiving assistance under the Medicaid  
402 program pursuant to an investigation to obtain information  
403 regarding a specific complaint ~~or problem.~~

404 (f) Recommend that the state ombudsman and the legal  
405 advocate seek administrative, legal, and other remedies to  
406 protect the health, safety, welfare, and rights of ~~the~~  
407 residents.

408 (g) Provide technical assistance for the development of  
409 resident and family councils within long-term care facilities.

410 (h) ~~(g)~~ Carry out other activities that the state ombudsman  
411 determines to be appropriate.

412 (3) In order to carry out the duties specified in  
413 subsection (2), a representative of the State Long-Term Care  
414 Ombudsman Program or a member of a local council is authorized  
415 to enter any long-term care facility without notice or first  
416 obtaining a warrant; however, subject to the provisions of s.



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417 400.0074(2) may apply regarding notice of a followup  
418 administrative assessment.

419 (4) Each district and local council shall be composed of  
420 ombudsmen ~~members~~ whose primary residences are ~~residence is~~  
421 located within the boundaries of the district ~~local council's~~  
422 jurisdiction.

423 (a) Upon good cause shown and with the consent of the  
424 ombudsman, the state ombudsman may appoint an ombudsman to  
425 another district. The ombudsman shall strive to ensure that each  
426 local council include the following persons as members:

427 1. At least one medical or osteopathic physician whose  
428 practice includes or has included a substantial number of  
429 geriatric patients and who may practice in a long-term care  
430 facility;

431 2. At least one registered nurse who has geriatric  
432 experience;

433 3. At least one licensed pharmacist;

434 4. At least one registered dietitian;

435 5. At least six nursing home residents or representative  
436 consumer advocates for nursing home residents;

437 6. At least three residents of assisted living facilities  
438 or adult family-care homes or three representative consumer  
439 advocates for alternative long-term care facility residents;

440 7. At least one attorney; and

441 8. At least one professional social worker.

442 (b) The following individuals may not be appointed as  
443 ombudsmen:

444 1. The owner or representative of a long-term care  
445 facility.



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446           2. A provider or representative of a provider of long-term  
447 care service.

448           3. An employee of the agency.

449           4. An employee of the department, except for staff  
450 certified as ombudsmen in the district offices.

451           5. An employee of the Department of Children and Families.

452           6. An employee of the Agency for Persons with Disabilities.

453           ~~(b) In no case shall the medical director of a long-term~~  
454 ~~care facility or an employee of the agency, the department, the~~  
455 ~~Department of Children and Families, or the Agency for Persons~~  
456 ~~with Disabilities serve as a member or as an ex officio member~~  
457 ~~of a council.~~

458           (5) (a) To be appointed as an ombudsman, an individual must:

459           1. Individuals wishing to join a local council shall Submit  
460 an application to the state ombudsman or his or her designee.  
461 ~~The ombudsman shall review the individual's application and~~  
462 ~~advise the secretary of his or her recommendation for approval~~  
463 ~~or disapproval of the candidate's membership on the local~~  
464 ~~council. If the secretary approves of the individual's~~  
465 ~~membership, the individual shall be appointed as a member of the~~  
466 ~~local council.~~

467           2. Successfully complete a level 2 background screening  
468 pursuant to s. 430.0402 and chapter 435.

469           (b) The state ombudsman shall approve or deny the  
470 appointment of the individual as an ombudsman ~~secretary may~~  
471 ~~rescind the ombudsman's approval of a member on a local council~~  
472 ~~at any time. If the state ombudsman~~ ~~secretary~~ ~~rescinds the~~  
473 ~~approval of a member on a local council, the state ombudsman~~  
474 ~~shall ensure that the individual is immediately removed from the~~



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475 local council on which he or she serves and the individual may  
476 no longer represent the State Long-Term Care Ombudsman Program  
477 until the state ombudsman ~~secretary~~ provides his or her  
478 approval.

479 (c) Upon appointment as an ombudsman, the individual may  
480 participate in district activities but may not represent the  
481 program or conduct any authorized program duties until the  
482 individual has completed the initial training specified in s.  
483 400.0091(1) and has been certified by the state ombudsman.

484 (d) The state ombudsman may rescind the appointment of an  
485 individual as an ombudsman for good cause shown, such as  
486 development of a conflict of interest, failure to adhere to the  
487 policies and procedures established by the State Long Term Care  
488 Program, or demonstrative inability to carry out the  
489 responsibilities of the State Long Term Care Program. After the  
490 appointment is rescinded, the individual may not conduct any  
491 duties as an ombudsman and may not represent the State Long-Term  
492 Care Ombudsman Program.

493 (e) ~~(e)~~ A local council may recommend the removal of one or  
494 more of its members by submitting to the state ombudsman a  
495 resolution adopted by a two-thirds vote of the members of the  
496 council stating the name of the member or members recommended  
497 for removal and the reasons for the recommendation. If such a  
498 recommendation is adopted by a local council, the local council  
499 chair or district manager ~~coordinator~~ shall immediately report  
500 the council's recommendation to the state ombudsman. The state  
501 ombudsman shall review the recommendation of the local council  
502 and advise the district manager and local council chair  
503 ~~secretary~~ of his or her decision ~~recommendation~~ regarding



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504 removal of the council member or members.

505 (6) (a) Each local council shall elect a chair for a term of  
506 1 year. There shall be no limitation on the number of terms that  
507 an approved member of a local council may serve as chair.

508 (b) The chair shall select a vice chair from among the  
509 members of the council. The vice chair shall preside over the  
510 council in the absence of the chair.

511 (c) The chair may create additional executive positions as  
512 necessary to carry out the duties of the local council. Any  
513 person appointed to an executive position shall serve at the  
514 pleasure of the chair, and his or her term shall expire on the  
515 same day as the term of the chair.

516 (d) A chair may be immediately removed from office prior to  
517 the expiration of his or her term by a vote of two-thirds of the  
518 members of the local council. If any chair is removed from  
519 office before ~~prior to~~ the expiration of his or her term, a  
520 replacement chair shall be elected during the same meeting, and  
521 the term of the replacement chair shall begin immediately. The  
522 replacement chair shall serve for the remainder of the term of  
523 the person he or she replaced.

524 (7) Each local council shall meet upon the call of its  
525 chair or upon the call of the ombudsman. Each local council  
526 shall meet at least once a month but may meet more frequently if  
527 necessary.

528 (8) An ombudsman may not ~~A member of a local council shall~~  
529 receive ~~no~~ compensation but shall, with approval from the state  
530 ombudsman, be reimbursed for travel expenses ~~both within and~~  
531 ~~outside the jurisdiction of the local council~~ in accordance with  
532 the provisions of s. 112.061.



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533           (9) A representative of the State Long-Term Care Ombudsman  
534 Program may ~~The local councils are authorized to~~ call upon  
535 appropriate state agencies ~~of state government~~ for such  
536 professional assistance as ~~may be~~ needed in the discharge of his  
537 or her ~~their~~ duties, and such. ~~All~~ state agencies shall  
538 cooperate ~~with the local councils~~ in providing requested  
539 information and agency representation ~~at council meetings.~~

540           Section 7. Section 400.0070, Florida Statutes, is amended  
541 to read:

542           400.0070 Conflicts of interest.—

543           (1) A representative of the State Long-Term Care Ombudsman  
544 Program may ~~The ombudsman shall~~ not:

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

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

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

555           (2) Each representative of the State Long-Term Care  
556 Ombudsman Program ~~employee of the office, each state council~~  
557 ~~member, and each local council member~~ shall certify that he or  
558 she does not have a ~~has no~~ conflict of interest.

559           (3) The department, in consultation with the state  
560 ombudsman, shall define by rule:

561           (a) Situations that constitute a ~~person having a~~ conflict



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562 of interest which ~~that~~ could materially affect the objectivity  
563 or capacity of an individual ~~a person~~ to serve as a  
564 representative of the State Long-Term Care Ombudsman Program  
565 while carrying out the purposes of the State Long-Term Care  
566 Program as specified in this part ~~on an ombudsman council, or as~~  
567 ~~an employee of the office, while carrying out the purposes of~~  
568 ~~the State Long-Term Care Ombudsman Program as specified in this~~  
569 ~~part.~~

570 (b) The procedure by which an individual ~~a person~~ listed in  
571 subsection (2) must ~~shall~~ certify that he or she does not have a  
572 ~~has no~~ conflict of interest.

573 Section 8. Section 400.0071, Florida Statutes, is amended  
574 to read:

575 400.0071 State Long-Term Care Ombudsman Program complaint  
576 procedures.—The department, in consultation with the state  
577 ombudsman, shall adopt rules implementing state and local  
578 complaint procedures. The rules must include procedures for  
579 receiving, investigating, identifying, and resolving complaints  
580 concerning the health, safety, welfare, and rights of  
581 residents.÷

582 ~~(1) Receiving complaints against a long-term care facility~~  
583 ~~or an employee of a long-term care facility.~~

584 ~~(2) Conducting investigations of a long-term care facility~~  
585 ~~or an employee of a long-term care facility subsequent to~~  
586 ~~receiving a complaint.~~

587 ~~(3) Conducting onsite administrative assessments of long-~~  
588 ~~term care facilities.~~

589 Section 9. Section 400.0073, Florida Statutes, is amended  
590 to read:



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591 400.0073 State and local ombudsman council investigations.-

592 (1) A representative of the State Long-Term Care Ombudsman  
593 Program local council shall identify and investigate, within a  
594 reasonable time after a complaint is made, by or on behalf any  
595 complaint of a resident relating to actions or omissions by  
596 providers or representatives of providers of long-term care  
597 services, other public agencies, guardians, or representative  
598 payees which may adversely affect the health, safety, welfare,  
599 or rights of residents., ~~a representative of a resident, or any~~  
600 ~~other credible source based on an action or omission by an~~  
601 ~~administrator, an employee, or a representative of a long-term~~  
602 ~~care facility which might be:~~

- 603 (a) ~~Contrary to law;~~  
604 (b) ~~Unreasonable, unfair, oppressive, or unnecessarily~~  
605 ~~discriminatory, even though in accordance with law;~~  
606 (c) ~~Based on a mistake of fact;~~  
607 (d) ~~Based on improper or irrelevant grounds;~~  
608 (e) ~~Unaccompanied by an adequate statement of reasons;~~  
609 (f) ~~Performed in an inefficient manner; or~~  
610 (g) ~~Otherwise adversely affecting the health, safety,~~  
611 ~~welfare, or rights of a resident.~~

612 (2) ~~In an investigation, both the state and local councils~~  
613 ~~have the authority to hold public hearings.~~

614 (2)~~(3)~~ Subsequent to an appeal from a local council, the  
615 state council may investigate any complaint received by the  
616 local council involving a long-term care facility or a resident.

617 (3)~~(4)~~ If a representative of the State Long-Term Care  
618 Ombudsman Program ~~the ombudsman or any state or local council~~  
619 ~~member~~ is not allowed to enter a long-term care facility, the



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620 administrator of the facility shall be considered to have  
621 interfered with a representative of the State Long-Term Care  
622 Ombudsman Program office, ~~the state council, or the local~~  
623 ~~council~~ in the performance of official duties as described in s.  
624 400.0083(1) and to have violated ~~committed a violation of~~ this  
625 part. The representative of the State Long-Term Care Ombudsman  
626 Program ombudsman shall report a facility's refusal to allow  
627 entry to the state ombudsman or his or her designee, who shall  
628 report the incident to the agency, and the agency shall record  
629 the report and take it into consideration when determining  
630 actions allowable under s. 400.102, s. 400.121, s. 429.14, s.  
631 429.19, s. 429.69, or s. 429.71.

632 Section 10. Section 400.0074, Florida Statutes, is amended  
633 to read:

634 400.0074 Local ombudsman council onsite administrative  
635 assessments.—

636 (1) A representative of the State Long-Term Care Ombudsman  
637 Program shall ~~In addition to any specific investigation~~  
638 ~~conducted pursuant to a complaint, the local council shall~~  
639 conduct, at least annually, an onsite administrative assessment  
640 of each nursing home, assisted living facility, and adult  
641 family-care home ~~within its jurisdiction~~. This administrative  
642 assessment must be resident-centered and must ~~shall~~ focus on  
643 factors affecting the rights, health, safety, and welfare of the  
644 residents. Each local council is encouraged to conduct a similar  
645 onsite administrative assessment of each additional long-term  
646 care facility within its jurisdiction.

647 (2) An onsite administrative assessment conducted by a  
648 local council shall be subject to the following conditions:



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649 (a) To the extent possible and reasonable, the  
650 administrative assessment may ~~assessments shall~~ not duplicate  
651 the efforts of ~~the agency~~ surveys and inspections of long-term  
652 care facilities conducted by state agencies ~~under part II of~~  
653 ~~this chapter and parts I and II of chapter 429.~~

654 (b) An administrative assessment shall be conducted at a  
655 time and for a duration necessary to produce the information  
656 required to complete the assessment ~~carry out the duties of the~~  
657 ~~local council.~~

658 (c) Advance notice of an administrative assessment may not  
659 be provided to a long-term care facility, except that notice of  
660 followup assessments on specific problems may be provided.

661 (d) A representative of the State Long-Term Care Ombudsman  
662 Program ~~local council member~~ physically present for the  
663 administrative assessment must ~~shall~~ identify himself or herself  
664 to the administrator ~~and cite the specific statutory authority~~  
665 ~~for his or her assessment~~ of the facility or his or her  
666 designee.

667 (e) An administrative assessment may not unreasonably  
668 interfere with the programs and activities of residents.

669 (f) A representative of the State Long-Term Care Ombudsman  
670 Program ~~local council member~~ may not enter a single-family  
671 residential unit within a long-term care facility during an  
672 administrative assessment without the permission of the resident  
673 or the representative of the resident.

674 (g) An administrative assessment must be conducted in a  
675 manner that does not impose an ~~will impose no~~ unreasonable  
676 burden on a long-term care facility.

677 (3) Regardless of jurisdiction, the state ombudsman may



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678 authorize a state or local council member to assist another  
679 local council to perform the administrative assessments  
680 described in this section.

681 (4) An onsite administrative assessment may not be  
682 accomplished by forcible entry. However, if a representative of  
683 the State Long-Term Care Ombudsman Program ~~the ombudsman or a~~  
684 ~~state or local council member~~ is not allowed to enter a long-  
685 term care facility, the administrator of the facility shall be  
686 considered to have interfered with a representative of the State  
687 Long-Term Care Ombudsman Program office, ~~the state council, or~~  
688 ~~the local council~~ in the performance of official duties as  
689 described in s. 400.0083(1) and to have committed a violation of  
690 this part. The representative of the State Long-Term Care  
691 Ombudsman Program ~~ombudsman~~ shall report the refusal by a  
692 facility to allow entry to the state ombudsman or his or her  
693 designee, who shall report the incident to the agency, and the  
694 agency shall record the report and take it into consideration  
695 when determining actions allowable under s. 400.102, s. 400.121,  
696 s. 429.14, s. 429.19, s. 429.69, or s. 429.71.

697 (5) The department, in consultation with the state  
698 ombudsman, may adopt rules implementing procedures for  
699 conducting onsite administrative assessments of long-term care  
700 facilities.

701 Section 11. Section 400.0075, Florida Statutes, is amended  
702 to read:

703 400.0075 Complaint notification and resolution procedures.—

704 (1) (a) Any complaint ~~or problem~~ verified by a  
705 representative of the State Long-Term Care Ombudsman Program ~~an~~  
706 ~~ombudsman council~~ as a result of an investigation which is



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707 determined by the local council to require remedial action may  
708 ~~or onsite administrative assessment, which complaint or problem~~  
709 ~~is determined to require remedial action by the local council,~~  
710 ~~shall~~ be identified and brought to the attention of the long-  
711 term care facility administrator subject to the confidentiality  
712 provisions of s. 400.0077 ~~in writing~~. Upon receipt of the  
713 information ~~such document~~, the administrator, with the  
714 concurrence of the representative of the State Long-Term Care  
715 Ombudsman Program ~~local council chair~~, shall establish target  
716 dates for taking appropriate remedial action. If, by the target  
717 date, the remedial action is not completed or forthcoming, the  
718 representative of the State Long-Term Care Ombudsman Program may  
719 extend the target date if there is reason to believe such action  
720 would facilitate the resolution of the complaint, or the  
721 representative of the State Long-Term Care Ombudsman Program may  
722 refer the complaint to the district manager who may refer the  
723 complaint to the state council. ~~local council chair may, after~~  
724 ~~obtaining approval from the ombudsman and a majority of the~~  
725 ~~members of the local council:~~

726 ~~1. Extend the target date if the chair has reason to~~  
727 ~~believe such action would facilitate the resolution of the~~  
728 ~~complaint.~~

729 ~~2. In accordance with s. 400.0077, publicize the complaint,~~  
730 ~~the recommendations of the council, and the response of the~~  
731 ~~long term care facility.~~

732 ~~3. Refer the complaint to the state council.~~

733 (b) If the representative of the State Long-Term Care  
734 Ombudsman Program determines ~~local council chair believes~~ that  
735 the health, safety, welfare, or rights of a ~~the~~ resident are in



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736 imminent danger, the representative of the State Long-Term Care  
737 Ombudsman Program must immediately ~~the chair shall~~ notify the  
738 district manager and local council chair. ~~ombudsman or legal~~  
739 ~~advocate, who,~~ The district manager or local council chair,  
740 after verifying that such imminent danger exists, must notify  
741 the appropriate state agencies, including law enforcement  
742 agencies, the state ombudsman, and the legal advocate to ensure  
743 the protection of ~~shall seek immediate legal or administrative~~  
744 ~~remedies to protect~~ the resident.

745 (c) If the state ombudsman or legal advocate has reason to  
746 believe that the long-term care facility or an employee of the  
747 facility has committed a criminal act, the state ombudsman or  
748 legal advocate shall provide the local law enforcement agency  
749 with the relevant information to initiate an investigation of  
750 the case.

751 (2) ~~(a)~~ Upon referral from a district or local council, the  
752 state ombudsman or his or her designee ~~council~~ shall assume the  
753 responsibility for the disposition of the complaint. If a long-  
754 term care facility fails to take action to resolve or remedy the  
755 ~~on a complaint by the state council,~~ the state ombudsman ~~council~~  
756 may, ~~after obtaining approval from the ombudsman and a majority~~  
757 ~~of the state council members:~~

758 (a)1. In accordance with s. 400.0077, publicize the  
759 complaint, the recommendations of the local or state council,  
760 and the response of the long-term care facility.

761 (b)2. Recommend to the department and the agency a series  
762 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
763 429.67 to ensure correction and nonrecurrence of the conditions  
764 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a



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765 long-term care facility.

766 ~~(c)3.~~ Recommend to the department and the agency that the  
767 long-term care facility no longer receive payments under any  
768 state assistance program, including Medicaid.

769 ~~(d)4.~~ Recommend to the department and the agency that  
770 procedures be initiated for action against ~~revocation of~~ the  
771 long-term care facility's license in accordance with chapter  
772 120.

773 ~~(b) If the state council chair believes that the health,~~  
774 ~~safety, welfare, or rights of the resident are in imminent~~  
775 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
776 ~~who, after verifying that such imminent danger exists, shall~~  
777 ~~seek immediate legal or administrative remedies to protect the~~  
778 ~~resident.~~

779 ~~(3)(e)~~ If the state ombudsman, after consultation with the  
780 legal advocate, has reason to believe that the long-term care  
781 facility or an employee of the facility has committed a criminal  
782 act, the state ombudsman shall provide the local law enforcement  
783 agency with the relevant information to initiate an  
784 investigation of the case.

785 Section 12. Section 400.0078, Florida Statutes, is amended  
786 to read:

787 400.0078 Citizen access to State Long-Term Care Ombudsman  
788 Program services.—

789 (1) The office shall establish a statewide toll-free  
790 telephone number and e-mail address for receiving complaints  
791 concerning matters adversely affecting the health, safety,  
792 welfare, or rights of residents.

793 ~~(2) Every resident or representative of a resident shall~~



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794 ~~receive,~~ Upon admission to a long-term care facility, each  
795 resident or representative of a resident must receive  
796 information regarding:

797 (a) The purpose of the State Long-Term Care Ombudsman  
798 Program;

799 (b) The statewide toll-free telephone number and e-mail  
800 address for receiving complaints;~~and~~

801 (c) Information that retaliatory action cannot be taken  
802 against a resident for presenting grievances or for exercising  
803 any other resident rights.

804 (d) Other relevant information regarding how to contact  
805 representatives of the State Long Term Care Ombudsman Program  
806 ~~the program.~~

807  
808 Residents or their representatives must be furnished  
809 additional copies of this information upon request.

810 Section 13. Section 400.0079, Florida Statutes, is amended  
811 to read:

812 400.0079 Immunity.—

813 (1) Any person making a complaint pursuant to this part who  
814 does so in good faith shall be immune from any liability, civil  
815 or criminal, that otherwise might be incurred or imposed as a  
816 direct or indirect result of making the complaint.

817 (2) Representatives of the State Long-Term Care Ombudsman  
818 Program are ~~The ombudsman or any person authorized by the~~  
819 ~~ombudsman to act on behalf of the office, as well as all members~~  
820 ~~of the state and local councils,~~ shall be immune from any  
821 liability, civil or criminal, that otherwise might be incurred  
822 or imposed during the good faith performance of official duties.



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823 Section 14. Section 400.0081, Florida Statutes, is amended  
824 to read:

825 400.0081 Access to facilities, residents, and records.—

826 (1) A long-term care facility shall provide representatives  
827 of the State Long-Term Care Program with ~~the office, the state~~  
828 ~~council and its members, and the local councils and their~~  
829 ~~members~~ access to:

830 (a) ~~Any portion of~~ The long-term care facility and its  
831 residents ~~any resident as necessary to investigate or resolve a~~  
832 ~~complaint.~~

833 (b) Where appropriate, medical and social records of a  
834 resident for review ~~as necessary to investigate or resolve a~~  
835 ~~complaint,~~ if:

836 1. The representative of the State Long-Term Care Ombudsman  
837 Program office has the permission of the resident or the legal  
838 representative of the resident; or

839 2. The resident is unable to consent to the review and does  
840 not have a ~~has no~~ legal representative.

841 (c) Medical and social records of a ~~the~~ resident as  
842 necessary to investigate ~~or resolve~~ a complaint, if:

843 1. A legal representative or guardian of the resident  
844 refuses to give permission;

845 2. The representative of the State Long-Term Care Ombudsman  
846 Program office has reasonable cause to believe that the legal  
847 representative or guardian is not acting in the best interests  
848 of the resident; and

849 3. The representative of the State Long-Term Care Ombudsman  
850 Program ~~state or local council member~~ obtains the approval of  
851 the state ombudsman.



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852 (d) Access to ~~The~~ administrative records, policies, and  
853 documents to which residents or the general public have access.

854 (e) Upon request, copies of all licensing and certification  
855 records maintained by the state with respect to a long-term care  
856 facility.

857 (2) The department, in consultation with the state  
858 ~~ombudsman and the state council~~, may adopt rules to establish  
859 procedures to ensure access to facilities, residents, and  
860 records as described in this section.

861 Section 15. Section 400.0083, Florida Statutes, is amended  
862 to read:

863 400.0083 Interference; retaliation; penalties.—

864 (1) ~~A It shall be unlawful for any person, long-term care~~  
865 ~~facility, or other entity~~ may not ~~to~~ willfully interfere with a  
866 representative of the State Long-Term Care Ombudsman Program  
867 ~~office, the state council, or a local council~~ in the performance  
868 of official duties.

869 (2) ~~A It shall be unlawful for any person, long-term care~~  
870 ~~facility, or other entity~~ may not ~~to~~ knowingly or willfully take  
871 action or retaliate against any resident, employee, or other  
872 person for filing a complaint with, providing information to, or  
873 otherwise cooperating with any representative of the State Long  
874 Term-Care Ombudsman Program ~~office, the state council, or a~~  
875 ~~local council~~.

876 (3) ~~A Any~~ person, long-term care facility, or other entity  
877 that violates this section:

878 (a) Is ~~shall be~~ liable for damages and equitable relief as  
879 determined by law.

880 (b) Commits a misdemeanor of the second degree, punishable



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881 as provided in s. 775.083.

882 Section 16. Section 400.0087, Florida Statutes, is amended  
883 to read:

884 400.0087 Department oversight; funding.—

885 (1) The department shall meet the costs associated with the  
886 State Long-Term Care Ombudsman Program from funds appropriated  
887 to it.

888 (a) The department shall include the costs associated with  
889 support of the State Long-Term Care Ombudsman Program when  
890 developing its budget requests for consideration by the Governor  
891 and submittal to the Legislature.

892 (b) The department may divert from the federal ombudsman  
893 appropriation an amount equal to the department's administrative  
894 cost ratio to cover the costs associated with administering the  
895 State Long-Term Care Ombudsman Program. The remaining allotment  
896 from the Older Americans Act program shall be expended on direct  
897 ombudsman activities.

898 (2) The department shall monitor the State Long-Term Care  
899 Ombudsman Program ~~office~~, the state council, and the local  
900 councils to ensure that each is carrying out the duties  
901 delegated to it by state and federal law.

902 (3) The department is responsible for ensuring that the  
903 State Long-Term Care Ombudsman Program ~~office~~:

904 (a) Has the objectivity and independence required to  
905 qualify it for funding under the federal Older Americans Act.

906 (b) Provides information to public and private agencies,  
907 legislators, and others.

908 (c) Provides appropriate training to representatives of the  
909 State Long-Term Care Ombudsman Office ~~or of the state or local~~



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910 ~~councils.~~

911 (d) Coordinates ombudsman services with Disability Rights  
912 Florida, the Advocacy Center for Persons with Disabilities and  
913 with providers of legal services to residents of long-term care  
914 facilities in compliance with state and federal laws.

915 (4) The department shall also:

916 (a) Receive and disburse state and federal funds for  
917 purposes that the state ombudsman has formulated in accordance  
918 with the Older Americans Act.

919 (b) Whenever necessary, act as liaison between agencies and  
920 branches of the federal and state governments and the State  
921 Long-Term Care Ombudsman Program.

922 Section 17. Section 400.0089, Florida Statutes, is amended  
923 to read:

924 400.0089 Complaint data reports.—The State Long-Term Care  
925 Ombudsman Program ~~office~~ shall maintain a statewide uniform  
926 reporting system to collect and analyze data relating to  
927 complaints and conditions in long-term care facilities and to  
928 residents for the purpose of identifying and resolving  
929 complaints ~~significant problems. The office shall publish~~  
930 ~~quarterly and make readily available~~ Information pertaining to  
931 the number and types of complaints received by the State Long-  
932 Term Care Ombudsman Program shall be published quarterly and  
933 made readily available and shall include such information in the  
934 annual report required under s. 400.0065.

935 Section 18. Section 400.0091, Florida Statutes, is amended  
936 to read:

937 400.0091 Training.—The state ombudsman shall ensure that  
938 appropriate training is provided to all representatives of the



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939 State Long-Term Care Ombudsman Program ~~employees of the office~~  
940 ~~and to the members of the state and local councils.~~

941 (1) All representatives of the State Long-Term Care  
942 Ombudsman Program ~~state and local council members and employees~~  
943 ~~of the office~~ shall be given a minimum of 20 hours of training  
944 upon employment with the State Long-Term Care Ombudsman Program  
945 ~~office~~ or appointment as an ombudsman. Ten approval as a state  
946 ~~or local council member and 10 hours of training in the form of~~  
947 continuing education is required annually thereafter.

948 (2) The state ombudsman shall approve the curriculum for  
949 the initial and continuing education training, which must, at a  
950 minimum, address:

951 (a) Resident confidentiality.  
952 (b) Guardianships and powers of attorney.  
953 (c) Medication administration.  
954 (d) Care and medication of residents with dementia and  
955 Alzheimer's disease.

956 (e) Accounting for residents' funds.  
957 (f) Discharge rights and responsibilities.  
958 (g) Cultural sensitivity.

959 (h) Any other topic related to residency in a long-term  
960 care facility recommended by the secretary.

961 (3) An individual ~~No employee, officer, or representative~~  
962 ~~of the office or of the state or local councils,~~ other than the  
963 state ombudsman, may not hold himself or herself out as a  
964 representative of the State Long-Term Care Ombudsman Program or  
965 conduct any authorized program duty described in this part  
966 unless the individual ~~person~~ has received the training required  
967 by this section and has been certified by the state ombudsman as



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968 qualified to carry out ombudsman activities on behalf of the  
969 office or the state or local councils.

970 Section 19. Subsection (4) of section 20.41, Florida  
971 Statutes, is amended to read:

972 20.41 Department of Elderly Affairs.—There is created a  
973 Department of Elderly Affairs.

974 (4) The department shall administer the State Long-Term  
975 Care Ombudsman Program Council, created by s. 400.0063 ~~400.0067~~,  
976 ~~and the local long-term care ombudsman councils, created by s.~~  
977 ~~400.0069~~ and shall, as required by s. 712 of the federal Older  
978 Americans Act of 1965, ensure that ~~both~~ the State Long Term Care  
979 Ombudsman Program operates ~~state and local long-term care~~  
980 ~~ombudsman councils operate~~ in compliance with the Older  
981 Americans Act.

982 Section 20. Subsections (14) through (19) of section  
983 400.021, Florida Statutes, are amended to read:

984 400.021 Definitions.—When used in this part, unless the  
985 context otherwise requires, the term:

986 (14) "Office" has the same meaning as in s. 400.0060.

987 (15)~~(14)~~ "Planning and service area" means the geographic  
988 area in which the Older Americans Act programs are administered  
989 and services are delivered by the Department of Elderly Affairs.

990 (16) "Representative of the State Long Term Care Ombudsman  
991 Program" has the same meaning as in s. 400.0060.

992 (17)~~(15)~~ "Respite care" means admission to a nursing home  
993 for the purpose of providing a short period of rest or relief or  
994 emergency alternative care for the primary caregiver of an  
995 individual receiving care at home who, without home-based care,  
996 would otherwise require institutional care.



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997            (18)~~(16)~~ "Resident care plan" means a written plan  
998 developed, maintained, and reviewed not less than quarterly by a  
999 registered nurse, with participation from other facility staff  
1000 and the resident or his or her designee or legal representative,  
1001 which includes a comprehensive assessment of the needs of an  
1002 individual resident; the type and frequency of services required  
1003 to provide the necessary care for the resident to attain or  
1004 maintain the highest practicable physical, mental, and  
1005 psychosocial well-being; a listing of services provided within  
1006 or outside the facility to meet those needs; and an explanation  
1007 of service goals.

1008            (19)~~(17)~~ "Resident designee" means a person, other than the  
1009 owner, administrator, or employee of the facility, designated in  
1010 writing by a resident or a resident's guardian, if the resident  
1011 is adjudicated incompetent, to be the resident's representative  
1012 for a specific, limited purpose.

1013            (20)~~(18)~~ "State Long Term Care Ombudsman Program ombudsman  
1014 council" has the same meaning as in s. 400.0060 ~~means the State~~  
1015 ~~Long Term Care Ombudsman Council established pursuant to s.~~  
1016 ~~400.0067.~~

1017            (21)~~(19)~~ "Therapeutic spa services" means bathing, nail,  
1018 and hair care services and other similar services related to  
1019 personal hygiene.

1020            Section 21. Paragraph (c) of subsection (1) and subsections  
1021 (2), and (3) of section 400.022, Florida Statutes, are amended  
1022 to read:

1023            400.022 Residents' rights.—

1024            (1) All licensees of nursing home facilities shall adopt  
1025 and make public a statement of the rights and responsibilities



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1026 of the residents of such facilities and shall treat such  
1027 residents in accordance with the provisions of that statement.  
1028 The statement shall assure each resident the following:

1029 (c) Any entity or individual that provides health, social,  
1030 legal, or other services to a resident has the right to have  
1031 reasonable access to the resident. The resident has the right to  
1032 deny or withdraw consent to access at any time by any entity or  
1033 individual. Notwithstanding the visiting policy of the facility,  
1034 the following individuals must be permitted immediate access to  
1035 the resident:

1036 1. Any representative of the federal or state government,  
1037 including, but not limited to, representatives of the Department  
1038 of Children and Families, the Department of Health, the Agency  
1039 for Health Care Administration, the Office of the Attorney  
1040 General, and the Department of Elderly Affairs; any law  
1041 enforcement officer; any representative of the State Long Term  
1042 Care Ombudsman Program ~~members of the state or local ombudsman~~  
1043 ~~council~~; and the resident's individual physician.

1044 2. Subject to the resident's right to deny or withdraw  
1045 consent, immediate family or other relatives of the resident.

1046  
1047 The facility must allow representatives of the State Long-Term  
1048 Care Ombudsman Program Council ~~Council~~ to examine a resident's clinical  
1049 records with the permission of the resident or the resident's  
1050 legal representative and consistent with state law.

1051 (2) The licensee for each nursing home shall orally inform  
1052 the resident of the resident's rights and provide a copy of the  
1053 statement required by subsection (1) to each resident or the  
1054 resident's legal representative at or before the resident's



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1055 admission to a facility. The licensee shall provide a copy of  
1056 the resident's rights to each staff member of the facility. Each  
1057 such licensee shall prepare a written plan and provide  
1058 appropriate staff training to implement the provisions of this  
1059 section. The written statement of rights must include a  
1060 statement that a resident may file a complaint with the agency  
1061 or state or local ombudsman council. The statement must be in  
1062 boldfaced type and ~~shall~~ include the ~~name, address, and~~  
1063 telephone number and e-mail address of the State Long Term Care  
1064 Ombudsman Program, the numbers of the local ombudsman council  
1065 and the Elder Abuse Hotline operated by the Department of  
1066 Children and Families ~~central abuse hotline where complaints may~~  
1067 ~~be lodged.~~

1068 (3) Any violation of the resident's rights set forth in  
1069 this section constitutes ~~shall constitute~~ grounds for action by  
1070 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or  
1071 part II of chapter 408. In order to determine whether the  
1072 licensee is adequately protecting residents' rights, the  
1073 licensure inspection of the facility must ~~shall~~ include private  
1074 informal conversations with a sample of residents to discuss  
1075 residents' experiences within the facility with respect to  
1076 rights specified in this section and general compliance with  
1077 standards, ~~and~~ consultation with the State Long-Term Care  
1078 Ombudsman Program ~~ombudsman council in the local planning and~~  
1079 ~~service area of the Department of Elderly Affairs in which the~~  
1080 ~~nursing home is located.~~

1081 Section 22. Subsections (8), (9), and (11) through (14) of  
1082 section 400.0255, Florida Statutes, are amended to read:

1083 400.0255 Resident transfer or discharge; requirements and



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1084 procedures; hearings.-

1085           (8) The notice required by subsection (7) must be in  
1086 writing and must contain all information required by state and  
1087 federal law, rules, or regulations applicable to Medicaid or  
1088 Medicare cases. The agency shall develop a standard document to  
1089 be used by all facilities licensed under this part for purposes  
1090 of notifying residents of a discharge or transfer. Such document  
1091 must include a means for a resident to request the local long-  
1092 term care ombudsman council to review the notice and request  
1093 information about or assistance with initiating a fair hearing  
1094 with the department's Office of Appeals Hearings. In addition to  
1095 any other pertinent information included, the form shall specify  
1096 the reason allowed under federal or state law that the resident  
1097 is being discharged or transferred, with an explanation to  
1098 support this action. Further, the form must ~~shall~~ state the  
1099 effective date of the discharge or transfer and the location to  
1100 which the resident is being discharged or transferred. The form  
1101 must ~~shall~~ clearly describe the resident's appeal rights and the  
1102 procedures for filing an appeal, including the right to request  
1103 the local ombudsman council ~~to~~ review the notice of discharge or  
1104 transfer. A copy of the notice must be placed in the resident's  
1105 clinical record, and a copy must be transmitted to the  
1106 resident's legal guardian or representative and to the local  
1107 ombudsman council within 5 business days after signature by the  
1108 resident or resident designee.

1109           (9) A resident may request that the State Long-Term Care  
1110 Ombudsman Program or local ombudsman council review any notice  
1111 of discharge or transfer given to the resident. When requested  
1112 by a resident to review a notice of discharge or transfer, the



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1113 local ombudsman council shall do so within 7 days after receipt  
1114 of the request. The nursing home administrator, or the  
1115 administrator's designee, must forward the request for review  
1116 contained in the notice to the State Long-Term Care Ombudsman  
1117 Program or local ombudsman council within 24 hours after such  
1118 request is submitted. Failure to forward the request within 24  
1119 hours after the request is submitted shall toll the running of  
1120 the 30-day advance notice period until the request has been  
1121 forwarded.

1122 (11) Notwithstanding paragraph (10) (b), an emergency  
1123 discharge or transfer may be implemented as necessary pursuant  
1124 to state or federal law during the ~~period of~~ time after the  
1125 notice is given and before the time a hearing decision is  
1126 rendered. Notice of an emergency discharge or transfer to the  
1127 resident, the resident's legal guardian or representative, and  
1128 the State Long-Term Care Ombudsman Program or the local  
1129 ombudsman council if requested pursuant to subsection (9) must  
1130 be by telephone or in person. This notice shall be given before  
1131 the transfer, if possible, or as soon thereafter as practicable.  
1132 The State Long-Term Care Ombudsman Program or a local  
1133 ombudsman council conducting a review under this subsection  
1134 shall do so within 24 hours after receipt of the request. The  
1135 resident's file must be documented to show who was contacted,  
1136 whether the contact was by telephone or in person, and the date  
1137 and time of the contact. If the notice is not given in writing,  
1138 written notice meeting the requirements of subsection (8) must  
1139 be given the next working day.

1140 (12) After receipt of any notice required under this  
1141 section, the State Long-Term Care Ombudsman Program or local



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1142 ombudsman council may request a private informal conversation  
1143 with a resident to whom the notice is directed, and, if known, a  
1144 family member or the resident's legal guardian or designee, to  
1145 ensure that the facility is proceeding with the discharge or  
1146 transfer in accordance with ~~the requirements of~~ this section. If  
1147 requested, the State Long-Term Care Ombudsman Program or the  
1148 local ombudsman council shall assist the resident with filing an  
1149 appeal of the proposed discharge or transfer.

1150 (13) The following persons must be present at all hearings  
1151 authorized under this section:

1152 (a) The resident, or the resident's legal representative or  
1153 designee.

1154 (b) The facility administrator, or the facility's legal  
1155 representative or designee.

1156  
1157 A representative of the State Long-Term Care Ombudsman Program  
1158 or the local long-term care ombudsman council may be present at  
1159 all hearings authorized by this section.

1160 (14) In any hearing under this section, the following  
1161 information concerning the parties shall be confidential and  
1162 exempt from ~~the provisions of~~ s. 119.07(1):

1163 (a) Names and addresses.

1164 (b) Medical services provided.

1165 (c) Social and economic conditions or circumstances.

1166 (d) Evaluation of personal information.

1167 (e) Medical data, including diagnosis and past history of  
1168 disease or disability.

1169 (f) Any information received verifying income eligibility  
1170 and amount of medical assistance payments. Income information



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1171 received from the Social Security Administration or the Internal  
1172 Revenue Service must be safeguarded according to the  
1173 requirements of the agency that furnished the data.

1174  
1175 The exemption created by this subsection does not prohibit  
1176 access to such information by the State Long-Term Care Ombudsman  
1177 Program or a local long-term care ombudsman council upon  
1178 request, by a reviewing court if such information is required to  
1179 be part of the record upon subsequent review, or as specified in  
1180 s. 24(a), Art. I of the State Constitution.

1181 Section 23. Paragraph (d) of subsection (5) of section  
1182 400.162, Florida Statutes, is amended to read:

1183 400.162 Property and personal affairs of residents.—

1184 (5)

1185 (d) If, at any time during the period for which a license  
1186 is issued, a licensee that has not purchased a surety bond or  
1187 entered into a self-insurance agreement, as provided in  
1188 paragraphs (b) and (c), is requested to provide safekeeping for  
1189 the personal funds of a resident, the licensee shall notify the  
1190 agency of the request and make application for a surety bond or  
1191 for participation in a self-insurance agreement within 7 days  
1192 after ~~of~~ the request, exclusive of weekends and holidays. Copies  
1193 of the application, along with written documentation of related  
1194 correspondence with an insurance agency or group, shall be  
1195 maintained by the licensee for review by the agency and the  
1196 State ~~Nursing Home and Long-Term Care Facility~~ Ombudsman Program  
1197 Council.

1198 Section 24. Subsections (1) and (4) of section 400.19,  
1199 Florida Statutes, are amended to read:



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1200 400.19 Right of entry and inspection.-

1201 (1) In accordance with part II of chapter 408, the agency  
1202 and any of its ~~duly~~ designated officers ~~officer~~ or employees  
1203 ~~employee thereof~~ or a representative of ~~member of~~ the State  
1204 Long-Term Care Ombudsman Program Council or the local long-term  
1205 care ombudsman council shall have the right to enter upon and  
1206 into the premises of any facility licensed pursuant to this  
1207 part, or any distinct nursing home unit of a hospital licensed  
1208 under chapter 395 or any freestanding facility licensed under  
1209 chapter 395 which ~~that~~ provides extended care or other long-term  
1210 care services, at any reasonable time in order to determine the  
1211 state of compliance with ~~the provisions of~~ this part, part II of  
1212 chapter 408, and applicable rules in force pursuant thereto. The  
1213 agency shall, within 60 days after receipt of a complaint made  
1214 by a resident or resident's representative, complete its  
1215 investigation and provide to the complainant its findings and  
1216 resolution.

1217 (4) The agency shall conduct unannounced onsite facility  
1218 reviews following written verification of licensee noncompliance  
1219 in instances in which a representative of the State Long-Term  
1220 Care Ombudsman Program or long-term care ombudsman council,  
1221 pursuant to ss. 400.0071 and 400.0075, has received a complaint  
1222 and has documented deficiencies in resident care or in the  
1223 physical plant of the facility that threaten the health, safety,  
1224 or security of residents, or when the agency documents through  
1225 inspection that conditions in a facility present a direct or  
1226 indirect threat to the health, safety, or security of residents.  
1227 However, the agency shall conduct unannounced onsite reviews  
1228 every 3 months of each facility while the facility has a



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1229 conditional license. Deficiencies related to physical plant do  
1230 not require followup reviews after the agency has determined  
1231 that correction of the deficiency has been accomplished and that  
1232 the correction is of the nature that continued compliance can be  
1233 reasonably expected.

1234 Section 25. Subsection (6) and paragraph (c) of subsection  
1235 (7) of section 400.23, Florida Statutes, are amended to read:

1236 400.23 Rules; evaluation and deficiencies; licensure  
1237 status.—

1238 (6) Before ~~Prior to~~ conducting a survey of the facility,  
1239 the survey team shall obtain a copy of the local long-term care  
1240 ombudsman council report on the facility. Problems noted in the  
1241 report shall be incorporated into and followed up through the  
1242 agency's inspection process. This procedure does not preclude  
1243 the State Long-Term Care Ombudsman Program or local long-term  
1244 care ombudsman council from requesting the agency to conduct a  
1245 followup visit to the facility.

1246 (7) The agency shall, at least every 15 months, evaluate  
1247 all nursing home facilities and make a determination as to the  
1248 degree of compliance by each licensee with the established rules  
1249 adopted under this part as a basis for assigning a licensure  
1250 status to that facility. The agency shall base its evaluation on  
1251 the most recent inspection report, taking into consideration  
1252 findings from other official reports, surveys, interviews,  
1253 investigations, and inspections. In addition to license  
1254 categories authorized under part II of chapter 408, the agency  
1255 shall assign a licensure status of standard or conditional to  
1256 each nursing home.

1257 (c) In evaluating the overall quality of care and services



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1258 and determining whether the facility will receive a conditional  
1259 or standard license, the agency shall consider the needs and  
1260 limitations of residents in the facility and the results of  
1261 interviews and surveys of a representative sampling of  
1262 residents, families of residents, representatives of the State  
1263 Long-Term Care Ombudsman Program ~~ombudsman council members in~~  
1264 ~~the planning and service area in which the facility is located,~~  
1265 guardians of residents, and staff of the nursing home facility.

1266 Section 26. Paragraph (a) of subsection (3), paragraph (f)  
1267 of subsection (5), and subsection (6) of section 400.235,  
1268 Florida Statutes, is amended to read:

1269 400.235 Nursing home quality and licensure status; Gold  
1270 Seal Program.—

1271 (3) (a) The Gold Seal Program shall be developed and  
1272 implemented by the Governor's Panel on Excellence in Long-Term  
1273 Care which shall operate under the authority of the Executive  
1274 Office of the Governor. The panel shall be composed of three  
1275 persons appointed by the Governor, to include a consumer  
1276 advocate for senior citizens and two persons with expertise in  
1277 the fields of quality management, service delivery excellence,  
1278 or public sector accountability; three persons appointed by the  
1279 Secretary of Elderly Affairs, to include an active member of a  
1280 nursing facility family and resident care council and a member  
1281 of the University Consortium on Aging; a representative of the  
1282 State Long-Term Care Ombudsman Program; one person appointed by  
1283 the Florida Life Care Residents Association; one person  
1284 appointed by the State Surgeon General; two persons appointed by  
1285 the Secretary of Health Care Administration; one person  
1286 appointed by the Florida Association of Homes for the Aging; and



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1287 one person appointed by the Florida Health Care Association.  
1288 Vacancies on the panel shall be filled in the same manner as the  
1289 original appointments.

1290 (5) Facilities must meet the following additional criteria  
1291 for recognition as a Gold Seal Program facility:

1292 (f) Verification of Evidence an outstanding minimal record  
1293 regarding the number and types of substantiated complaints  
1294 reported to the State Long-Term Care Ombudsman Program Council  
1295 within the 30 months preceding application for the program.

1296  
1297 A facility assigned a conditional licensure status may not  
1298 qualify for consideration for the Gold Seal Program until after  
1299 it has operated for 30 months with no class I or class II  
1300 deficiencies and has completed a regularly scheduled relicensure  
1301 survey.

1302 (6) The agency, nursing facility industry organizations,  
1303 consumers, State Long-Term Care Ombudsman Program Council, and  
1304 members of the community may recommend to the Governor  
1305 facilities that meet the established criteria for consideration  
1306 for and award of the Gold Seal. The panel shall review nominees  
1307 and make a recommendation to the Governor for final approval and  
1308 award. The decision of the Governor is final and is not subject  
1309 to appeal.

1310 Section 27. Subsections (18) through (28) of section  
1311 415.102, Florida Statutes, are redesignated as subsections (19)  
1312 through and (29), respectively, and a new subsection (18) is  
1313 added to that section, to read:

1314 415.102 Definitions of terms used in ss. 415.101-415.113.-  
1315 As used in ss. 415.101-415.113, the term:



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1316           (18) "Office" has the same meaning as in s. 400.0060.  
1317           Section 28. Paragraph (a) of subsection (1) of section  
1318 415.1034, Florida Statutes, is amended to read:  
1319           415.1034 Mandatory reporting of abuse, neglect, or  
1320 exploitation of vulnerable adults; mandatory reports of death.-  
1321           (1) MANDATORY REPORTING.-  
1322           (a) Any person, including, but not limited to, any:  
1323           1. Physician, osteopathic physician, medical examiner,  
1324 chiropractic physician, nurse, paramedic, emergency medical  
1325 technician, or hospital personnel engaged in the admission,  
1326 examination, care, or treatment of vulnerable adults;  
1327           2. Health professional or mental health professional other  
1328 than one listed in subparagraph 1.;  
1329           3. Practitioner who relies solely on spiritual means for  
1330 healing;  
1331           4. Nursing home staff; assisted living facility staff;  
1332 adult day care center staff; adult family-care home staff;  
1333 social worker; or other professional adult care, residential, or  
1334 institutional staff;  
1335           5. State, county, or municipal criminal justice employee or  
1336 law enforcement officer;  
1337           6. ~~An~~ Employee of the Department of Business and  
1338 Professional Regulation conducting inspections of public lodging  
1339 establishments under s. 509.032;  
1340           7. Florida advocacy council or Disability Rights Florida  
1341 member or a representative of the State Long-Term Care Ombudsman  
1342 Program ~~long-term care ombudsman council member~~; or  
1343           8. Bank, savings and loan, or credit union officer,  
1344 trustee, or employee,



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1345  
1346 who knows, or has reasonable cause to suspect, that a vulnerable  
1347 adult has been or is being abused, neglected, or exploited shall  
1348 immediately report such knowledge or suspicion to the central  
1349 abuse hotline.

1350 Section 29. Subsection (1) of section 415.104, Florida  
1351 Statutes, is amended to read:

1352 415.104 Protective investigations of cases of abuse,  
1353 neglect, or exploitation of vulnerable adults; transmittal of  
1354 records to state attorney.—

1355 (1) The department shall, upon receipt of a report alleging  
1356 abuse, neglect, or exploitation of a vulnerable adult, begin  
1357 within 24 hours a protective investigation of the facts alleged  
1358 therein. If a caregiver refuses to allow the department to begin  
1359 a protective investigation or interferes with the conduct of  
1360 such an investigation, the appropriate law enforcement agency  
1361 shall be contacted for assistance. If, during the course of the  
1362 investigation, the department has reason to believe that the  
1363 abuse, neglect, or exploitation is perpetrated by a second  
1364 party, the appropriate law enforcement agency and state attorney  
1365 shall be orally notified. The department and the law enforcement  
1366 agency shall cooperate to allow the criminal investigation to  
1367 proceed concurrently with, and not be hindered by, the  
1368 protective investigation. The department shall make a  
1369 preliminary written report to the law enforcement agencies  
1370 within 5 working days after the oral report. The department  
1371 shall, within 24 hours after receipt of the report, notify the  
1372 appropriate Florida local advocacy council, or the State Long-  
1373 Term Care Ombudsman Program ~~long-term care ombudsman council,~~



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1374 when appropriate, that an alleged abuse, neglect, or  
1375 exploitation perpetrated by a second party has occurred. Notice  
1376 to the Florida local advocacy council or the State Long-Term  
1377 Care Ombudsman Program ~~long-term care ombudsman council~~ may be  
1378 accomplished orally or in writing and shall include the name and  
1379 location of the vulnerable adult alleged to have been abused,  
1380 neglected, or exploited and the nature of the report.

1381 Section 30. Subsection (8) of section 415.1055, Florida  
1382 Statutes, is amended to read:

1383 415.1055 Notification to administrative entities.—

1384 (8) At the conclusion of a protective investigation at a  
1385 facility, the department shall notify either the Florida local  
1386 advocacy council or the State Long-Term Care Ombudsman Program  
1387 or the long-term care ombudsman council of the results of the  
1388 investigation. This notification must be in writing.

1389 Section 31. Subsection (2) of section 415.106, Florida  
1390 Statutes, is amended to read:

1391 415.106 Cooperation by the department and criminal justice  
1392 and other agencies.—

1393 (2) To ensure coordination, communication, and cooperation  
1394 with the investigation of abuse, neglect, or exploitation of  
1395 vulnerable adults, the department shall develop and maintain  
1396 interprogram agreements or operational procedures among  
1397 appropriate departmental programs and the State Long-Term Care  
1398 Ombudsman Program Council, the Florida Statewide Advocacy  
1399 Council, and other agencies that provide services to vulnerable  
1400 adults. These agreements or procedures must cover such subjects  
1401 as the appropriate roles and responsibilities of the department  
1402 in identifying and responding to reports of abuse, neglect, or



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1403 exploitation of vulnerable adults; the provision of services;  
1404 and related coordinated activities.

1405 Section 32. Paragraph (g) of subsection (3) of section  
1406 415.107, Florida Statutes, is amended to read:

1407 415.107 Confidentiality of reports and records.—

1408 (3) Access to all records, excluding the name of the  
1409 reporter which shall be released only as provided in subsection  
1410 (6), shall be granted only to the following persons, officials,  
1411 and agencies:

1412 (g) Any appropriate official of the Florida advocacy  
1413 council, State Long-Term Care Ombudsman Program or long-term  
1414 care ombudsman council investigating a report of known or  
1415 suspected abuse, neglect, or exploitation of a vulnerable adult.

1416 Section 33. Present subsections (16) through (26) of  
1417 section 429.02, Florida Statutes, are redesignated as  
1418 subsections (17) through (27), respectively, present subsections  
1419 (11) and (20) are amended, and a new subsection (16) is added to  
1420 that section to read:

1421 429.02 Definitions.—When used in this part, the term:

1422 (11) "Extended congregate care" means acts beyond those  
1423 authorized in subsection (17) ~~(16)~~ that may be performed  
1424 pursuant to part I of chapter 464 by persons licensed thereunder  
1425 while carrying out their professional duties, and other  
1426 supportive services which may be specified by rule. The purpose  
1427 of such services is to enable residents to age in place in a  
1428 residential environment despite mental or physical limitations  
1429 that might otherwise disqualify them from residency in a  
1430 facility licensed under this part.

1431 (16) "Office" has the same meaning as in s. 400.0060.



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1432            (17)~~(16)~~ "Personal services" means direct physical  
1433 assistance with or supervision of the activities of daily living  
1434 and the self-administration of medication and other similar  
1435 services which the department may define by rule. "Personal  
1436 services" shall not be construed to mean the provision of  
1437 medical, nursing, dental, or mental health services.

1438            (18)~~(17)~~ "Physical restraint" means a device which  
1439 physically limits, restricts, or deprives an individual of  
1440 movement or mobility, including, but not limited to, a half-bed  
1441 rail, a full-bed rail, a geriatric chair, and a posey restraint.  
1442 The term "physical restraint" shall also include any device  
1443 which was not specifically manufactured as a restraint but which  
1444 has been altered, arranged, or otherwise used for this purpose.  
1445 The term shall not include bandage material used for the purpose  
1446 of binding a wound or injury.

1447            (19)~~(18)~~ "Relative" means an individual who is the father,  
1448 mother, stepfather, stepmother, son, daughter, brother, sister,  
1449 grandmother, grandfather, great-grandmother, great-grandfather,  
1450 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
1451 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
1452 daughter-in-law, brother-in-law, sister-in-law, stepson,  
1453 stepdaughter, stepbrother, stepsister, half brother, or half  
1454 sister of an owner or administrator.

1455            (20)~~(19)~~ "Resident" means a person 18 years of age or  
1456 older, residing in and receiving care from a facility.

1457            (21)~~(20)~~ "Resident's representative or designee" means a  
1458 person other than the owner, or an agent or employee of the  
1459 facility, designated in writing by the resident, if legally  
1460 competent, to receive notice of changes in the contract executed



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1461 pursuant to s. 429.24; to receive notice of and to participate  
1462 in meetings between the resident and the facility owner,  
1463 administrator, or staff concerning the rights of the resident;  
1464 to assist the resident in contacting the State Long-Term Care  
1465 Ombudsman Program or local ombudsman council if the resident has  
1466 a complaint against the facility; or to bring legal action on  
1467 behalf of the resident pursuant to s. 429.29.

1468 ~~(22)~~~~(21)~~ "Service plan" means a written plan, developed and  
1469 agreed upon by the resident and, if applicable, the resident's  
1470 representative or designee or the resident's surrogate,  
1471 guardian, or attorney in fact, if any, and the administrator or  
1472 designee representing the facility, which addresses the unique  
1473 physical and psychosocial needs, abilities, and personal  
1474 preferences of each resident receiving extended congregate care  
1475 services. The plan shall include a brief written description, in  
1476 easily understood language, of what services shall be provided,  
1477 who shall provide the services, when the services shall be  
1478 rendered, and the purposes and benefits of the services.

1479 ~~(23)~~~~(22)~~ "Shared responsibility" means exploring the  
1480 options available to a resident within a facility and the risks  
1481 involved with each option when making decisions pertaining to  
1482 the resident's abilities, preferences, and service needs,  
1483 thereby enabling the resident and, if applicable, the resident's  
1484 representative or designee, or the resident's surrogate,  
1485 guardian, or attorney in fact, and the facility to develop a  
1486 service plan which best meets the resident's needs and seeks to  
1487 improve the resident's quality of life.

1488 ~~(24)~~~~(23)~~ "Supervision" means reminding residents to engage  
1489 in activities of daily living and the self-administration of



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1490 medication, and, when necessary, observing or providing verbal  
1491 cuing to residents while they perform these activities.

1492 ~~(25)~~~~(24)~~ "Supplemental security income," Title XVI of the  
1493 Social Security Act, means a program through which the Federal  
1494 Government guarantees a minimum monthly income to every person  
1495 who is age 65 or older, or disabled, or blind and meets the  
1496 income and asset requirements.

1497 ~~(26)~~~~(25)~~ "Supportive services" means services designed to  
1498 encourage and assist aged persons or adults with disabilities to  
1499 remain in the least restrictive living environment and to  
1500 maintain their independence as long as possible.

1501 ~~(27)~~~~(26)~~ "Twenty-four-hour nursing supervision" means  
1502 services that are ordered by a physician for a resident whose  
1503 condition requires the supervision of a physician and continued  
1504 monitoring of vital signs and physical status. Such services  
1505 shall be: medically complex enough to require constant  
1506 supervision, assessment, planning, or intervention by a nurse;  
1507 required to be performed by or under the direct supervision of  
1508 licensed nursing personnel or other professional personnel for  
1509 safe and effective performance; required on a daily basis; and  
1510 consistent with the nature and severity of the resident's  
1511 condition or the disease state or stage.

1512 Section 34. Subsection (9) of section 429.19, Florida  
1513 Statutes, is amended to read:

1514 429.19 Violations; imposition of administrative fines;  
1515 grounds.—

1516 (9) The agency shall develop and disseminate an annual list  
1517 of all facilities sanctioned or fined for violations of state  
1518 standards, the number and class of violations involved, the



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1519 penalties imposed, and the current status of cases. The list  
1520 shall be disseminated, at no charge, to the Department of  
1521 Elderly Affairs, the Department of Health, the Department of  
1522 Children and Families, the Agency for Persons with Disabilities,  
1523 the area agencies on aging, the Florida Statewide Advocacy  
1524 Council, ~~and~~ the State Long-Term Care Ombudsman Program and  
1525 state and local ombudsman councils. The Department of Children  
1526 and Families shall disseminate the list to service providers  
1527 under contract to the department who are responsible for  
1528 referring persons to a facility for residency. The agency may  
1529 charge a fee commensurate with the cost of printing and postage  
1530 to other interested parties requesting a copy of this list. This  
1531 information may be provided electronically or through the  
1532 agency's Internet site.

1533 Section 35. Subsection (8) of section 429.26, Florida  
1534 Statutes, is amended to read:

1535 429.26 Appropriateness of placements; examinations of  
1536 residents.—

1537 (8) The Department of Children and Families may require an  
1538 examination for supplemental security income and optional state  
1539 supplementation recipients residing in facilities at any time  
1540 and shall provide the examination whenever a resident's  
1541 condition requires it. Any facility administrator; personnel of  
1542 the agency, the department, or the Department of Children and  
1543 Families; or a representative of the State Long-Term Care  
1544 Ombudsman Program ~~long-term care ombudsman council member~~ who  
1545 believes a resident needs to be evaluated shall notify the  
1546 resident's case manager, who shall take appropriate action. A  
1547 report of the examination findings shall be provided to the



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1548 resident's case manager and the facility administrator to help  
1549 the administrator meet his or her responsibilities under  
1550 subsection (1).

1551 Section 36. Subsection (2) and paragraph (b) of subsection  
1552 (3) of section 429.28, Florida Statutes, are amended to read:

1553 429.28 Resident bill of rights.—

1554 (2) The administrator of a facility shall ensure that a  
1555 written notice of the rights, obligations, and prohibitions set  
1556 forth in this part is posted in a prominent place in each  
1557 facility and read or explained to residents who cannot read.  
1558 This notice must ~~shall~~ include the statewide toll-free telephone  
1559 number and e-mail address of the State Long-Term Care Ombudsman  
1560 Program and the telephone number of ~~name, address, and telephone~~  
1561 ~~numbers~~ of the local ombudsman council and the Elder Abuse  
1562 Hotline operated by the Department of Children and Families  
1563 ~~central abuse hotline~~ and, when applicable, the Advocacy Center  
1564 for Persons with Disabilities, Inc., and the Florida local  
1565 advocacy council, where complaints may be lodged. The facility  
1566 must ensure a resident's access to a telephone to call the State  
1567 Long Term Care Ombudsman Program or local ombudsman council, the  
1568 Elder Abuse Hotline operated by the Department of Children and  
1569 Families ~~central abuse hotline~~, Advocacy Center for Persons with  
1570 Disabilities, Inc., and the Florida local advocacy council.

1571 (3)

1572 (b) In order to determine whether the facility is  
1573 adequately protecting residents' rights, the biennial survey  
1574 shall include private informal conversations with a sample of  
1575 residents and consultation with the ombudsman council in the  
1576 district ~~planning and service area~~ in which the facility is



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1577 located to discuss residents' experiences within the facility.

1578 Section 37. Section 429.34, Florida Statutes, is amended to  
1579 read:

1580 429.34 Right of entry and inspection.—In addition to the  
1581 requirements of s. 408.811, a any duly designated officer or  
1582 employee of the department, the Department of Children and  
1583 Families, the Medicaid Fraud Control Unit of the Office of the  
1584 Attorney General, the state or local fire marshal, or a  
1585 representative of the State Long-Term Care Ombudsman Program or  
1586 a member of the state or local long-term care ombudsman council  
1587 may shall have the right to enter unannounced upon and into the  
1588 premises of any facility licensed under ~~pursuant to~~ this part in  
1589 order to determine the state of compliance with ~~the provisions~~  
1590 ~~of~~ this part, part II of chapter 408, and applicable rules. Data  
1591 collected by the State Long-Term Care Ombudsman Program, ~~state~~  
1592 ~~or~~ local long-term care ombudsman councils or the state or local  
1593 advocacy councils may be used by the agency in investigations  
1594 involving violations of regulatory standards.

1595 Section 38. Subsection (2) of section 429.35, Florida  
1596 Statutes, is amended to read:

1597 429.35 Maintenance of records; reports.—

1598 (2) Within 60 days after the date of the biennial  
1599 inspection visit required under s. 408.811 or within 30 days  
1600 after the date of any interim visit, the agency shall forward  
1601 the results of the inspection to the local ombudsman council in  
1602 in the district ~~whose planning and service area, as defined in~~  
1603 ~~part II of chapter 400, where~~ the facility is located; to at  
1604 least one public library or, in the absence of a public library,  
1605 the county seat in the county in which the inspected assisted



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1606 living facility is located; and, when appropriate, to the  
1607 district Adult Services and Mental Health Program Offices.

1608 Section 39. Subsection (6) of section 429.67, Florida  
1609 Statutes, is amended to read:

1610 429.67 Licensure.—

1611 (6) In addition to the requirements of s. 408.811, access  
1612 to a licensed adult family-care home must be provided at  
1613 reasonable times for the appropriate officials of the  
1614 department, the Department of Health, the Department of Children  
1615 and Families, the agency, and the State Fire Marshal, who are  
1616 responsible for the development and maintenance of fire, health,  
1617 sanitary, and safety standards, to inspect the facility to  
1618 assure compliance with these standards. In addition, access to a  
1619 licensed adult family-care home must be provided at reasonable  
1620 times to representatives of the State Long Term Care Ombudsman  
1621 Program ~~for the local long-term care ombudsman council.~~

1622 Section 40. Subsection (2) of section 429.85, Florida  
1623 Statutes, is amended to read:

1624 429.85 Residents' bill of rights.—

1625 (2) The provider shall ensure that residents and their  
1626 legal representatives are made aware of the rights, obligations,  
1627 and prohibitions set forth in this part. Residents must also be  
1628 given the statewide toll-free telephone number and e-mail  
1629 address of the State Long-Term Care Ombudsman Program, the  
1630 telephone number ~~names, addresses, and telephone numbers~~ of the  
1631 local ombudsman council and the Elder Abuse Hotline operated by  
1632 the Department of Children and Families ~~the central abuse~~  
1633 ~~hotline~~ where they may lodge complaints.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to the state ombudsman program;  
amending s. 400.0060, F.S.; revising and defining  
terms; amending s. 400.0061, F.S.; revising  
legislative intent with respect to citizen ombudsmen;  
deleting references to ombudsman councils and  
transferring their responsibilities to representatives  
of the Office of State Long-Term Care Ombudsman;  
amending s. 400.0063, F.S.; revising duties of the  
office; amending s. 400.0065, F.S.; revising the  
purpose of the office; revising the duties and  
authority of the state ombudsman; requiring the state  
ombudsman to submit an annual report to the Governor,  
the Legislature, and specified agencies and entities;  
amending s. 400.0067, F.S.; revising duties and  
membership of the State Long-Term Care Ombudsman  
Council; amending s. 400.0069, F.S.; requiring the  
state ombudsman to designate and direct program  
districts; requiring each district to conduct  
quarterly public meetings; providing duties of  
representatives of the office in the districts;  
revising the appointments of and qualifications for  
district ombudsmen; prohibiting certain individuals



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1664 from serving as ombudsmen; amending s. 400.0070, F.S.;

1665 providing conditions under which a representative of

1666 the office could be found to have a conflict of

1667 interest; requiring the Department of Elderly Affairs,

1668 in consultation with the state ombudsman, to define by

1669 rule what constitutes a conflict of interest; amending

1670 s. 400.0071, F.S.; requiring the Department of Elderly

1671 Affairs to consult with the state ombudsman to adopt

1672 rules pertaining to complaint procedures; amending s.

1673 400.0073, F.S.; providing procedures for investigation

1674 of complaints; amending s. 400.0074, F.S.; revising

1675 procedures for conducting onsite administrative

1676 assessments; authorizing the department to adopt

1677 rules; amending s. 400.0075, F.S.; revising complaint

1678 notification and resolution procedures; amending s.

1679 400.0078, F.S.; providing for a resident or

1680 representative of a resident to receive additional

1681 information regarding resident rights; amending s.

1682 400.0079, F.S.; providing immunity from liability for

1683 a representative of the office under certain

1684 circumstances; amending s. 400.0081, F.S.; requiring

1685 long-term care facilities to provide representatives

1686 of the office with access to facilities, residents,

1687 and records for certain purposes; amending s.

1688 400.0083, F.S.; conforming provisions to changes made

1689 by the act; amending s. 400.0087, F.S.; providing for

1690 the office to coordinate ombudsman services with

1691 Disability Rights Florida; amending s. 400.0089, F.S.;

1692 conforming provisions to changes made by the act;



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1693 amending s. 400.0091, F.S.; revising training  
1694 requirements for representatives of the office and  
1695 ombudsmen; amending ss. 20.41, 400.021, 400.022,  
1696 400.0255, 400.162, 400.19, 400.191, and 400.23, F.S.;  
1697 conforming provisions to changes made by the act;  
1698 amending s. 400.235, F.S.; conforming provisions to  
1699 changes made by the act; revising the additional  
1700 criteria for recognition as a Gold Seal Program  
1701 facility; amending ss. 415.102, 415.1034, 415.104,  
1702 415.1055, 415.106, 415.107, 429.02, 429.19, 429.26,  
1703 429.28, 429.34, 429.35, 429.67, and 429.85, F.S.;  
1704 conforming provisions to changes made by the act;  
1705 providing an effective date.