

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.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/CS/CS/SB 2216

INTRODUCER: Committee on Health and Human Services Appropriations; Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Storms

SUBJECT: Adult Protection and Care

DATE: March 31, 2008 REVISED: 03/27/08 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ray</u>	<u>Jameson</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Stovall</u>	<u>Wilson</u>	<u>HR</u>	<u>Fav/CS</u>
3.	<u>Dull</u>	<u>Peters</u>	<u>HA</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill 2216 amends current law to add protections for the elderly by:

- Providing the Department of Children and Families (DCF) with access to records of the Department of Highway Safety and Motor Vehicles (DHSMV) to be used to conduct protective investigations;
- Requiring nursing homes and assisted living facilities (ALF) to search the Florida Department of Law Enforcement (FDLE) sexual offender database for information on residents and prospective residents;
- Expanding who must have a criminal background screening, and expanding the types of crimes that are classified as disqualifying offenses for employment purposes in long-term care facilities;
- Modifying provisions related to unannounced visits of facilities by the Agency for Health Care Administration (AHCA);
- Requiring posters providing information on resident resources and advocates in all long-term care facilities;

- Requiring specified adult abuse reports to be immediately transferred to the county sheriff;
- Authorizing DCF to file a petition to determine incapacity in adult protection proceedings, and providing DCF with rulemaking authority;
- Requiring facilities to maintain a service plan for each resident;
- Providing that the owner or administrator of a facility is responsible for the provision and quality of care and services provided to the residents of the facility;
- Requiring residents to be periodically assessed for competency;
- Prohibiting assisted living facility personnel from making decisions for a resident or acting as the resident's representative or surrogate;
- Requiring notice of termination of residency to be provided, in writing with copies to specified individuals, including the state ombudsman program. The notice must include the reason for the termination, and the state ombudsman shall compile an annual report summarizing the information received;
- Requiring all grievances at ALFs to be reported to the local ombudsman council weekly. The local ombudsman council must periodically transmit the grievance records to the State Long-Term Care Ombudsman (SLTCO);
- Requiring AHCA to conduct at least one unannounced inspection of ALFs every 24 months. If a facility is cited for a class I deficiency or two or more class II deficiencies arising from separate surveys or investigations within a 60-day period, then two additional surveys must be conducted every six months for the next year. The agency must assess a fine of \$69 per bed for each of the additional two surveys not to exceed \$12,000 each. In addition, the fine shall be adjusted based upon any change in the Consumer Price Index;
- Strengthening the requirement that an adult family-care home provider who owns or rents the home must live in the home; and
- Provides an appropriation of \$391,768 and the 8.5 full-time equivalent positions with an associated salary rate of \$295,840 necessary to accomplish the goals of the bill.

The bill repeals ss. 400.141(13), 408.809(3), 429.08(2), and 429.41(5), F.S.

The bill amends the following sections of Florida Statutes: 322.142, 400.141, 400.19, 400.215, 408.809, 408.810, 408.811, 415.103, 415.1051, 415.112, 429.02, 429.07, 429.174, 429.255, 429.26, 429.27, 429.28, 429.294, 429.34, 429.41, 429.65, 429.67, 429.69, 429.73, 430.80, 435.03, 435.04, and 651.118.

II. Present Situation:

This bill addresses concerns raised as a result of cases involving elder abuse, neglect, or exploitation. A few examples follow.

- According to the State Long-Term Care Ombudsman, Mr. Ronald Larsen was admitted to the Palmetto Guest Home in Palmetto, Florida in May of 2005. Mr. Larsen was an autistic man who was hard of hearing and had a difficult time speaking. On February 9, 2006, a small nodule was noticed on Mr. Larsen's face. This health care need was largely ignored until it became a large sore taking over the entire side of Mr. Larsen's face. Many notations that Mr. Larsen needed a guardian to make medical decisions for him were reportedly ignored.¹

¹ Michael A. Scarcella, *Neglect charge dropped in Palmetto*, Herald Tribune, September 28, 2007.

- On December 3, 2007, the State Long-Term Care Ombudsman noted the verbal and psychological abuse of individuals living in a Miami ALF and the alleged rape of an elderly resident inside the same facility.²
- On July 23, 2002, a 77-year old resident of a Jacksonville nursing home was raped by another resident, an 83-year old man with a history of criminal activity, including sexually related crimes in 1963 and 1965.³
- On October 8, 2005, an 88-year-old resident of an Altamonte Springs nursing home was beaten with a wheelchair foot rest by a 76-year-old resident. According to the Altamonte Springs police, the attacker had a history of aggression.⁴

Adult Protective Investigations

Section 415.101, F.S., relating to the Adult Protective Services Act, provides the Legislature's intent for comprehensive protective services for Florida's elderly and abused adults. Several issues have been identified by DCF that, if implemented, may improve those services.

Reports alleging child abuse, abandonment, or neglect by a person who is not a family member, household member, or caregiver are required to be immediately transferred to the appropriate County Sheriff's office.⁵ There is no such requirement for reports of adult abuse, neglect, or exploitation. Currently, the Florida Abuse Hotline will accept a report on a vulnerable adult when the vulnerable adult, is a resident of Florida or currently located in Florida, and is:⁶

- Believed to have been neglected or abused by a caregiver in Florida;
- Suffering from the ill effects of neglect by self and is in need of service; or
- Being exploited by any person who stands in a position of trust or confidence, or any person who knows or should know that a vulnerable adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use their funds, assets or property.

The department reports that during some adult services investigations the subject of the investigation denies his or her identity, eluding the investigators. According to DCF, access to DHSMV Driver and Vehicle Information Database (DAVID) system would provide a photograph of the victim or the subject of the investigation. This may assist in the positive identification of victims and/or the subject of an adult protective investigation.

Section 22.142(4), F.S., currently provides for access to this information by the Department of State, Department of Revenue, and the Department of Financial Services. Current law does not permit DCF to have access to the DAVID system.

² State Long-Term Care Ombudsman, Munne Center Assisted Living Facility Issues Paper, (2008), (on file with the committee).

³ A Perfect Cause, America's Disability & Elder Rights Advocates, *Criminal Acts Committed by Predators While Residing in America's Long-Term Care Facilities*, page 11: http://www.aperfectcause.com/PDF_APC/APC-US_CongressReport-CriminalOffendersOffensesInLTC-April2006.pdf (last visited March 18, 2008).

⁴ *Id.* at page 40.

⁵ Section 39.201(2)(b), F.S.

⁶ Department of Children and Families, *Reporting Abuse of Children and Vulnerable Adults*, found at: <http://www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf>, (2007) (last visited March 18, 2008).

The department's current rule-making authority relating to adult protective services is limited to pre-service and in-service training for adult protective investigators⁷ and general authority granted in s. 415.112, F.S. The department does not have specific authority to adopt rules relating to background screenings and drug testing for adult protective investigators.

Section 415.1051, F.S., provides DCF the ability, in an emergency situation, to petition the court for protective services when a vulnerable adult lacks capacity. After 60 days, DCF must petition the court to determine whether:⁸

- Emergency protective services will be continued with the consent of the vulnerable adult;
- Emergency protective services will be continued for the vulnerable adult who lacks capacity;
- Emergency protective services will be discontinued; or
- A petition should be filed under ch. 744, F.S.

Nursing Homes

A nursing home⁹ is considered a medical facility and treats individuals who require 24-hour care and services. According to AHCA, in order to admit a person into a nursing home, the licensee must decide if it can meet the needs of the resident. Federal law requires that once a person is admitted, the individual's care and safety is the responsibility of the nursing home. Within 14 days of admission, the nursing home must assess each resident and develop a plan of care. There is no regulatory requirement that this assessment include background screening.

There are currently 672 licensed nursing facilities in Florida with a total of 82,356 beds. In 2003, 177,609 individuals entered a nursing home. Eighty-five percent of the individuals admitted to nursing homes were transferred from a hospital, five percent transferred from another nursing home, and two percent transferred from an ALF.¹⁰

Section 400.141(13), F.S., requires each nursing home to publicly display a poster that contains the name, address, telephone number and a brief description of services for various health care consumer resources.¹¹

Assisted Living Facilities

There are 2,583 licensed ALFs in Florida, with 76,834 beds.¹² Potential residents of an ALF must first undergo a health assessment 60 days prior to admission. The assessment is designed to address the physical and mental status of the individual, the individual's potential need for

⁷ Section 415.1105, F.S.

⁸ Section 415.1051(2)(g)1, F.S.

⁹ Section 400.021(12), F.S.

¹⁰ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

¹¹ This poster is provided by AHCA and contains the names, addresses, and telephone numbers for the state's abuse hotline, the State Long-Term Care Ombudsman, AHCA's consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit.

¹² Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

supervision or assistance, and the individual's dietary needs.¹³ Potential residents of an ALF must meet the admission criteria established in rule.¹⁴ These criteria include that a person:

- Be at least 18 years of age and able to perform activities of daily living with supervision or assistance if necessary;
- Be capable of taking medication with supervision or assistance from staff;
- Not be a danger to self or others, require licensed professional mental health treatment on a 24-hour basis, or be bedridden; and
- Not have any stage three or four pressure sores or require 24-hour supervision.

Residents are not currently required to undergo a background check prior to being admitted to an ALF.

ALF Licenses

A standard license is issued to an ALF that provides one or more personal services.¹⁵ A facility operating under a standard license may also employ or contract for an individual licensed to administer medications and perform other tasks as specified in s. 429.255, F.S., relating to the use of personnel. Once an ALF receives a standard license, the ALF may apply for specialty licenses including:

- Limited Nursing Services (LNS):¹⁶ An ALF with an LNS license allows the licensee to provide the basic services of an ALF and specific nursing services including nursing assessments; wound dressing care; care of casts, braces and splints; administration of portable oxygen; care of catheters and colostomies; and other specific nursing services.¹⁷
- Extended Congregate Care (ECC):¹⁸ An ALF with an ECC license allows a resident to age in place by providing the basic services of an ALF and other services including limited nursing services and assessments, total help with activities of daily living, measurement and recording of vital signs, dietary management, and supervision of residents with dementia or cognitive impairments.¹⁹
- Limited Mental Health (LMH):²⁰ A ALF with an LMH license is required to serve more than two mental health residents. An LMH facility consults with residents' mental health care managers and develops community supported living plans for residents.²¹

¹³ Chapter 58A-5.0181, F.A.C.

¹⁴ *Id.*

¹⁵ Section 429.02(16), F.S., defines the term "personal services" as direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services which the Department of Elderly Affairs may define by rule. The term "personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services.

¹⁶ Section 429.07(3)(c), F.S.

¹⁷ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

¹⁸ Section 429.07(3)(b), F.S.

¹⁹ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

²⁰ Section 429.075, F.S.

²¹ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

ALF Inspections

The agency conducts regulatory inspections every two years for ALFs with a standard license.²² Quarterly monitoring visits are required for those facilities with a standard ECC license.²³ Facilities with a standard LNS license are monitored at least twice a year.²⁴ Complaint investigations are conducted as received and prioritized by AHCA.²⁵

Service Plan

A service plan is a written plan, developed and agreed upon by the ALF resident and their applicable representatives, and the facility administrator, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services. The plan includes a brief written description, in easily understood language, of what services need to be provided, who must provide the services, when the services must be given, and the purposes and benefits of the services.²⁶ Service plans are currently required for individuals receiving extended congregate care.

Resident Bill of Rights

Section 429.28, F.S., provides for an ALF resident's rights within the facility. Among these rights is the resident's right to receive at least 45 days' notice of relocation or termination of residency. This notice is not required for relocation or termination for medical reasons, emergency reasons, or if a resident engages in conduct deemed harmful or offensive. In non-emergency situations, a resident's guardian is given 45 days' notice in cases where the resident has been determined mentally incapacitated.²⁷

According to the Office of the State Long-Term Care Ombudsman Program's statewide complaint data, involuntary discharge investigations surfaced last year as one of the top ten complaints in ALFs.²⁸

The ALF resident bill of rights also requires that each resident be able to present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. Each facility is required to establish a grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.²⁹ According to AHCA, regulations do not specify how grievances are presented, so each facility may develop its own policy. The agency reports that some ALFs require residents to submit a grievance in writing. As well, some facilities reportedly have "open door" grievance policies that are not in writing.

²² Section 429.28(3)(b), F.S.

²³ Section 429.07(3)(b)2, F.S.

²⁴ Section 429.07(3)(c)2, F.S.

²⁵ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

²⁶ *Id.*

²⁷ Section 429.28(1)(k), F.S.

²⁸ 2008 Department of Elder Affairs, *2008 Legislative Proposal Suggestion Form*, (2008) on file with the committee.

²⁹ Section 429.28(1)(l), F.S.

Assisted living facilities are not required to implement risk management programs; however, they must report adverse incidents to AHCA within one business day after the occurrence of an adverse incident by e-mail, facsimile, or U.S. mail. The ALF must include information regarding the identity of the affected resident, the type of incident, and the status of the ALF's investigation of the incident.³⁰

Adult Family Care Homes

There are 480 licensed AFCHs in Florida. Adult family care home licensees are required to live in the home with the residents. However, there is no specific definition of the phrase "living in the home." The agency reports that some regulatory problems have been identified where licensees do not live in the home but merely maintain an appearance of residency, and do not oversee the residents and their care.³¹

Section 429.67(4), F.S., requires AHCA to conduct a level one background screening on an AFCH provider, designated relief person, adult household member(s), and each staff member.

Employee Background Screening

Chapter 435, F.S., was created in 1995 to provide guidelines to conduct criminal background screening for employment purposes.³² The statute identifies two types of screenings:

- Level one screening: A demographic search of the statewide criminal history repository through the Florida Department of Law Enforcement (FDLE);³³ and
- Level two screening: A fingerprint search through FDLE and the Federal Bureau of Investigation (FBI).³⁴

Each level of screening has a list of specific disqualifying criminal offenses and their respective statutory reference.³⁵ Any person required by law to undergo screening must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under the listed statutes or under any similar statute of another jurisdiction.³⁶

Chapter 435, F.S., includes an exemption process to allow regulatory agencies to grant exemptions from disqualification from employment under certain circumstances.³⁷

Pursuant to s. 408.809, F.S., all health care provider administrators, owners, directors and chief financial officers must undergo a level two screening, with the exception of the owner or director of a Health Care Clinic who is subject to the screening requirements found in s. 400.991(5), F.S.

³⁰ Section 429.23(3), F.S.

³¹ Agency for Health Care Administration, 2008 Bill Analysis & Economic Impact Statement, SB 2216, page 5.

³² Chapter 95-228, Laws of Florida.

³³ Section 435.03, F.S.

³⁴ Section 435.04, F.S.

³⁵ Sections 435.03(2)(a)-(ff) and 435.04(2)(a)-(uu), F.S.

³⁶ Sections 435.03(2) and 435.04(2), F.S.

³⁷ Section 435.07, F.S.

According to AHCA, nursing home screening requirements for employees are the most stringent. Any nursing home employee that has access to residents or resident property must undergo a level one screening prior to working in a nursing home.³⁸ Potential employees that have not lived in the state for more than five years are required to undergo a level two screening prior to working in a nursing home.³⁹

Background Screening of Contractors / Non-employees

Contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds must meet level two screening requirements. Contractual personnel include any vendor, individual, or entity under contract with a school or the school board.⁴⁰ Currently contractors providing services to licensed health care facilities are not required to submit to background screening, unless background screening is required as a part of the profession or occupation. For example, an employee of a home health agency who provides nursing or personal care services to a resident in an ALF must undergo background screening as a statutory condition for working for a home health agency. However, an employee with a contracted food service provider in an ALF is not subject to background screening because there are no background screening requirements for food service establishments.

Background Screening of Residents

Currently, Florida law does not require background screening of residents in long-term care facilities. According to a report published in March, 2006, by the United States Government Accountability Office, 700 registered sex offenders were identified living in nursing homes or intermediate care facilities for people with mental retardation (ICF-MR). Three percent of nursing homes and less than one percent of ICF-MRs housed at least one sex offender in 2005.

Several states, including Illinois,⁴¹ Minnesota,⁴² Oklahoma,⁴³ California,⁴⁴ and Virginia⁴⁵ have adopted state policies relating to residential background screenings in ALFs, nursing homes, and other long-term care facilities.

Sexual Predator / Offender Database

The Florida Department of Law Enforcement maintains a database of persons convicted of sexual offenses.⁴⁶ In 1997, when the Public Safety Information Act passed, Florida had 471 sexual predators and approximately 8,000 sexual offenders listed in the database. Ten years later,

³⁸ Sections 400.215(1)-(2)(a), F.S.

³⁹ Section 400.215(2)(b), F.S.

⁴⁰ Section 1012.465, F.S.

⁴¹ Sections 45/2-201.5, 2-201.6, 2-216, 2-110, IL.C.S.

⁴² MN ST s. 243.166.

⁴³ 57 Okl.St. Ann. §584.

⁴⁴ Section 1312, California Health and Safety Code.

⁴⁵ Sections 9.1-194, 32.1-127 and 138, 63.2-1732 and 1808, Virginia Code.

⁴⁶ Chapter 97-299, Laws of Florida, requires certain sexual offenders to directly register with or to have information compiled by the Department of Corrections or the Department of Juvenile Justice, with the information to be provided to FDLE. Florida law makes this information available to the public.

that number grew to more than 6,400 registered predators and 38,000 registered offenders. All qualifying sexual predators and offenders must register in Florida. Failure of a sexual predator or offender to register as required by law is a third degree felony. The site to search the sexual offender database is <<http://offender.fdle.state.fl.us/offender/Search.jsp>>.

There are several criteria that must be met in order for an individual to be designated for registration as a sexual predator.⁴⁷ These include:

- A conviction for a qualifying and capital, life, or first degree felony sex offense committed on or after 10/1/1993; or
- A conviction for any felony violation or attempt thereof for a qualifying offense committed after 10/1/1993 in addition to a prior conviction for any felony violation or attempt thereof for a qualifying offense; and
- A written court finding designating the individual a sexual predator; or
- As of July 1, 2004, regardless of whether an individual meets or does not meet the criteria listed above, anyone civilly committed under the Florida Jimmy Ryce Sexually Violent Predator Act must register as a sexual predator.

The qualifying offenses are listed in s. 775.21(4), F.S. There are several ways a person might qualify for registration as a sexual offender⁴⁸ in the state of Florida and, therefore, be required to comply with Florida's sexual offender registration laws. If an individual adjudicated as an adult has a qualifying offense from Florida but the individual was released from sanctions before October 1, 1997, the subject is not required to register as a sexual offender based solely upon that conviction. Similarly a juvenile adjudicated delinquent of a qualifying offense before July 1, 2007, would not be required to register as a sexual offender based solely upon the adjudication for that crime. However, additional convictions or a requirement to register in another state may affect an individual's requirement to register in Florida.

III. Effect of Proposed Changes:

Section 1. Amends s. 322.142(4), F.S., to authorize DCF to obtain copies of driver's license files from DHSMV. The bill requires an interagency agreement between DCF and DHSMV and specifies that the information is to be used for the purpose of conducting protective investigations. According to DCF, this investigative tool will allow the investigator quick access to the location of individuals, to the investigation and verification of the identity of an individual, and will facilitate the ultimate goal of assuring safety for disabled or vulnerable adults.

Section 2. Amends s. 400.141, F.S., to require a nursing home to search the sexual offender database maintained by FDLE for each resident and for each prospective resident of the nursing home facility at the time of admission or immediately following admission. A facility must maintain verification that each resident has been screened. The information obtained from the search may be used by the facility to assess the resident's needs and to provide adequate and appropriate health care and protective and support services. The facility may disclose the

⁴⁷ Section 775.21, F.S.

⁴⁸ Section 943.0435, F.S.

information obtained to other residents. The facility does not have to conduct another search of FDLE sexual offender database if a resident is gone from the facility for no more than 45 days.

Sections 3. Amends s. 400.19(3), F.S., to delete the provision that allows AHCA to suspend an employee who discloses an unannounced nursing home inspection. A similar provision relating to all providers licensed by AHCA is codified in s. 408.811.

Section 4. Amends s. 400.215, F.S., to require a background screening as provided in ch. 435, F.S., for any contract worker whose duties require him or her to provide personal care or services to residents. The facility must maintain verification that a contract worker who will provide personal care or services to a resident has been screened. The facility may accept a signed affidavit from a contractor as verification of contracted workers' background screening. The cost of the background screening is to be borne by the person being screened.

The bill repeals a provision that exempted individuals employed by a nursing home prior to October 1, 1998, from background screening. This repeal requires anyone hired prior to October 1, 1998, who had not submitted to a background screening to do so. However, if an employee who was exempted from background screening because of his or her hire date has a disqualifying offense, he or she may continue employment pending the outcome of an exemption request if that request is made by October 1, 2009.

The bill prohibits a nursing home facility from beginning the employment of an employee or a contracted worker until the facility has evidence in-hand that level one screening has been completed.

The bill provides that a contract worker who has not been a Florida resident for the 5 years immediately preceding the request for background screening must complete a level two screening. The contracted worker may work under the direct and visual supervision of a person meeting the screening requirement provisions of s. 400.215, F.S., while the contracted worker awaits the completion of his or her level two screening.

The bill provides that a contract worker who does not provide personal care and services to residents is not required to be screened but must do the following instead:

- Sign in upon entering the facility,
- Wear an identification badge, and
- Sign out before leaving the facility.

The bill requires a nursing home to maintain a log of the information collected.

Prospective employees and contracted workers may not be employed until an exemption request, including all appeals, related to a disqualifying offense has been resolved.

Section 5. Amends s. 408.809, F.S., to allow AHCA to establish a schedule of fees to pay for the costs of background screening processing and to adopt necessary rules to carry out the screenings and for the schedule of fees.

Section 6. Amends s. 408.810(5), F.S., to require each facility licensed by AHCA⁴⁹ to publicly display a poster listing the names, addresses, and telephone numbers for the state's central abuse hotline, the State Long-Term Care Ombudsman, AHCA's consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit and the Statewide Public Guardianship Office's website address, with a description of each entity's area of assistance. Currently, the statute only requires nursing homes to display this poster. This provision will require the information to be displayed in all facilities licensed by AHCA, including ALF's and nursing homes. The bill allows AHCA to approve the format of the poster and charge a fee to cover the cost of producing and distributing the poster. Providers may download the poster from the agency's website at no charge.

Section 7. Amends s. 408.811, F.S., to allow AHCA to suspend an employee who discloses an unannounced inspection for all providers subject to AHCA licensure provisions under part II of ch. 408, F.S., not just to nursing homes.

The bill requires violations found during inspections be corrected within 30 days unless specified by AHCA and allows AHCA to require an applicant or licensee to submit a plan of correction for deficiencies within ten days unless otherwise designated.

The bill provides that AHCA may provide electronic access to information in lieu of sending the written reports required by a health care facility's authorizing statute or part II of ch. 408, F.S., relating to health care licensing.

Section 8. Amends s. 415.103(2), F.S., to require that a report to the state's central abuse hotline of the known or suspected abuse of a vulnerable adult by someone other than a relative, caregiver, or household member be immediately transferred to the appropriate sheriff's office. This provision is similar to the provision relating to reports of child abuse, abandonment, and neglect found in s. 39.201(2)(b), F.S., requiring a report of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare to be immediately transferred to the appropriate county sheriff's office by the central abuse hotline.

Section 9. Amends s. 415.1051, F.S., to allow DCF to file a petition to determine incapacity in emergency and nonemergency cases, if DCF believes, in good faith, that the vulnerable adult lacks capacity. The bill prohibits DCF from being appointed guardian or providing legal counsel for the guardian once the petition to determine incapacity is filed.

According to DCF, the authority to petition for determination of incapacity in non-emergency situations will enhance DCF's ability to protect vulnerable adults from abuse, neglect, and exploitation until a guardian can be appointed.

Section 10. Amends s. 415.112, F.S., to require DCF to adopt rules relating to ch. 415, F.S., including but not limited to:

⁴⁹ For a listing of facilities licensed by the ACHA that are subject to s. 408.810, F.S., refer to the narrative in Sections 25 and 26 of this Bill Analysis.

- Background screening of DCF employees and employee applicants including the criminal record check and drug testing of adult protective investigators and their supervisors;
- Reporting of adult abuse, neglect, exploitation, a vulnerable adult's need for services, false reporting, and adult protective investigations;
- Confidentiality, retention, and availability of DCF records;
- Injunctions and other protective orders;
- Emergency and nonemergency protective service intervention;
- Agreements with law enforcement agencies and other states;
- Legal and casework procedures;
- Legal and casework management; and
- Coordination of casework within several agencies, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements.

The department's current rule-making authority, relating to adult protective services, is limited.

Section 11. Amends s. 429.02, F.S., to modify the definition of the term "service plan" to require a service plan for all ALF residents and not just a resident receiving extended congregate care services. The bill allows AHCA to accept the Community Supported Living Plan for mental health residents instead of a service plan. The bill requires AHCA to develop a service plan form for use by providers.

Section 12. Amends s. 429.07(3)(b) and (c), F.S., relating to the ECC and LNS licenses. The bill requires an ALF operator to have a standard license and not have been subject to administrative sanctions for two years before obtaining or while maintaining an ECC or LNS specialty license. These sanctions include:

- A class I or II violation;
- Three or more repeat or recurring class III violations for identical or similar reasons that represent a pattern of noncompliance;
- Three or more class III violations that were not corrected in accordance with a corrective action plan approved by AHCA;
- Violation of resident care standards requiring the facility to employ a consultant pharmacist or consultant dietitian; or
- Denial, suspension, or revocation of a license for another facility in which the applicant for an ECC license has at least 25 percent ownership interest.

The bill deletes a provision that requires the Department of Elderly Affairs (DOEA) and AHCA to prepare and submit an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the chairs of the appropriate legislative committees relating to extended congregate care services. According to AHCA, the ECC license has been effective since 1991. Initially, the annual report was to provide information to evaluate the effectiveness and usefulness of the license. The agency reports that there are currently 305 standard licensed ALF's with ECC specialty licenses. The agency believes that continuation of the annual report is unnecessary.

Section 13. Amends s. 429.174, F.S., relating to the background screening requirement for assisted living facilities. The bill requires an ALF to conduct level one screenings on each employee who performs a personal service or has access to resident living areas and each contracted worker whose responsibilities may require him or her to provide personal services to residents. The facility must maintain verification that contracted workers have been screened. The facility may accept a signed affidavit from a contractor as verification of contracted workers' background screening. The cost of the screening is to be borne by the person being screened; however, the bill allows a facility to reimburse an employee or contract worker for this cost. The bill prohibits an ALF from employing an employee or contract worker who does not meet the background screening requirements.

Contracted workers who do not provide personal care or services to residents must sign in upon entering the facility, wear an identification badge, and sign out before leaving the facility. The bill provides that each ALF is required to maintain a log of the information collected.

The bill repeals a provision that exempted individuals employed by an ALF prior to October 1, 1998 from background screening. This repeal would require anyone hired prior to October 1, 1998 who had not submitted to a background screening to do so. However, if an employee who was exempted from background screening because of his or her hire date has a disqualifying offense, he or she may continue employment pending the outcome of an exemption request if that request is made by October 1, 2009.

The bill authorizes AHCA to establish a fee schedule to cover the costs of level one and level two screening and requires the Florida Department of Law Enforcement to charge AHCA a rate sufficient to cover the cost of the level one and level two screenings.

Section 14. Amends s. 429.255, F.S., to provide that the owner or administrator of an ALF is responsible not only for the determining that a resident is receiving appropriate services for residence in the facility, but also for the provision and quality of care and services for the resident. The bill provides that licensed volunteers are required to report resident observations to a facility employee and the facility employee is required to note the volunteer's observation in the appropriate resident's chart.

Section 15. Amends s. 429.26, F.S., relating to the appropriateness of placement and the examination of residents. The bill provides that the person conducting a medical examination on a potential ALF resident may not have a financial interest in the ALF.

The bill provides that a resident of an ALF may not be transferred or moved without consultation with and agreement from the resident or one of the representatives listed within the section, unless it is done as provided in s. 429.28(1)(k), F.S., relating to an ALF's discharge policy.

The bill requires ALFs to develop a service plan for every resident. This requirement currently exists only for residents receiving extended congregate care.

The bill requires ALFs to search the sexual offender database maintained by the Florida Department of Law Enforcement (FDLE) for each resident and for each prospective resident of the ALF at the time of admission or immediately following admission. A facility must maintain

verification that each resident has been screened. The facility may accept a signed affidavit from a contractor as verification of contracted workers' background screening. The information obtained from the search may be used by the facility to assess the resident's needs and to provide adequate and appropriate health care and protective and support services. The facility may disclose the information obtained to other residents. The facility does not have to conduct another search of FDLE sexual offender database if a resident is gone from the facility for no more than 45 days.

The bill requires an ALF to periodically assess the competency of a resident to handle his or her personal and financial affairs and to consider whether a person such as a resident representative designee, guardian, surrogate, or attorney is available to make decisions for the resident. The bill requires the owner or administrator of an ALF to contact an individual's representative or designee, guardian, surrogate, or attorney-in-fact if the resident is having difficulty handling his or her personal or financial affairs due to a decline in abilities. If a resident does not have family or a legal representative, the bill requires the owner or administrator to contact the Florida Abuse Hotline.

Section 16. Amends s. 429.27, F.S., to ensure the safekeeping of a resident's personal property. The bill prohibits an ALF, its owner, administrator, staff, or representative from making financial or health care decisions on a resident's behalf and from acting as the resident's representative or designee, or health care surrogate, unless the person is a relative of the resident.

Section 17. Amends s. 429.28(1), F.S., relating to the resident's bill of rights. Current law requires that when noticing a resident of his or her relocation or termination of residency from an ALF, the facility must provide 45 day's notice in writing. The bill adds a provision requiring that the written notice specify the reason for relocation or termination, and that a copy of the notice be sent by registered mail, at the same time the resident is noticed, to the resident's representative designee, guardian, surrogate, and attorney in fact. Within 5 business days after mailing the notification to the resident, the State Long-Term Ombudsman Program must also be notified by regular mail, facsimile, or e-mail.

The bill requires the State Long-Term Ombudsman Program to summarize the information received in the discharge notices and report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This report must include the number and reasons for relocation or termination of residents, the type and size of a facility, and any other relevant information.

The bill requires that each ALF establish a written grievance procedure, which includes at a minimum, maintaining a written record of each grievance, the stated reason for the grievance, and responsive actions taken by the facility. The written record must be transmitted to the local ombudsman council by regular mail, facsimile, or e-mail, weekly. Each facility must accept grievances either orally or in writing. The bill requires the local ombudsman council to maintain a record of all grievances received from each facility in the local area and submit that information to the State Long-Term Care Ombudsman.

The bill deletes ss. 429.28(3)(a) and (c) through (e), F.S., relating to AHCA's responsibility for conducting surveys to determine general compliance with residents' rights; monitoring visits

during any calendar year in which no survey is conducted; conducting periodic follow-up inspections to monitor compliance of facilities with a history of any Class I, II, or III violation; and conducting complaint investigations as warranted. This information is added to and amended in s. 429.34(2), F.S.

Section 18. Amends s. 429.294(1), deleting an unnecessary cross reference.

Section 19. Amends s. 429.34, F.S., relating to the right of entry and inspection of ALFs. The bill requires AHCA to conduct at least one unannounced inspection every 24 months to determine compliance with licensure regulations. Two additional surveys must be conducted every 6 months for the next year if an ALF is cited for a class I deficiency or two or more class II deficiencies from separate surveys within a 60-day period.

The bill gives AHCA the authority to assess an additional fine of \$69 per bed for each of the additional two surveys not to exceed \$12,000 each and requires that the agency adjust the fine based upon a change in the Consumer Price Index. The bill provides that the agency is responsible for verifying through inspections that each deficiency identified is corrected. The agency may verify the correction of a class III or class IV deficiency that is unrelated to resident rights or care without reinspecting the facility.

Section 20. Amends s. 429.41, F.S., to require each resident of an ALF to have a service plan that is reviewed and updated annually and when a resident experiences a significant change in condition. The bill provides for the plan to be reviewed and updated quarterly if a resident is receiving nursing services ordered by a physician, except for administration of medication. Currently, only resident's receiving extended congregate care are required to have a service plan.

Section 21. Amends s. 429.65, F.S., relating to AFCHs to add a definition for the term "reside." The definition clarifies that the home of an AFCH licensee or applicant must be the primary residence of the applicant or licensee. The bill specifies documentation that may be accepted as proof of the AFCH licensee or applicant's residency.

Section 22. Amends s. 429.67, F.S., to require any person who provides personal services to a resident or who has routine access to an AFCH to submit to a level one background screening. Section 429.67, F.S., currently requires that a level one background screening be conducted on the provider, designated relief person, adult household members, and staff members of an AFCH.

Section 23. Amends s. 429.69, F.S., to authorize AHCA to deny, revoke, or suspend the license of an AFCH if the provider who owns or rents the home does not live in the home. THE AGENCY reports that some regulatory problems have been identified where AFCH licensees do not live in the home as required, but merely maintain an appearance of residency, and do not oversee the residents and their care.

Section 24. Amends s. 429.73, F.S., relating to rules and standards for an AFCH, to require the periodic assessment of each resident to determine if the resident is competent to handle his or her personal and financial affairs, and if not, whether a guardian, surrogate, or attorney in fact is

available to make decisions on behalf of the resident. This is the same requirement that is being added for ALFs.

Sections 25 and 26. Amend ss. 435.03 and 435.04, F.S., relating to level one and level two screening standards, to add several offenses that will disqualify an individual from being an employee or employer licensed or registered pursuant to part II of ch. 408, F.S., developmental disabilities institutions, and mental health treatment facilities. By referencing part II of ch. 408, F.S., this provision applies to:

- Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102, F.S.;
- Birth centers, as provided under ch. 383, F.S.;
- Abortion clinics, as provided under ch. 390, F.S.;
- Crisis stabilization units, as provided under parts I and IV of ch. 394, F.S.;
- Short-term residential treatment facilities, as provided under parts I and IV of ch. 394, F.S.;
- Residential treatment facilities, as provided under part IV of ch. 394, F.S.;
- Residential treatment centers for children and adolescents, as provided under part IV of ch. 394, F.S.;
- Hospitals, as provided under part I of ch. 395, F.S.;
- Ambulatory surgical centers, as provided under part I of ch. 395, F.S.;
- Mobile surgical facilities, as provided under part I of ch. 395, F.S.;
- Private review agents, as provided under part I of ch. 395, F.S.;
- Health care risk managers, as provided under part I of ch. 395, F.S.;
- Nursing homes, as provided under part II of ch. 400, F.S.;
- Assisted living facilities, as provided under part I of ch. 429, F.S.;
- Home health agencies, as provided under part III of ch. 400, F.S.;
- Nurse registries, as provided under part III of ch. 400, F.S.;
- Companion services or homemaker services providers, as provided under part III of ch. 400, F.S.;
- Adult day care centers, as provided under part III of ch. 429, F.S.;
- Hospices, as provided under part IV of ch. 400, F.S.;
- Adult family-care homes, as provided under part II of ch. 429, F.S.;
- Homes for special services, as provided under part V of ch. 400, F.S.;
- Transitional living facilities, as provided under part V of ch. 400, F.S.;
- Prescribed pediatric extended care centers, as provided under part VI of ch. 400, F.S.;
- Home medical equipment providers, as provided under part VII of ch. 400, F.S.;
- Intermediate care facilities for persons with developmental disabilities, as provided under part VIII of ch. 400, F.S.;
- Health care services pools, as provided under part IX of ch. 400, F.S.;
- Health care clinics, as provided under part X of ch. 400, F.S.;
- Clinical laboratories, as provided under part I of ch. 483, F.S.;
- Multiphasic health testing centers, as provided under part II of ch. 483, F.S.; and
- Organ and tissue procurement agencies, as provided under ch. 765, F.S.

The bill provides that an individual may not have been convicted of, or entered a plea of guilty or nolo contendere, to offenses prohibited under specific statutes or similar statute of another jurisdiction. The bill adds the following statutory references to the list of disqualifying offenses:

- Sections 409.920 and 409.9201, F.S., relating to Medicaid fraud;
- Chapter 429, F.S., relating to assisted care communities;
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense is a felony;
- Section 810.02, F.S., relating to burglary, if the offense is a felony;
- Section 817.034, F.S., relating to communications fraud;
- Section 817.234, F.S., relating to fraudulent insurance claims;
- Section 817.505, F.S., relating to patient brokering;
- Section 817.568, F.S., relating to identification theft;
- Sections 817.60 and 817.61, F.S., relating to credit cards, if the offense is a felony; and
- Sections 831.01, 831.02, 831.07, 831.09, 831.30, and 831.31, F.S., relating to forgery, uttering, and counterfeiting.

The expansion of disqualifying criminal offenses encompasses common crimes committed upon vulnerable populations. The bill prohibits any individual charged with one of the crimes mentioned above from being eligible for employment by a health care provider.

Section 435.04(4)(a), F.S., currently provides that an employee or employer of a developmental disabilities institution as defined in s. 393.063, F.S., must not have a confirmed report of abuse, neglect, or exploitation that has been uncontested or upheld. The bill removes this provision and adds it to s. 435.04(4)(c), F.S.

Section 27. The bill repeals s. 400.141(13), F.S., relating to a requirement to post certain information in nursing homes. This provision is added in Section 5 to s. 408.810(5), F.S., to apply to all facilities regulated by AHCA, not just nursing homes.

The bill repeals s. 408.809(3), F.S., relating to the granting of a provisional license that may be issued for up to 180 days pending the results of a background screening. According to AHCA, this provision is not needed.

The bill repeals s. 429.08(2), F.S., to delete a provision creating a workgroup on unlicensed facilities. According to AHCA, this provision was put into law in 2000⁵⁰ and is no longer needed.

The bill repeals s. 429.41(5), F.S., authorizing AHCA to use an abbreviated survey process. According to AHCA, the agency never uses an abbreviated survey process.

Section 28. Amends s. 430.80(3), F.S., to update a statutory cross-reference.

Section 29. Amends s. 651.118(13), F.S., to update a statutory cross-reference.

⁵⁰ Chapter 2000-318, F.A.C.

Section 30. The bill provides an appropriation of \$391,768 and the 8.5 full-time equivalent positions with an associated salary rate of \$295,840 necessary to accomplish the goals of the bill.

Section 31. The bill provides an effective date of October 1, 2008.

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:

The bill provides significant resident protections for individuals living in long-term care facilities.

The bill would have an indeterminate fiscal impact on the private sector because of the increased costs associated with provisions relating to:

- Background screening requirements for contracted employees of nursing homes and ALFs, and individuals with access to AFCHs, who have not already been screened and able to provide verifying documentation to the facility; and
- The imposition of a \$160 per bed fine on ALFs for the two additional surveys that must be conducted every 6 months for the next year if an ALF is cited for a class I deficiency or two or more class II deficiencies.

C. Government Sector Impact:

According to AHCA, the fines and appropriation contained in the bill cover the fiscal impact.

Agency for Health Care Administration

	FY 08-09				FY 09-10			
	FTE	Trust			FTE	Trust		
		Recur	NonRec	Total		Recur	NonRec	Total
Agency for Health Care Administration								
Revenues								
Background Screening		\$170,550		\$170,550		\$227,400		\$227,400
ALF Deficiencies		\$222,921		\$222,921		\$297,228		\$297,228
<i>Sub-Total</i>		\$393,471		\$393,471		\$524,628		\$524,628
Expenditures								
Background Screening	4.0	\$149,689	\$20,800	\$170,489	4.0	\$191,520		\$191,520
ALF Deficiencies	4.5	\$198,079	\$23,200	\$221,279	4.5	\$263,509		\$263,509
<i>Sub-Total</i>	8.5	\$347,768	\$44,000	\$391,768		\$455,029		\$455,029
Balance				\$1,703				\$69,599

Department of Children and Families

According to DCF, criminal background checks, as well as drug testing, would potentially require the department to re-screen all current Adult Protective Investigations staff at a non-recurring cost of \$24,309. The department will absorb these costs within its current department resources.⁵¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health and Human Services Appropriations on March, 27 2008:

- Deletes the annual rechecking of the sexual predator registry for nursing home and ALF residents;
- Allows a nursing home or ALF to accept a copy of the qualifying screening results or a signed affidavit from a contractor as verification of a contracted workers' background screening;
- Removes the provision requiring that the information posters displayed in long-term care facilities include the Statewide Public Guardianship Office telephone number and instead requires that their website be listed;

⁵¹ Department of Children and Families, Staff Analysis and Economic Impact, SB 2216, February 28, 2008.

- Adds to DCF's rule making authority in s. 415.112, F.S., the ability to promulgate rules to coordinate casework within several agencies, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements;
- Changes the definition of the term "service plan" to allow AHCA to accept the Community Supported Living Plan for mental health residents instead of a service plan;
- Adds the word "licensed" to provide that "licensed" volunteers have an obligation to observe the residents and report to the facility's staff;
- Adds the word "not" in the phrase "for no more than 45 days" to provide that an ALF does not have to rescreen a resident who is away from the facility for "no" more than 45 days. This is a technical change;
- Replaces the word "or" with the word "and" to require that notice for discharge of an ALF resident be provided to all listed;
- Lower's AHCA's per bed fine from \$160 to \$69 and caps the per inspection fines at no more than \$12,000 each;
- Reinstates current law regarding screening of developmental disabilities institution as defined in s. 393.063, F.S., that was inadvertently removed from s. 435.04(4)(a), F.S.; and
- Provides an appropriation of \$391,768 and the 8.5 full-time equivalent positions with an associated salary rate of \$295,840 necessary to accomplish the goals of the bill.

CS by Health Regulation on March 19, 2008:

- Requires nursing homes to conduct a search of FDLE sexual offender/predator database on residents (prior to admission and current residents) annually. The results may be disclosed to other residents. No re-screening is required for a resident who is away from the facility for 45 days or less;
- Revises the background screening requirements for nursing homes as follows:
 - Level one background screening is required for all employees who provide personal care or services to residents, have access to resident living areas, or have access to resident funds or other personal property. The screening must be completed before employment begins;
 - Level one background screening is required for all contracted workers who provide personal care or services to residents;
 - Level two background screening is required of an employee or contracted worker who has not maintained continuous residency within the state for the previous 5 years (based on the person's written attestation with a penalty of perjury). While awaiting results an employees may work "conditionally" for up to 180 days and a contracted worker may work under the direct and visual supervision of a screened person;
 - A nursing home must maintain verification that the contracted worker has been screened. As a result, a nursing home does not have to screen contracted workers who have already been screened;
 - The person being screened is responsible for the cost of screening;

- If a contracted worker does not provide personal care or services to residents, the worker must sign in and out and wear an identification badge.
- The agency must maintain a database of screened employees and contractors;
- Employees who were previously exempted from background screening because he or she was employed prior to October 1, 1998, must now be screened, and
- All screened persons have a right to request an exception to banned employment based on screening results;
- The notification poster that is required to be displayed in all health care facilities licensed by AHCA may be downloaded from the Internet at no charge;
- Revises the background screening requirements for ALFs as follows:
 - Level one background screening is required for all employees who provide personal care or services to residents or have access to resident living area. This screening must be completed before employment begins;
 - Level one background screening is required for all contracted workers who provide personal care or services to residents;
 - An ALF must maintain verification that the contracted worker has been screened. As a result, an ALF does not have to screen contracted workers who have already been screened;
 - The person being screened is responsible for the cost of screening;
 - If a contracted worker does not provide personal care or services to residents, he or she must sign in and out and wear an identification badge;
 - The agency must maintain a database of screened employees and contractors;
 - Employees who were previously exempted from background screening because he or she was employed prior to October 1, 1998, must now be screened; and
 - All screened persons have a right to request an exception to banned employment based on screening results;
- Requires ALFs to conduct a search of FDLE sexual offender/predator database on residents (prior to admission and current residents) annually. The results may be disclosed to other residents. No re-screening is required for a resident who is away from the facility for more than 45 (this should be 45 days or less);
- An ALF's notification of relocation or termination provided to the resident must specify the reasons for the relocation or termination and a copy of the notice must be sent by registered mail to the resident's:
 - Representative or designee,
 - Guardian,
 - Surrogate, or
 - Attorney in fact.

Notice must also be sent within five business days by regular mail, facsimile, or e-mail to the State Long-Term Care Ombudsman Program. The ombudsman program's annual report must include the number and reasons for relocations or terminations, type and size of facilities, and other relevant information;

- The ALFs must maintain a written record of all residents' grievances, stated reason for the grievance, actions taken by the facility and reporting of grievances. Weekly this record must be sent by regular mail, facsimile, or e-mail to the local ombudsman. An ALF must accept grievances either orally or in writing. The local council must

submit the local area grievances to the Office of the State Long-Term Care Ombudsman; and

- The agency shall conduct an unannounced inspection of ALFs every 24 months. Two additional surveys are required every 6 months for the next year if an ALF is cited for a class I deficiency or 2 or more class II deficiencies at a cost to the facility of \$160 per bed for each additional survey. The cost shall be adjusted by changes in the consumer price index. The agency is authorized to verify correction of class III or class IV deficiencies through written documentation.

CS by Children Families, and Elder Affairs on March 12, 2008:

- Designates a level one background screening be used to screen prospective residents, and that a resident's background screening results transfer with the resident when he or she transfers between facilities;
- Provides that a contract worker in a nursing home or ALF who does not provide personal care or services or have access to resident funds or personal property is not required to submit to a background screening and must instead sign in and wear an identification badge;
- Provides that nursing homes and ALFs must maintain a log of the collected contract worker data;
- Amends s. 408.809, F.S., providing that AHCA may establish a schedule of fees to pay for the costs of background screening processing and adopt necessary rules;
- Provides that the posters required in s. 408.810, F.S., may be simply approved by AHCA, and that AHCA may charge a fee;
- Amends s. 408.811, F.S., to require that violations found during inspections be corrected within 30 days unless otherwise specified by AHCA, and allows AHCA to post inspection reports online;
- Amends the definition of the term "service plan" in s. 429.02, F.S., to require that AHCA develop a service plan form;
- Amends s. 429.26, F.S., to require the owner or administrator of an ALF to contact a resident's representative or designee, guardian, surrogate, or attorney-in-fact if the resident is having difficulty handling his or her personal or financial affairs due to a decline in abilities. The bill requires the owner or administrator to contact the Florida Abuse Hotline if a resident does not have family or a legal representation to answer on his or her behalf;
- Requires ALFs to accept grievances orally and allows them to accept grievances in writing;
- Requires that an ALF resident's service plan required in s. 429.41, F.S., be updated when a resident experiences a significant change in condition;
- Provides that any level I or II background screening of any provider regulated by the Agency must not have certain disqualifying criminal offenses;
- Retains s. 429.19(7), F.S., which imposes an administrative fine of up to \$500 to cover the cost of conducting complaint investigations that result in the findings of a violation; and
- Changes the effective date to October 1, 2008.

B. Amendments:

None.

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