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## **Elder & Family Services Policy Committee**

**Tuesday, January 12, 2010  
10:00 - 12:00 PM  
24 House Office Building**

# **REVISED**

**Larry Cretul  
Speaker**

**Thomas "Tom" Anderson  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Elder & Family Services Policy Committee

**Start Date and Time:** Tuesday, January 12, 2010 10:00 am  
**End Date and Time:** Tuesday, January 12, 2010 12:00 pm  
**Location:** 24 HOB  
**Duration:** 2.00 hrs

Overview of the Department of Children and Families

Overview of the Department of Elder Affairs

Panel Presentation on Background Screening by:

Agency for Health Care Administration  
Department of Children and Families  
Department of Elder Affairs  
Florida Department of Law Enforcement

**NOTICE FINALIZED on 01/05/2010 16:14 by Alison.Cindy**



# The Florida House of Representatives

Health & Family Services Policy Council  
Elder & Family Services Policy Committee

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## AGENDA

January 12, 2010  
10:00 – 12:00 PM  
24 House Office Building

I. Opening Remarks by Chair Anderson

II. Overview of the Department of Elder Affairs

Doug Beach, Secretary  
Department of Elder Affairs

III. Overview of the Department of Children and Families

George Sheldon, Secretary  
Department of Children and Families

IV. Panel Presentation on Background Screening

Donna Uzzell, Director  
Criminal Justice Information Program  
Department of Law Enforcement

Don Winstead, Deputy Secretary  
Department of Children and Families

Molly McInstry, Bureau Chief  
Long Term Care Services  
Agency for Health Care Administration

Dean Kowalchuk, General Counsel  
Department of Elder Affairs

V. Closing Remarks from Chair Anderson

VI. Adjournment







DEPARTMENT OF



**ELDER  
AFFAIRS**  
STATE OF FLORIDA

# ***Elder & Family Services Policy Committee Meeting***

*January 12, 2010*

Charlie Crist  
Governor

Doug Beach  
Secretary

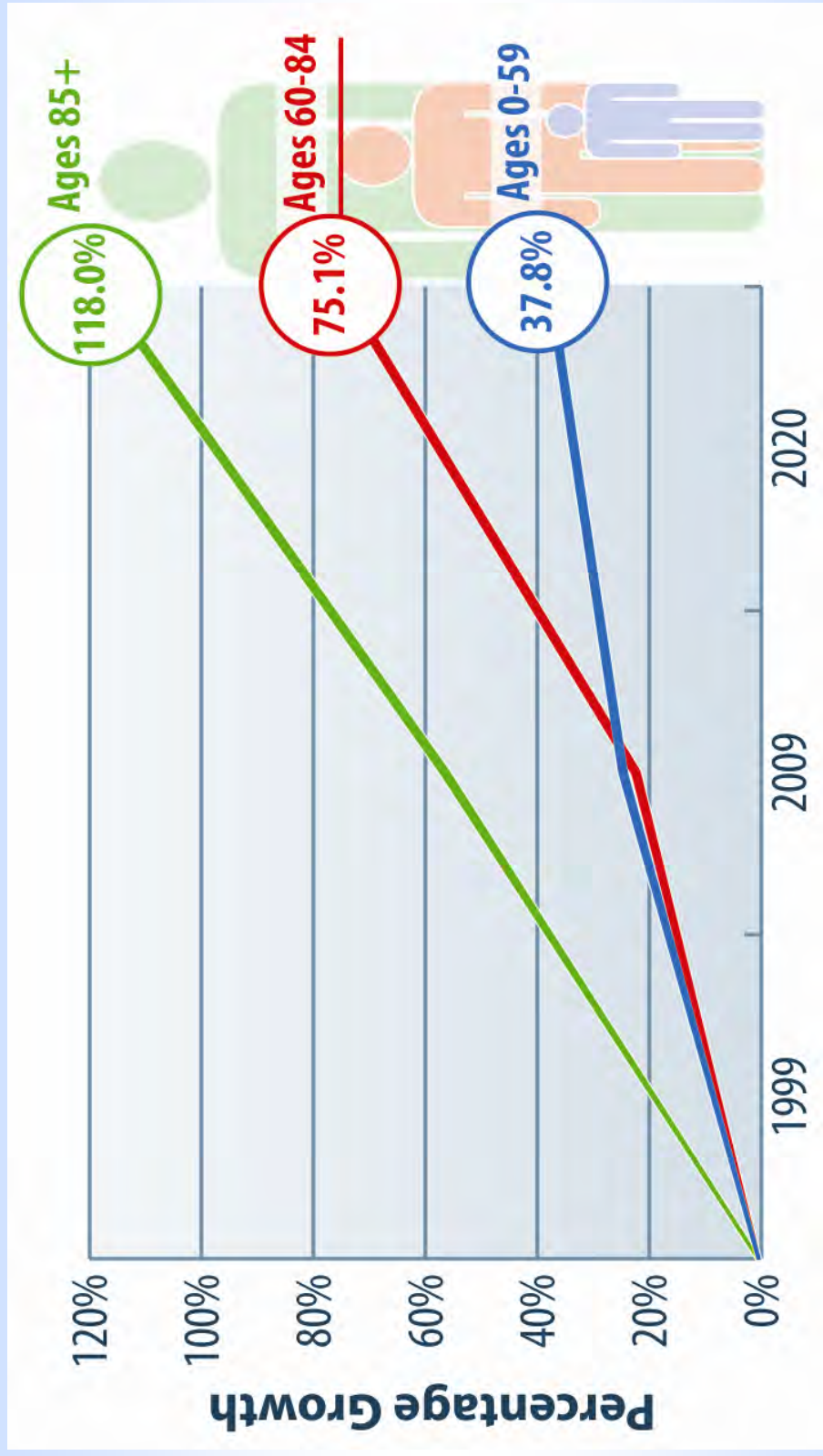




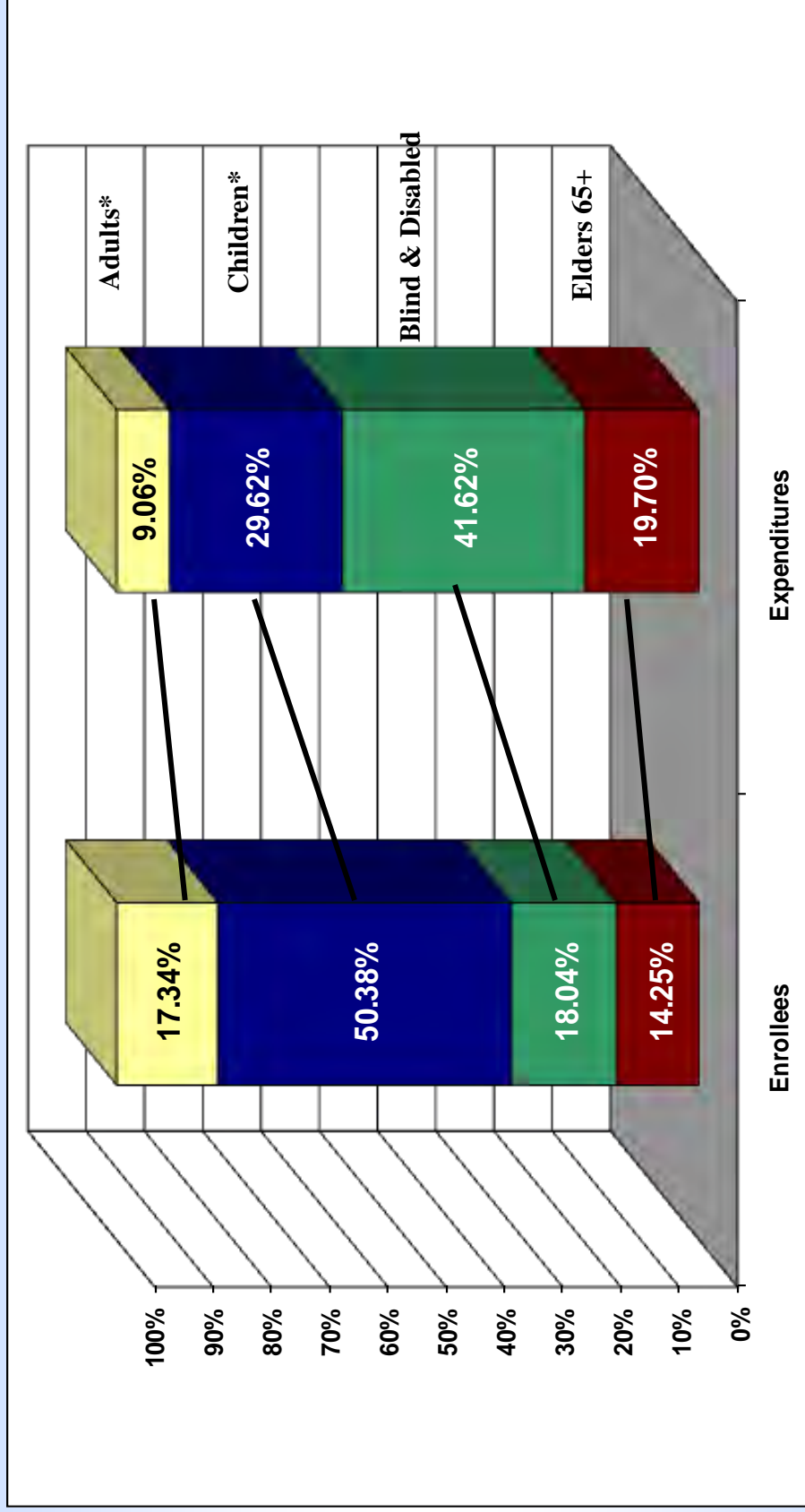
## Florida's Senior Facts

- The average Florida retiree contributes \$2,000 more in revenues than he or she consumes in public services.
- Residents age 60+ are responsible for 40.2 % of the owner-occupied housing in Florida, even though they constitute just 23.1% of the population.
- Florida seniors (60+) are almost one-fourth more likely to own the home in which they live than are seniors nationwide.
- Florida voters age 50+ made up almost half the state's electorate (49 %) in the 2008 Presidential election, six points higher than the national percentage.
- Florida seniors remain committed to their families, increasingly stepping in to raise their grandchildren when the parents cannot – 60,476 as of July 2009.

# Florida's Population Projections

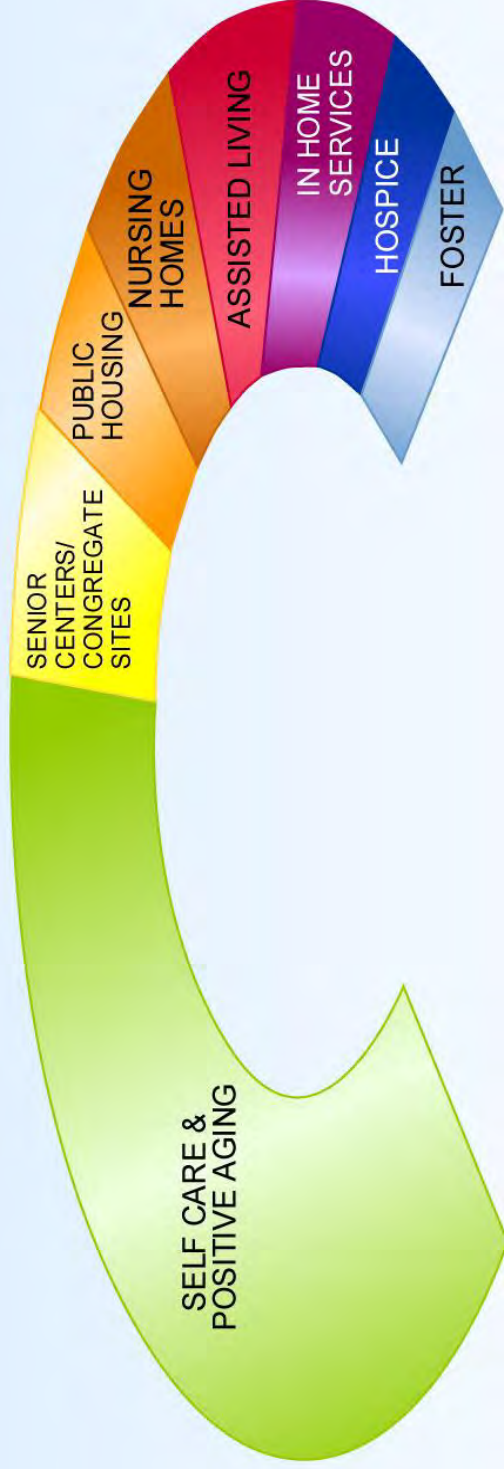


# Medicaid Expenditures



\* Adults and children refers to non disabled adults and children.

# Continuum of Care

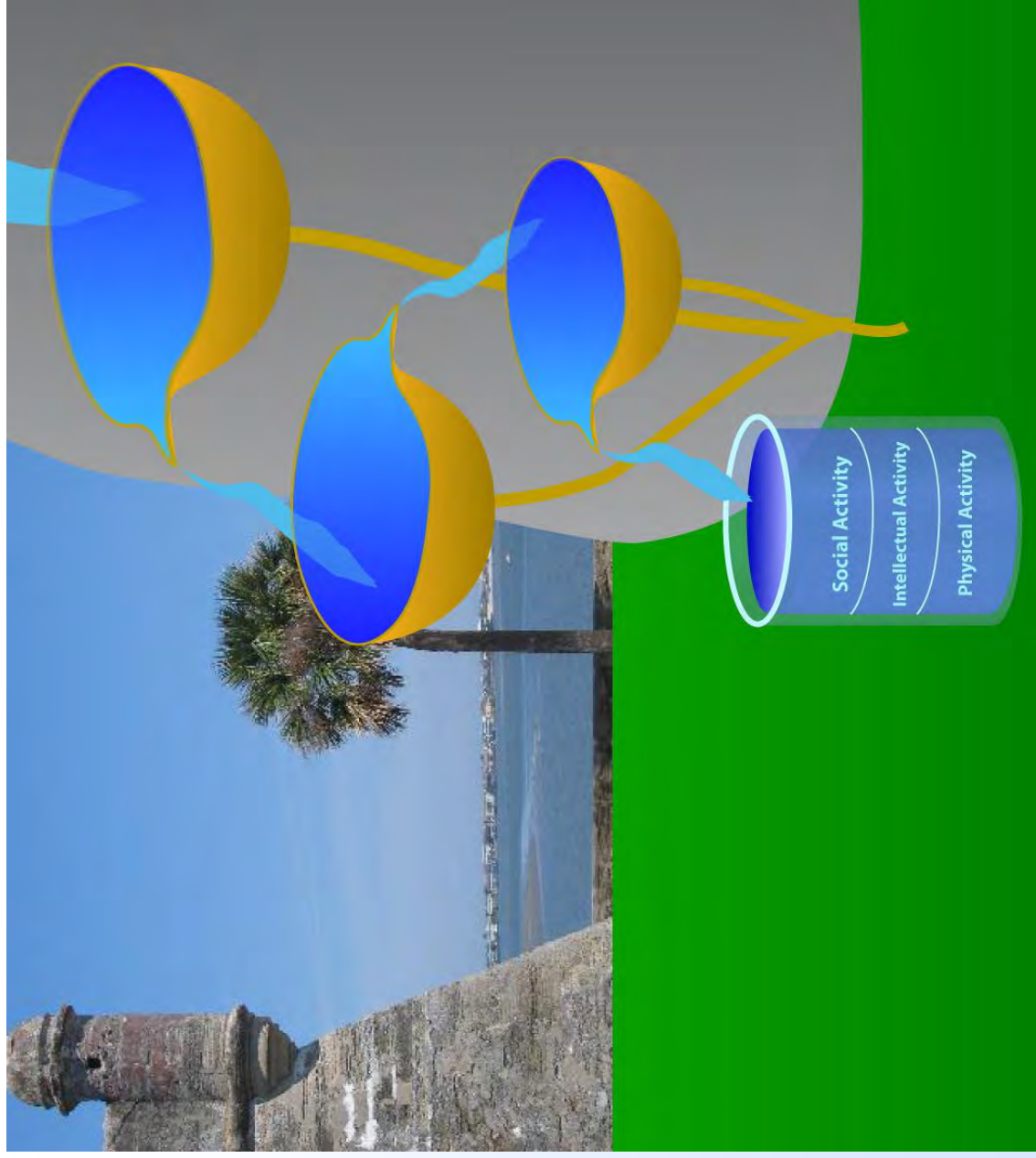


SELF CARE & POSITIVE AGING	89.1%
SENIOR CENTERS/CONGREGATE SITES	2.8%
PUBLIC & AFFORDABLE HOUSING	2.2%
NURSING HOMES	2.1%

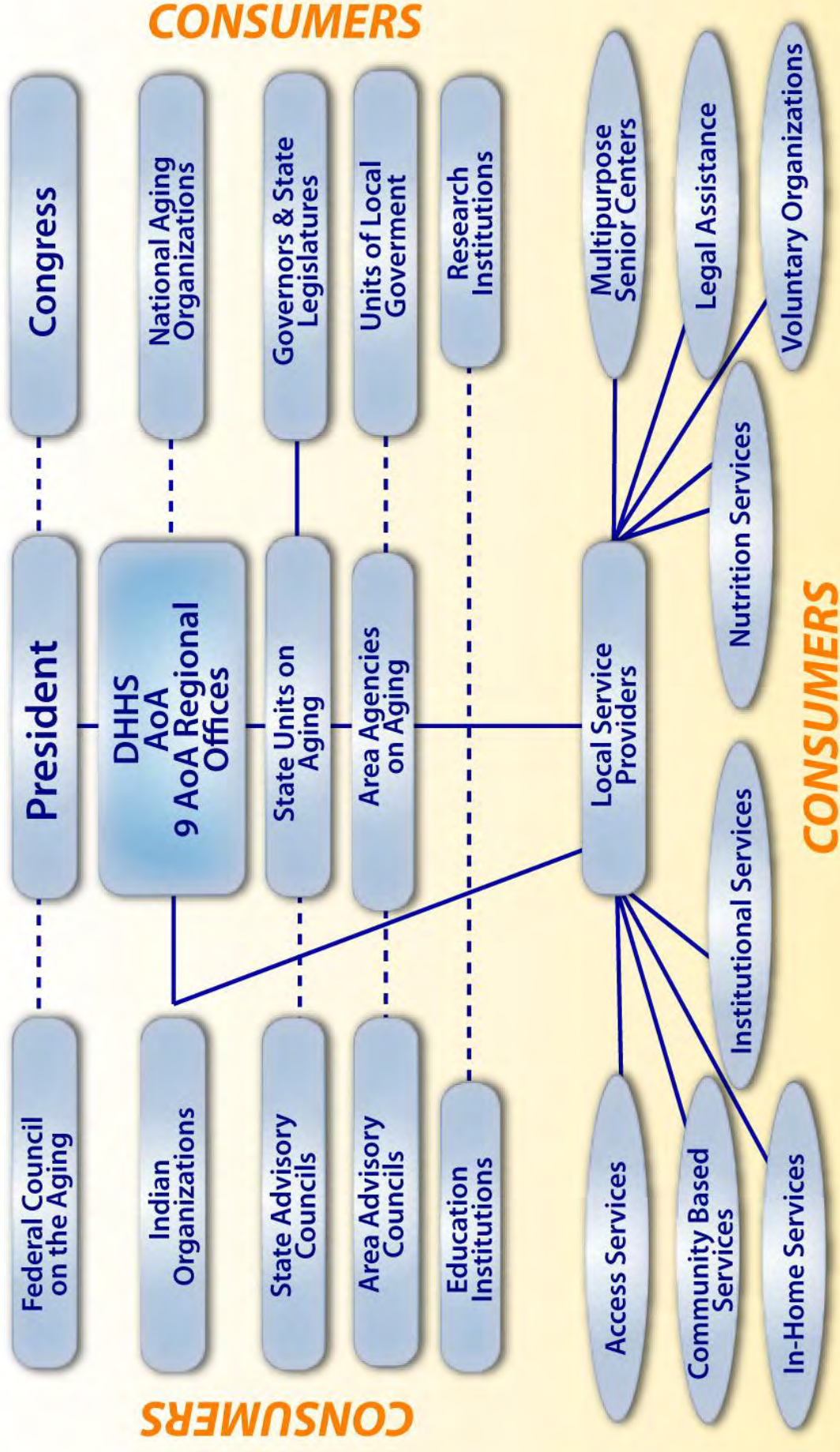
ASSISTED LIVING FACILITIES	1.9%
IN-HOME SERVICES	1.6%
HOSPICE	.2%
FOSTER AND FAMILY CARE HOMES	< .1%



# Fountain of Youth



# National Aging Service Network



# Legislative Enactment

## **State Law**

- Department established in 1991 via amendment to Florida Constitution, Article IV, Section 12.
- Created in “Department of Elderly Affairs Act,” Section 20.41 and Chapter 430, Florida Statutes.

## **Federal Law**

- Designated as state unit on aging as defined in federal Older Americans Act (OAA) of 1965, as amended.
- Required to carry out responsibilities detailed in OAA, including oversight of services to help elders age in place with dignity and independence and to preserve the rights of those most vulnerable.

# Department of Elder Affairs

## ***Mission***

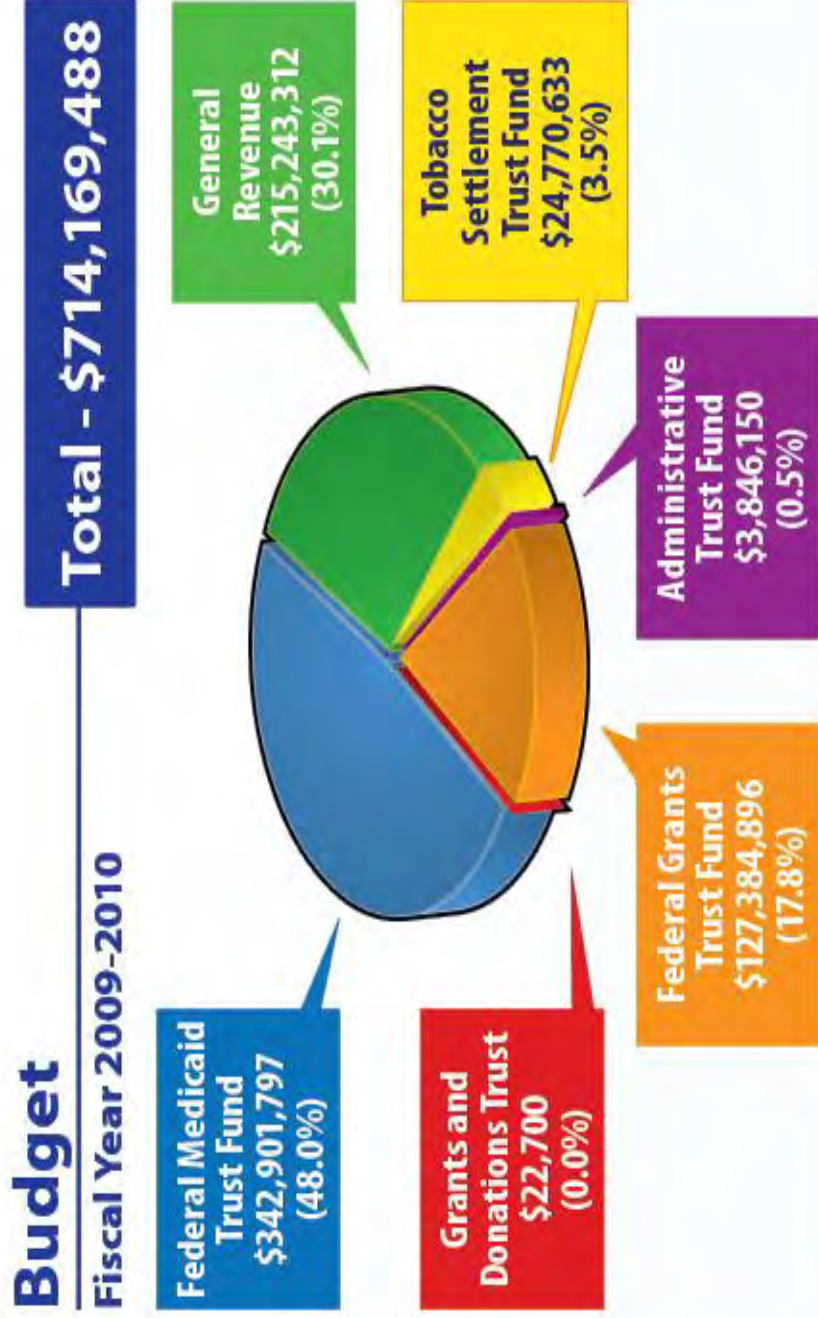
To foster optimal quality of life for elder Floridians.

## ***Vision***

To foster a social, economic and intellectual environment for all ages, and especially for those age 60 years and older, where all can enjoy Florida's unparalleled amenities in order to thrive and prosper.

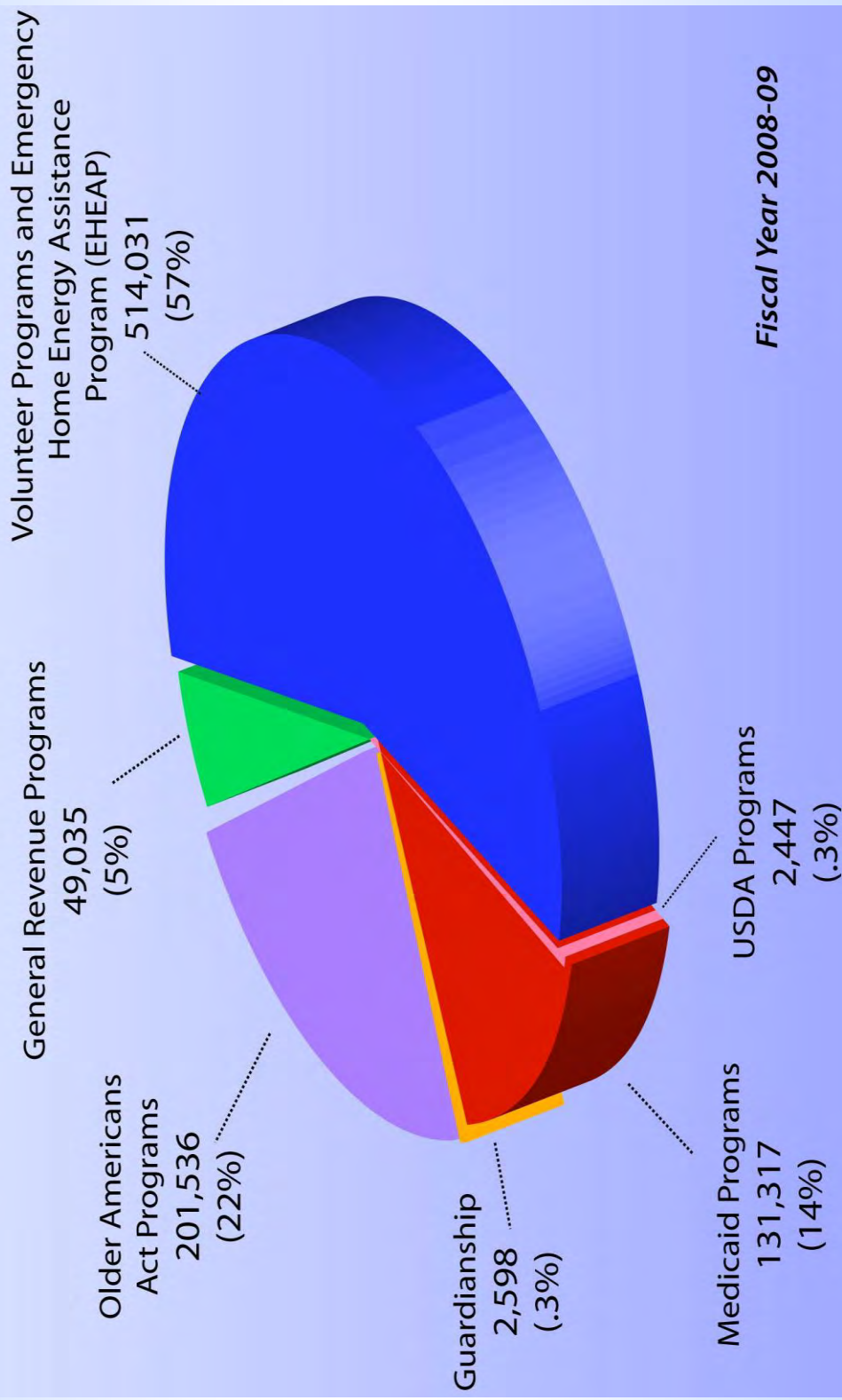


# Department Budget



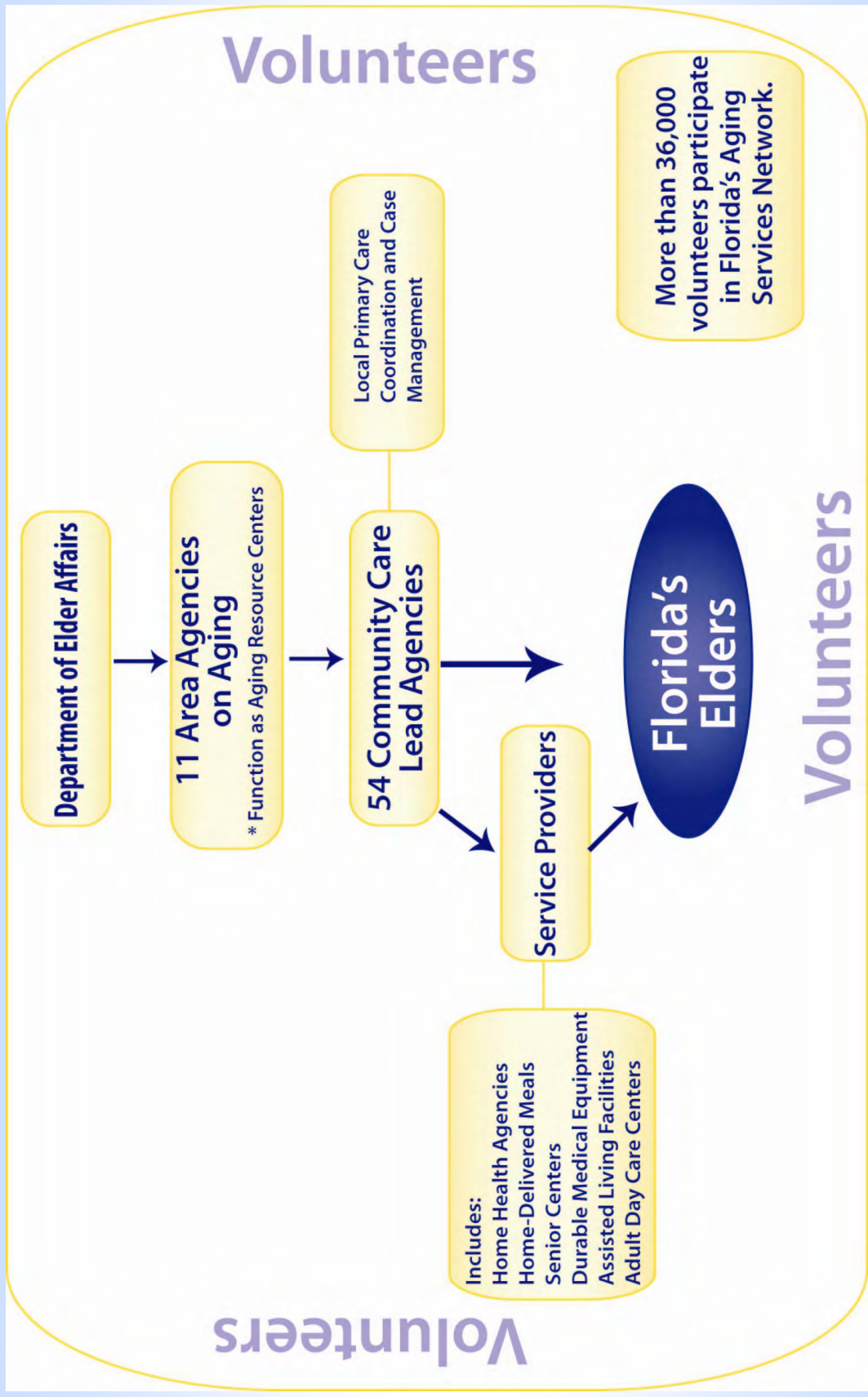
# Helping Citizens

**Elder Affairs Clients Served: 900,964**



**Fiscal Year 2008-09**

# Florida's Aging Services Network



# Services Breakdown

## Home- and Community-Based Services:

- Area Agencies on Aging (in-home and information services)
- CARES (Comprehensive Assessment and Review for Long-Term Services)
- Medicaid Waivers

## Consumer Advocate Services:

- Communities for a Lifetime
- Statewide Public Guardianship Office
- SHINE (Serving Health Insurance Needs of Elders)
- Long-Term Care Ombudsman Program
- Elder Abuse Prevention Program

## Home- and Community-Based Services

Using federal funds from the Administration on Aging, the Older American Act provides a variety of in-home and community-based services, including:

- adult day care
- caregiver training
- chore
- congregate dining
- home-delivered meals
- homemaker services
- information and referral
- medical transportation
- nutrition education
- personal care
- shopping



# CARES Program

Comprehensive eligibility services are federally mandated, **pre-admission screenings** to ensure that applicants for Medicaid-reimbursed nursing home care are medically appropriate.

The purpose of the Comprehensive Assessment and Review for Long-Term Care Services (CARES) is to:

- Determine medical eligibility or level of care for the Institutional Care Program and 11 of Florida's Medicaid waiver programs.
- Choice-counsel and refer elders on available Medicaid programs/services and follow-up with diverted clients to ensure safety.

CARES completed approximately 97,643 assessments during FY 08-09.

# Medicaid Waivers

The department operates Medicaid Waiver programs in partnership with the Agency for Health Care Administration, Florida's designated Medicaid agency.

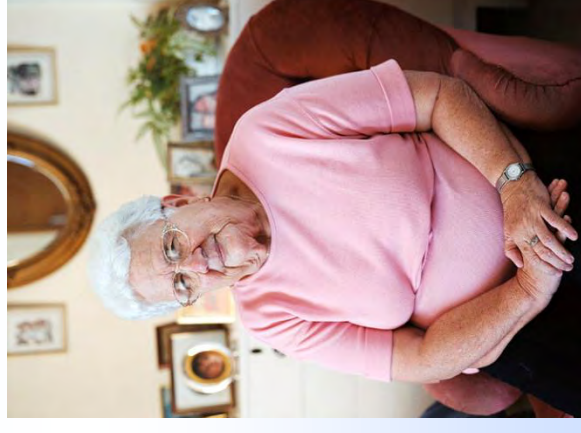
Medicaid Waiver programs are administered through contracts with the 11 Area Agencies on Aging and local service providers. These programs provide alternative, less restrictive long-term care options for elders who qualify for skilled nursing home care.

## **Elder Affairs Administered Waivers:**

- Adult Day Health Care
- Aged and Disabled Adult
  - Consumer Directed Care Plus
- Assisted Living for the Frail Elderly
- Alzheimer's Disease
- Channeling
- Nursing Home Diversion Program

## **Elder Affairs State Plan Service:**

- Program of All-Inclusive Care for the Elderly (PACE)



# Consumer Advocate Services

- Communities for a Lifetime Initiative
- Statewide Public Guardianship Office
- SHINE (Serving Health Insurance Needs of Elders)
- Long-Term Care Ombudsman Program
- Elder Abuse Prevention Program



# Communities for a Lifetime

Communities for a Lifetime is a statewide initiative that helps Florida cities, towns and counties plan and implement improvements that benefit all residents.

Communities for a Lifetime focuses on the following areas:

- Housing
- Transportation and Mobility
- Employment
- Health, Wellness and Injury Prevention
- Volunteerism and Intergenerational Programs



Currently, more than 107 Florida communities participate in this initiative.

# Statewide Public Guardianship

The Statewide Public Guardianship Office:

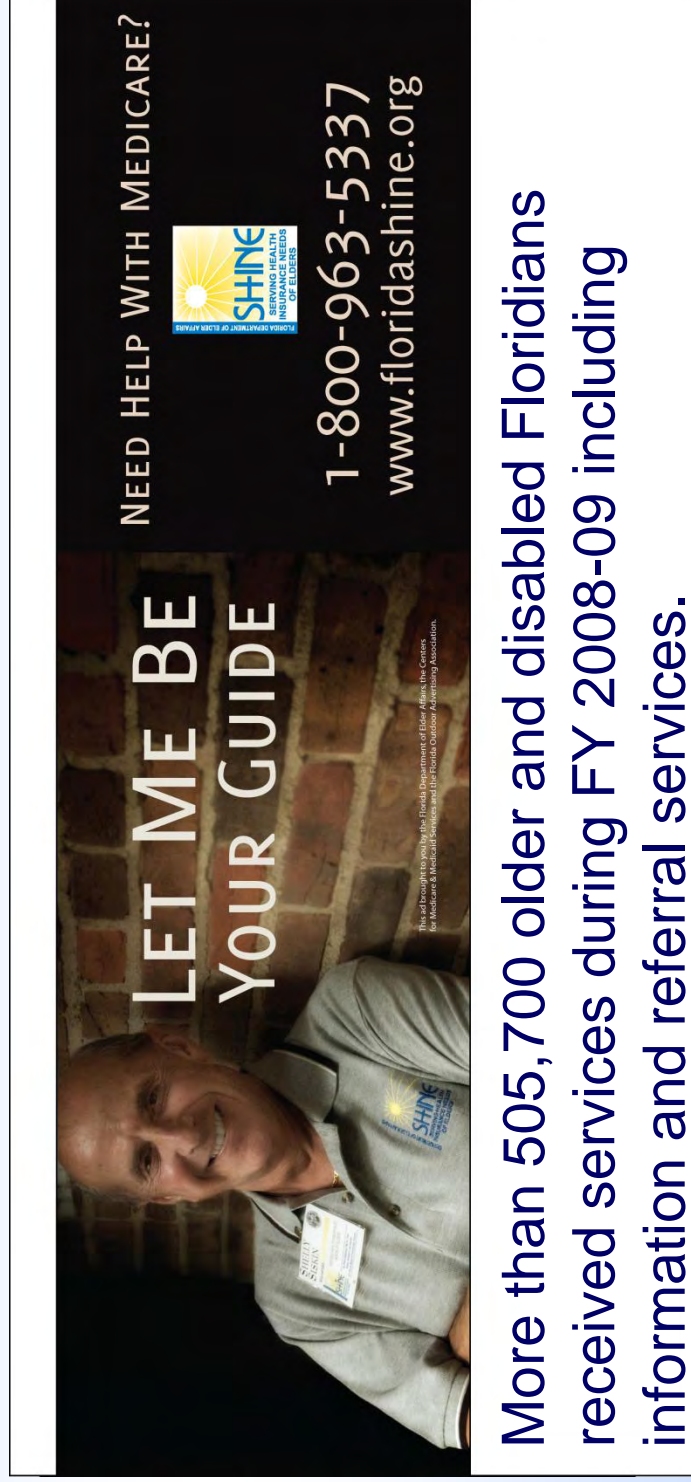
- Provides direction, coordination and oversight for public guardianship services in the state;
- Develops performance measures;
- Collects data on individuals served; and
- Works to increase funding to provide further public-guardianship services

The office is responsible for the curriculum and training of public and professional guardians, and registers professional guardians as mandated by Florida Statutes.

More than 2,598 wards received public guardianship services during FY 2008-09.

# SHINE Program

The SHINE (Serving Health Insurance Needs of Elders) program provides one-on-one counseling and assistance to people with Medicare and their representatives through more than 400 volunteer counselors.



LET ME BE  
YOUR GUIDE

NEED HELP WITH MEDICARE?  
1-800-963-5337  
[www.floridashine.org](http://www.floridashine.org)

More than 505,700 older and disabled Floridians received services during FY 2008-09 including information and referral services.

# Long-Term Care Ombudsman Program

More than 160,000 Floridians live in long-term care facilities.

The Ombudsman program utilizes a dedicated corps of more than 300 volunteers to investigate all complaints and develop ways to resolve concerns raised by, or on behalf of, residents of long-term care facilities who are age 60 or older.



Florida's Long-Term Care

**OMBUDSMAN PROGRAM**

*Our 2 cents is no small change*

# Elder Abuse Prevention Program

Elder Abuse Prevention coordinators, located at each Area Agency on Aging, provide education and outreach to identify and prevent elder abuse, neglect, fraud and exploitation.

They also help develop public safety initiatives that provide information and education regarding public safety issues affecting Florida's elders and their caregivers.



 **FOAA**   
The Power to Prevent Elder Abuse  
Is in Your Hands  
**1-800-96-ELDER**



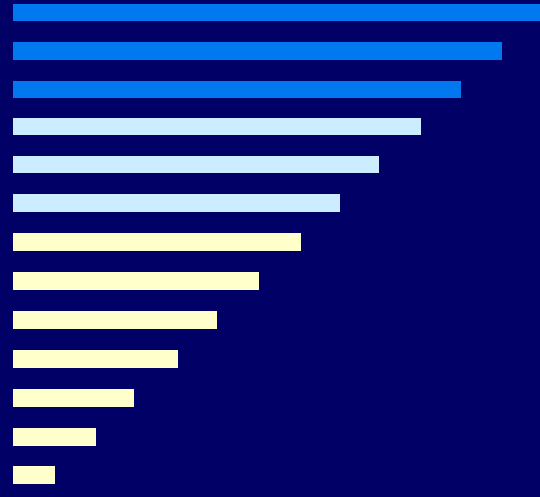


***Are there any questions?***









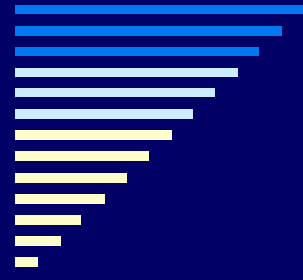
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# Criminal History Record Check Processes

January 12, 2010

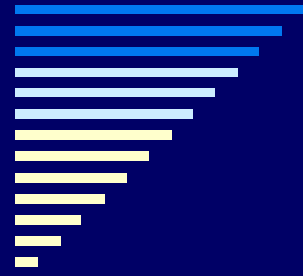
Florida Department of Law Enforcement

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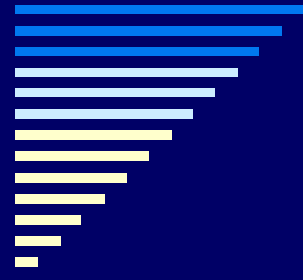
# State and National Criminal History Record Checks

- FDLE provides criminal history check processing as required by statute
- Provisions in state law are approved by the FBI under federal law (US PL92-544)
- Requires a fingerprint submission
- Fee based
  - State fee set by law at \$24.00
  - FBI fee
    - \$19.25 if electronically submitted
    - \$30.25 if paper card



# Fingerprint Submission

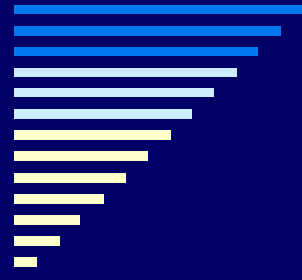
- 25% of applicant fingerprints submitted by hard card
- 75% captured using submitted electronically
- Examples of Electronic Customers
  - Agency for Health Care Administration
  - Dept. of Agriculture
  - Dept. of Children and Families
  - Dept. of Juvenile Justice
  - Dept. of Business and Professional Regulation
  - Public and Private Schools
- An agency can purchase a livescan device, utilize a vendor as a service provider or scan inked cards



# Live Scan Devices

- ❑ Located in every school district
- ❑ DCF contracted providers
- ❑ 197 in law enforcement agencies, university and school police
  - In jails these are in secure areas and have a different workflow
- ❑ 7 FDLE offices
- ❑ DHSMV
- ❑ 21 Service Providers as noted on FDLE Website

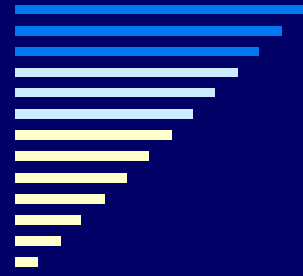




# Benefits of Electronic Submission

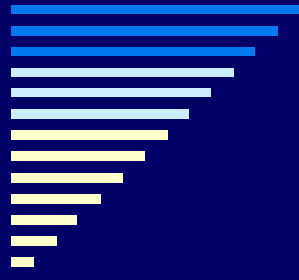


- ❑ Reduced processing time
- ❑ Improved quality of prints for searching
- ❑ Reduction in potential missed identifications
- ❑ “One stop shopping”: state and national results are bundled together
- ❑ Enables retention of prints if authorized



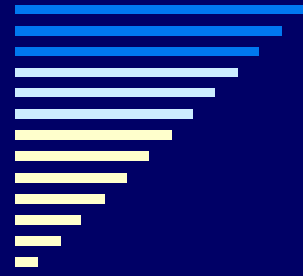
# Legislative Recommendation

- Require agencies to submit electronically
  - Agencies could work together to develop a contract with a vendor at no additional cost to agency and with limited impact to customer
  - Reduced turnaround time allows legislature to revisit the policy of allowing persons to begin work prior to screening.



# Oversight of Service Providers for Fingerprint Submissions

- Issue: Ensuring integrity of the process
  - security of the information obtained
  - proper identification of persons whose prints are being submitted
- Recommendation: Authorize state and national background checks for vendors and their employees and provide a method for oversight and accountability.

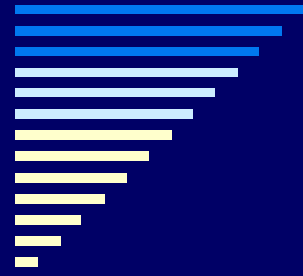


# Identified Concern

- ❑ Fingerprints not always submitted (many conduct state only name checks)
- Interstate Identification Index Name Check Efficacy: Report of the National Task Force to the US Attorney General July 1999
  - ❑ 11.7% of applicants with criminal history would not have been detected without fingerprint based search.
  - ❑ reliance on name checks alone can mean large numbers of persons employed or volunteering in positions for which they are unfit and pose societal risks
- Florida is a transient state

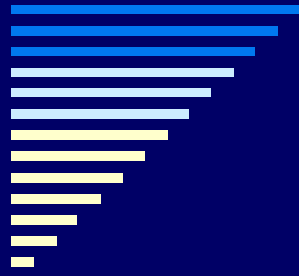






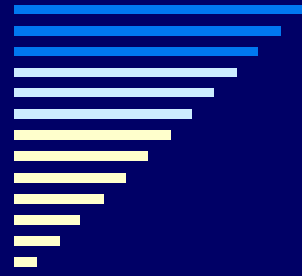
# Legislative Recommendation

- Consider requiring all checks to be state and national fingerprint based checks
- Remove references to Level I and Level II screening in chapter 438 and replace with “State Only” or “State and National Check” respectively
  - Note: if first recommendation is accepted there is no need for “State Only”



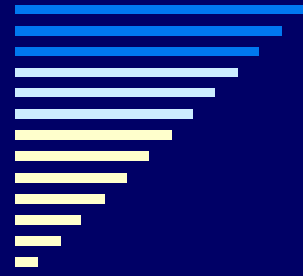
# Retained Prints and Arrest Notification

- FDLE retains fingerprints where authorized by law
- Incoming Florida arrests run against retained prints
- FDLE notifies employing or licensing agency of arrests
- Retained Print Customers
  - Public and private schools
  - Seaports
  - Dept. Juvenile Justice
  - Professional guardians
  - Criminal justice agencies
  - Racinos
  - Beginning Oct. 2010, Mortgage brokers and Loan Originators



# Benefits of Retained Prints

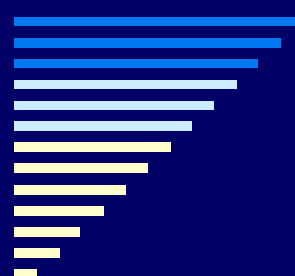
- Agencies receive immediate notification when arrest occurs
- Agencies no longer have to conduct rechecks for employees
  - Only notified when an arrest occurs based on a biometric
  - Not having to rescreen rap sheets for all employees



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# Legislative Recommendation

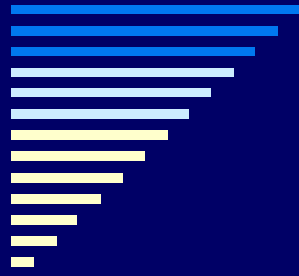
- ❑ Authorize Agencies to retain fingerprints
  - ❑ Authorize rescreen with FBI in min. 5 yrs
  - ❑ Allow agencies to have a designated length of time to resubmit fingerprints for those employees not currently retained (recommend somewhere between 2 to 5 years)
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# Retained Prints Issues To Be Addressed

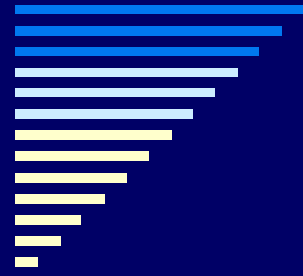
- **Fees:**
    - \$6 per print retained annually after first year
  - **Management of prints:**
    - Agencies manage retained print file and request deletion for persons no longer of interest
    - Charged annually for only those prints actually retained
  - **Management of Hit Notifications:**
    - Agencies must maintain tracking system
    - Take appropriate action upon arrest notification and subsequent judicial action
  - Who will pay the fee and how will it be collected?
  - What will be the workload impact for agencies retaining prints?
  - Agencies must develop a tracking mechanism prior to retention and notification
  - May need legislation to allow them to take action on arrest
-



# Retained Prints



- FBI plans to have retained print capability and arrest notification within its Next Generation Identification (NGI). This capability is planned for 2013.
- Retaining prints now will put agencies in position to take advantage of national rap back program
- Until then, agencies can resubmit to FBI without having to recollect fingerprints and cost is only that of FBI check



# Legislative Recommendation

- Designate an interim committee to identify issues
  - Are there duplicate checks
  - Can information be shared between agencies
  - Should agencies rely on previous checks
- Committee to workshop issues and provide recommendations

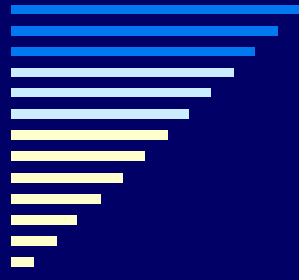




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# Sample Policy Issues and Concerns

- ❑ How long would the state allow a person to be unaffiliated with an agency and not have to undergo a background check?
  - ❑ If a person is in a state database, without the resubmission of prints, how do you know that you are checking the right person?
  - ❑ If there is centralized screening what agency would do the screening and would the same criteria be used for each entity?
  - ❑ What statutes and policy issues would need to be addressed at the FBI to authorize such centralized screening?
-



# Summary of Recommended Actions

- Require electronic submission of fingerprints
- Authorize retention upon request of agency, or as mandated by legislature, with privacy notice to the applicant (notice required by FBI)
- Authorize retention at FBI pending capability
- Provide oversight on service providers
  - **Licensing, certification or through contract**
  - **Criminal history check on employees to alleviate potential fraud and ensure integrity of systems**
- Create interim committee to study issues and any unintended consequences provide report







## Agency for Health Care Administration

### Persons Required to Undergo Criminal Background Screening

Each licensed facility/provider below is subject to some form of criminal background screening as required by Florida Statutes. The type and frequency of screening depends on the type of facility license.

Facility/Service Type	Owner / Administrator*	Financial Officer*	Controlling Interests	Direct Care Staff	Other Staff	Licensure Statute for Screening in addition to 408.809
Abortion Clinics	Federal Check	Federal Check	Federal Check	Not Required		
Adult Day Care Centers	Federal Check	Federal Check	Federal Check	State-only Check		429.919
Adult Family Care Homes	Federal Check	--	Federal Check	State-only Check		429.67
Ambulatory Surgery Centers	Federal Check	Federal Check	Federal Check	Not Required		
Assisted Living Facilities	Federal Check	Federal Check	Federal Check	State-only Check		429.174
Birth Centers	Federal Check	Federal Check	Federal Check	Not Required		
Clinical Laboratories:	Federal Check	Federal Check	Federal Check	Not Required		
Crisis Stabilization Units	Federal Check	Federal Check	Federal Check	Federal Check		394.4572
Drug Free Workplace	Federal Check	Federal Check	Federal Check	Not Required		
Health Care Service Pools	Federal Check	Federal Check	Federal Check	State Check or Federal Check depending on job/position		400.980(6)
Health Care Clinics	Federal Check <i>(includes owners with 10% or more interest in clinic)</i>	Federal Check	Federal Check	Federal Check <i>(includes Medical Director, Clinical Director and all licensed health care providers)</i>		400.991
Home Health Agencies	Federal Check	Federal Check	Federal Check	State Check or Federal Check depending on job/position		400.512
Homemaker, Sitter, Companion Agencies	Federal Check	Federal Check	Federal Check	State-only Check		400.512

Home Medical Equipment Providers	Federal Check	Federal Check	Federal Check	State-only Check		400.953 and 400.955
Homes for Special Services	Federal Check	Federal Check	Federal Check	Not Required		
Hospice	Federal Check	Federal Check	Federal Check	State-only Check		400.6065
Hospitals	Federal Check	Federal Check	Federal Check	Not Required		
ICF/DDs	Federal Check	Federal Check	Federal Check	Federal Check		400.964
Medicaid Contracted Facilities	Federal Check	Federal Check	--	Federal Check		
Multiphasic Health Testing Centers	Federal Check	Federal Check	Federal Check	Not Required		
Nurse Registries	Federal Check	Federal Check		State Check or Federal Check depending on job/position		400.512
Nursing Homes	Federal Check	Federal Check	Federal Check	State Check or Federal Check depending on residency in last 5 years	State Check or Federal Check depending on residency in last 5 years	400.215
Organ Procurement Organizations, Tissue Banks, Eye Banks	Federal Check	Federal Check	Federal Check	Not Required		
Prescribed Pediatric Extended Care Centers	Federal Check	Federal Check	Federal Check	Not Required		
Risk Managers	Federal Check	**	**	**		
Residential Treatment Centers	Federal Check	Federal Check	Federal Check	Federal Check		394.4572
Residential Treatment Facilities	Federal Check	Federal Check	Federal Check	Federal Check		394.4572
Transitional Living Facilities	Federal Check	Federal Check	Federal Check	Not Required		

\*Screening required by section 408.809, F.S. Uniform Licensing Standards.

\*\* Risk Managers are licensed individuals ... there are no chief financial officers or staff



# Agency for Health Care Administration Criminal Background Screening Overview

Molly McKinstry, Chief  
Bureau of Long Term Care Services  
Agency for Health Care Administration  
January 2010

# Agency for Health Care Administration Responsibilities

## Division of Health Quality Assurance

- State Licensure of Health Care Providers (Facilities and Services)
- Federal Certification for Medicare / Medicaid

## Division of Medicaid

- Medicaid Program Administration
- Medicaid Provider Enrollment

# Agency for Health Care Administration

## Criminal Background Screening

- ▶ Medicaid Provider Enrollment – Federal Check
  - ▶ Institutional Providers are Exempt: Hospitals, Nursing Homes, Assisted Living Facilities
- ▶ Employment Screening – State Licensure
  - Administrators – Federal Check
  - Chief Financial Officers – Federal Check
  - Staff Varies by Provider Type – State-only Check or Federal Check
    - Access to Clients/Client Funds
    - Direct Care Staff
    - No Staff Screening

# AHCA Criminal Background Screening Laws

- ▶ Chapter 435 – Majority of Requirements
  - Time Frames for Screening
  - Disqualifying Offenses
  - Exemption Process
- ▶ Chapter 408, Part II – Uniform Licensing Standards
  - Administrators and Chief Financial Officers
  - Additional Disqualifying Offenses for AHCA Only
- ▶ Individual Licensing Statutes
  - Staff Screening
  - Level of Staff Screening
  - Criteria for Use of Prior Screening Results
- ▶ Chapter 409, Medicaid Participation

# Criminal Background Screening Processing

- ▶ Screening Process Described by FDLE
  - All Federal Screening Through AHCA
  - State-Only Screening May Use AHCA or Another Source
- ▶ Results Reviewed for Eligibility if Through AHCA
- ▶ AHCA Background Screening Database
  - Maintain Background Screening Eligibility if Determined by AHCA
  - Providers Have Online Accounts
- ▶ Requests for Exemptions from Disqualification from Individuals

# Exemption Process

- ▶ Individual with Disqualifying Offense May Request an Exemption
- ▶ Requires Demonstration of Clear and Convincing Evidence That the Person Should Not Be Excluded from Employment

# Recommendations

## Exemptions

- ▶ Revise Exemption Eligibility
  - Wait Five Years After Sentence Fulfilled
- ▶ Require Additional Screening for Persons Subject to State-only Checks
  - Federal Check
  - Ongoing Monitoring Through
    - Retained Fingerprints or
    - Renewal of Exemptions
- ▶ Conditional Exemptions Based on Employment Setting and Resident/Patient Access



# Recommendations Screening Process

- ▶ Authorize Electronic Fingerprints and Retained Prints
- ▶ Screening Results Before Access to Residents / Patients
- ▶ Evaluate Duplication of Screening
  - Find Efficiencies Among Agencies
  - Eliminate Inconsistencies and Gaps
  - Share Results as Appropriate

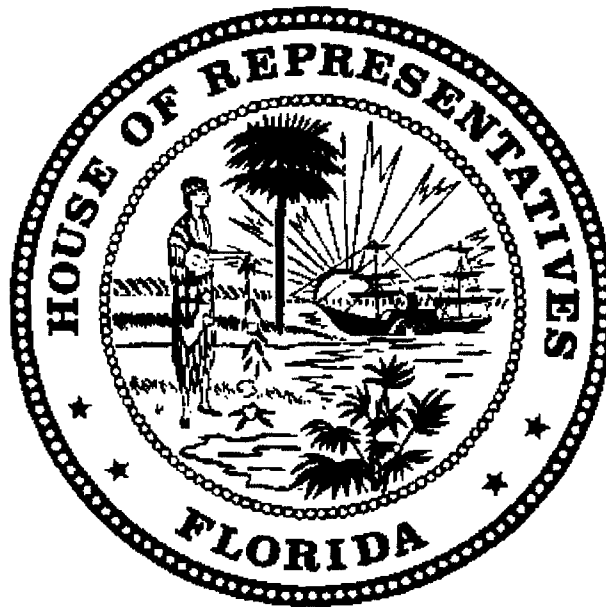




## BACKGROUND SCREENING (Rev.1/11)

Issue	AHCA	APD	DCF	DOEA	FDLE
<b>Electronic fingerprinting:</b> <ul style="list-style-type: none"> <li>• Require electronic fingerprint submission to decrease processing time.</li> <li>• Authorize fingerprint retention to allow for arrest notification.</li> </ul>	Support	Support	Support	Support	Support
<b>Industry Regulation:</b> <ul style="list-style-type: none"> <li>• Regulate private entities who electronically submit fingerprints to ensure integrity of information submitted.</li> </ul>	Support minimum standards.	Support	Support	Support	Support
<b>Hiring Safeguard(s):</b> <ul style="list-style-type: none"> <li>• Authorize hiring only after favorable screening verification to increase patient protection.</li> </ul>	Support, however, need to be sensitive to provider response.	Support	Support	Support	Support
<b>Offenses:</b> <ul style="list-style-type: none"> <li>• Expand list of disqualifying offenses</li> </ul>	AHCA offenses were expanded in 2009 in 408.809.	Support	No Objection	No Objection	No Objection
<b>Exemptions:</b> <ul style="list-style-type: none"> <li>• Repeal all exemptions, or repeal exemptions for certain populations, e.g. children, vulnerable adults.</li> <li>• Provide that exemption cannot be granted for person convicted of certain offenses.</li> <li>• Allow for exemption revocation upon arrest for new offense.</li> <li>• Increase time before exemption can be granted from current 3 years to 5 years.</li> <li>• Clarify that time for exemption eligibility begins after sentence is completed, including probation.</li> </ul>	Support - Prefer to keep some type of exemption process. Support concept – crimes should be carefully considered. Support Support Support	Support - Same as AHCA Support – Same as AHCA Support Support Support	Support	Support	Neutral
<b>Centralized Screening and Adjudication:</b> <ul style="list-style-type: none"> <li>• Authorize one agency or department with the responsibility to adjudicate employment based on established screening criteria.</li> </ul>	Support elimination of duplicate processes and screening among agencies. Concept should be carefully considered.	Same as AHCA. Uncertain if centralized screening is solution, but support elimination of duplication among agencies and duplicate screening.	Neutral	Support standardizing the efforts of multiple agencies, but do not support authorizing a single agency to govern this activity.	No Objection





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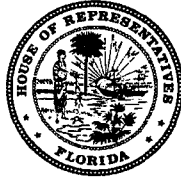
# **Elder & Family Services Policy Committee**

**Tuesday, January 12, 2010  
10:00 AM – 12:00 PM  
24 House Office Building**

## **ADDENDUM**

**Larry Cretul  
Speaker**

**Thomas "Tom" Anderson  
Chair**



# The Florida House of Representatives

Health & Family Services Policy Council

Elder & Family Services Policy Committee

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## A G E N D A

January 12, 2010  
10:00 – 12:00 PM  
24 House Office Building

I. Opening Remarks by Chair Anderson

II. Overview of the Department of Elder Affairs

Doug Beach, Secretary  
Department of Elder Affairs

III. Overview of the Department of Children and Families

George Sheldon, Secretary  
Department of Children and Families

IV. Panel Presentation on Background Screening

Martha Wright, Bureau Chief  
User Services Program  
Department of Law Enforcement

Don Winstead, Deputy Secretary  
Department of Children and Families

Molly McInstry, Bureau Chief  
Long Term Care Services  
Agency for Health Care Administration

Dean Kowalchuk, General Counsel  
Department of Elder Affairs

V. Closing Remarks from Chair Anderson

VI. Adjournment