

By Senator Wright

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1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.063, F.S.; deleting the
4 definition of the term "comprehensive transitional
5 education program"; amending s. 393.065, F.S.;
6 extending the timeframe for the Agency for Persons
7 with Disabilities to review an application for
8 services when additional information is requested;
9 amending s. 393.0651, F.S.; revising the timeframes
10 for the agency or its contractor to develop family
11 support plans and individual support plans; amending
12 s. 393.0655, F.S.; conforming a provision to changes
13 made by the act; amending s. 393.0661, F.S.; deleting
14 requirements related to a comprehensive redesign of
15 the home and community-based services delivery system;
16 deleting provisions requiring the Agency for Health
17 Care Administration, in consultation with the Agency
18 for Persons with Disabilities to seek federal approval
19 and implement a four-tiered waiver system to serve
20 eligible clients through the developmental
21 disabilities and family and supported living waivers;
22 requiring the Agency for Persons with Disabilities to
23 seek federal waivers and amend contracts as necessary
24 to make specified changes to services; revising
25 requirements related to supported living services,
26 limited support coordination services, personal
27 support services, residential habilitation services,
28 and in-home support services; deleting provisions
29 related to the home and community-based services

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30 waiver or the family and supported living waiver;
 31 deleting a provision authorizing the agency to collect
 32 premiums or cost-sharing; conforming provisions to
 33 changes made by the act; amending ss. 393.067,
 34 393.0678, and 393.135, F.S.; conforming provisions to
 35 changes made by the act; making technical changes;
 36 repealing s. 393.18, F.S., relating to the
 37 comprehensive transitional education program; amending
 38 ss. 383.141, 394.875, and 1002.385, F.S.; conforming
 39 cross-references; providing an effective date.

40
 41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Subsection (10) of section 393.063, Florida
 44 Statutes, is amended to read:

45 393.063 Definitions.—For the purposes of this chapter, the
 46 term:

47 ~~(10) "Comprehensive transitional education program" means~~
 48 ~~the program established in s. 393.18.~~

49 Section 2. Subsection (1) of section 393.065, Florida
 50 Statutes, is amended to read:

51 393.065 Application and eligibility determination.—

52 (1) Application for services must ~~shall~~ be made in writing
 53 to the agency, in the service area in which the applicant
 54 resides. For children under 6 years of age, the agency shall
 55 review each applicant for eligibility within 45 days after the
 56 date the application is signed. For all other applicants, the
 57 agency shall conduct such reviews ~~for children under 6 years of~~
 58 ~~age and~~ within 60 days after the date the application is signed.

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59 If the agency requests additional information, the review must
60 be conducted within 90 days after receipt of the signed
61 application ~~for all other applicants~~. When necessary to
62 definitively identify individual conditions or needs, the agency
63 shall provide a comprehensive assessment. Only applicants whose
64 domicile is in Florida are eligible for services. Information
65 accumulated by other agencies, including professional reports
66 and collateral data, must ~~shall~~ be considered in this process
67 when available.

68 Section 3. Section 393.0651, Florida Statutes, is amended
69 to read:

70 393.0651 Family or individual support plan.—The agency
71 shall provide directly or contract for the development of a
72 family support plan for children ages 3 to 18 years of age and
73 an individual support plan for each client. The client, if
74 competent, the client's parent or guardian, or, when
75 appropriate, the client advocate, must ~~shall~~ be consulted in the
76 development of the plan and must ~~shall~~ receive a copy of the
77 plan. Each plan must include the most appropriate, least
78 restrictive, and most cost-beneficial environment for
79 accomplishment of the objectives for client progress and must
80 specify ~~a specification of all services~~ services. The
81 plan must include provisions for the most appropriate level of
82 care for the client. Within the specified ~~specification of~~ needs
83 and services for each client, ~~when residential care is~~
84 ~~necessary~~, the agency shall move toward placement of clients who
85 need residential care in residential facilities in ~~based within~~
86 the client's community. The ultimate goal of each plan, whenever
87 possible, must ~~shall~~ be to enable the client to live a dignified

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88 life in the least restrictive setting, be that in the home or in
89 the community. ~~For children under 6 years of age, The family~~
90 ~~support plan shall be developed within the 45-day application~~
91 ~~period as specified in s. 393.065(1); for all applicants 6 years~~
92 ~~of age or older, the family or the individual support plan must~~
93 ~~shall be developed within 60 days after the client is determined~~
94 ~~eligible for agency services the 60-day period as specified in~~
95 ~~that subsection.~~

96 (1) The agency shall develop and specify by rule the core
97 components of support plans.

98 (2) The family or individual support plan must ~~shall~~ be
99 integrated with the individual education plan (IEP) for all
100 clients who are public school students entitled to a free
101 appropriate public education under the Individuals with
102 Disabilities Education Act, I.D.E.A., as amended. The family or
103 individual support plan and IEP must ~~shall~~ be implemented to
104 maximize the attainment of educational and habilitation goals.

105 (a) If the IEP for a student enrolled in a public school
106 program indicates that placement in a public or private
107 residential program is necessary to provide special education
108 and related services to a client, the local education agency
109 shall provide for the costs of that service in accordance with
110 the requirements of the Individuals with Disabilities Education
111 Act, I.D.E.A., as amended; however, ~~this~~ does ~~shall~~ not
112 preclude local education agencies and the agency from sharing
113 the residential service costs of students who are clients who
114 ~~and~~ require residential placement.

115 (b) For clients who are entering or exiting the school
116 system, an interdepartmental staffing team composed of

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117 representatives of the agency and the local school system shall
118 develop a written transitional living and training plan with the
119 participation of the client or with the parent or guardian of
120 the client, or the client advocate, as appropriate.

121 (3) Each family or individual support plan must ~~shall~~ be
122 facilitated through case management designed solely to advance
123 the individual needs of the client.

124 (4) In the development of the family or individual support
125 plan, a client advocate may be appointed by the support planning
126 team for a client who is a minor or for a client who is not
127 capable of express and informed consent when:

128 (a) The parent or guardian cannot be identified;

129 (b) The whereabouts of the parent or guardian cannot be
130 discovered; or

131 (c) The state is the only legal representative of the
132 client.

133

134 Such appointment may ~~shall~~ not be construed to extend the powers
135 of the client advocate to include any of those powers delegated
136 by law to a legal guardian.

137 (5) The agency shall place a client in the most
138 appropriate, ~~and~~ least restrictive, and most cost-beneficial,
139 residential facility according to his or her individual support
140 plan. The client, if competent, the client's parent or guardian,
141 or, when appropriate, the client advocate, and the administrator
142 of the facility to which placement is proposed must ~~shall~~ be
143 consulted in determining the appropriate placement for the
144 client. Considerations for placement must ~~shall~~ be made in the
145 following order:

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- 146 (a) Client's own home or the home of a family member or
147 direct service provider.
- 148 (b) Foster care facility.
- 149 (c) Group home facility.
- 150 (d) Intermediate care facility for the developmentally
151 disabled.
- 152 (e) Other facilities licensed by the agency which offer
153 special programs for people with developmental disabilities.
- 154 (f) Developmental disabilities center.
- 155 (6) In developing a client's annual family or individual
156 support plan, the individual or family with the assistance of
157 the support planning team shall identify measurable objectives
158 for client progress and shall specify a time period expected for
159 achievement of each objective.
- 160 (7) The individual, family, and support coordinator shall
161 review progress in achieving the objectives specified in each
162 client's family or individual support plan, and shall revise the
163 plan annually, following consultation with the client, if
164 competent, or with the parent or guardian of the client, or,
165 when appropriate, the client advocate. The agency or designated
166 contractor shall annually report in writing to the client, if
167 competent, or to the parent or guardian of the client, or to the
168 client advocate, when appropriate, with respect to the client's
169 habilitative and medical progress.
- 170 (8) Any client, or any parent of a minor client, or
171 guardian, authorized guardian advocate, or client advocate for a
172 client, who is substantially affected by the client's initial
173 family or individual support plan, or the annual review thereof,
174 has ~~shall have~~ the right to file a notice to challenge the

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175 decision pursuant to ss. 120.569 and 120.57. Notice of such
176 right to appeal must ~~shall~~ be included in all support plans
177 provided by the agency.

178 Section 4. Subsection (1) of section 393.0655, Florida
179 Statutes, is amended to read:

180 393.0655 Screening of direct service providers.—

181 (1) MINIMUM STANDARDS.—The agency shall require level 2
182 employment screening pursuant to chapter 435 for direct service
183 providers who are unrelated to their clients, including support
184 coordinators, and managers and supervisors of residential
185 facilities ~~or comprehensive transitional education programs~~
186 licensed under this chapter and any other person, including
187 volunteers, who provide care or services, who have access to a
188 client's living areas, or who have access to a client's funds or
189 personal property. Background screening must ~~shall~~ include
190 employment history checks as provided in s. 435.03(1) and local
191 criminal records checks through local law enforcement agencies.

192 (a) A volunteer who assists on an intermittent basis for
193 less than 10 hours per month does not have to be screened if a
194 person who meets the screening requirement of this section is
195 always present and has the volunteer within his or her line of
196 sight.

197 (b) Licensed physicians, nurses, or other professionals
198 licensed and regulated by the Department of Health are not
199 subject to background screening pursuant to this section if they
200 are providing a service that is within their scope of licensed
201 practice.

202 (c) A person selected by the family or the individual with
203 developmental disabilities and paid by the family or the

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204 individual to provide supports or services is not required to
205 have a background screening under this section.

206 (d) Persons 12 years of age or older, including family
207 members, residing with a direct services provider who provides
208 services to clients in his or her own place of residence are
209 subject to background screening; however, such persons who are
210 12 to 18 years of age must ~~shall~~ be screened only for
211 delinquency records ~~only~~.

212 Section 5. Section 393.0661, Florida Statutes, is amended
213 to read:

214 393.0661 Home and community-based services delivery system ~~+~~
215 ~~comprehensive redesign~~.—The Legislature finds that the home and
216 community-based services delivery system for persons with
217 developmental disabilities and the availability of appropriated
218 funds are two of the critical elements in making services
219 available. Therefore, it is the intent of the Legislature that
220 the Agency for Persons with Disabilities shall develop, ~~and~~
221 implement, and maintain a ~~comprehensive redesign of the system~~
222 that includes, at a minimum, all of the following components:—

223 (1) The ~~redesign of the~~ home and community-based services
224 system shall include, at a minimum, all actions necessary to
225 achieve an appropriate rate structure, client choice within a
226 specified service package, appropriate assessment strategies, an
227 efficient billing process that contains reconciliation and
228 monitoring components, and a ~~redefined~~ role for support
229 coordinators that avoids potential conflicts of interest and
230 ensures that family/client budgets are linked to levels of need.

231 (a) The agency shall use an assessment instrument that the
232 agency deems to be reliable and valid, including, but not

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233 limited to, the ~~Department of Children and Families' Individual~~
234 ~~Cost Guidelines or the agency's Questionnaire for Situational~~
235 Information. The agency may contract with an external vendor or
236 may use support coordinators to complete client assessments if
237 it develops sufficient safeguards and training to ensure ongoing
238 inter-rater reliability.

239 (b) The agency, with the concurrence of the Agency for
240 Health Care Administration, may contract for the determination
241 of medical necessity and establishment of individual budgets.

242 (2) A provider of services rendered to persons with
243 developmental disabilities pursuant to a federally approved
244 waiver must ~~shall~~ be reimbursed according to a rate methodology
245 based upon an analysis of the expenditure history and
246 prospective costs of providers participating in the waiver
247 program, or under any other methodology developed by the Agency
248 for Health Care Administration, in consultation with the Agency
249 for Persons with Disabilities, and approved by the Federal
250 Government in accordance with the waiver.

251 ~~(3) The Agency for Health Care Administration, in~~
252 ~~consultation with the agency, shall seek federal approval and~~
253 ~~implement a four-tiered waiver system to serve eligible clients~~
254 ~~through the developmental disabilities and family and supported~~
255 ~~living waivers. For the purpose of this waiver program, eligible~~
256 ~~clients shall include individuals with a diagnosis of Down~~
257 ~~syndrome or a developmental disability as defined in s. 393.063.~~
258 ~~The agency shall assign all clients receiving services through~~
259 ~~the developmental disabilities waiver to a tier based on the~~
260 ~~Department of Children and Families' Individual Cost Guidelines,~~
261 ~~the agency's Questionnaire for Situational Information, or~~

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262 ~~another such assessment instrument deemed to be valid and~~
263 ~~reliable by the agency; client characteristics, including, but~~
264 ~~not limited to, age; and other appropriate assessment methods.~~

265 ~~(a) Tier one is limited to clients who have service needs~~
266 ~~that cannot be met in tier two, three, or four for intensive~~
267 ~~medical or adaptive needs and that are essential for avoiding~~
268 ~~institutionalization, or who possess behavioral problems that~~
269 ~~are exceptional in intensity, duration, or frequency and present~~
270 ~~a substantial risk of harm to themselves or others. Total annual~~
271 ~~expenditures under tier one may not exceed \$150,000 per client~~
272 ~~each year, provided that expenditures for clients in tier one~~
273 ~~with a documented medical necessity requiring intensive~~
274 ~~behavioral residential habilitation services, intensive~~
275 ~~behavioral residential habilitation services with medical needs,~~
276 ~~or special medical home care, as provided in the Developmental~~
277 ~~Disabilities Waiver Services Coverage and Limitations Handbook,~~
278 ~~are not subject to the \$150,000 limit on annual expenditures.~~

279 ~~(b) Tier two is limited to clients whose service needs~~
280 ~~include a licensed residential facility and who are authorized~~
281 ~~to receive a moderate level of support for standard residential~~
282 ~~habilitation services or a minimal level of support for behavior~~
283 ~~focus residential habilitation services, or clients in supported~~
284 ~~living who receive more than 6 hours a day of in-home support~~
285 ~~services. Total annual expenditures under tier two may not~~
286 ~~exceed \$53,625 per client each year.~~

287 ~~(c) Tier three includes, but is not limited to, clients~~
288 ~~requiring residential placements, clients in independent or~~
289 ~~supported living situations, and clients who live in their~~
290 ~~family home. Total annual expenditures under tier three may not~~

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291 ~~exceed \$34,125 per client each year.~~

292 ~~(d) Tier four includes individuals who were enrolled in the~~
293 ~~family and supported living waiver on July 1, 2007, who shall be~~
294 ~~assigned to this tier without the assessments required by this~~
295 ~~section. Tier four also includes, but is not limited to, clients~~
296 ~~in independent or supported living situations and clients who~~
297 ~~live in their family home. Total annual expenditures under tier~~
298 ~~four may not exceed \$14,422 per client each year.~~

299 ~~(e) The Agency for Health Care Administration shall also~~
300 ~~seek federal approval to provide a consumer-directed option for~~
301 ~~persons with developmental disabilities which corresponds to the~~
302 ~~funding levels in each of the waiver tiers. The agency shall~~
303 ~~implement the four-tiered waiver system beginning with tiers~~
304 ~~one, three, and four and followed by tier two. The agency and~~
305 ~~the Agency for Health Care Administration may adopt rules~~
306 ~~necessary to administer this subsection.~~

307 ~~(3)(f)~~ The agency shall seek federal waivers and amend
308 contracts as necessary to make changes to services defined in
309 federal waiver programs administered by the agency as follows:

310 ~~(a)1.~~ Supported living coaching services may not exceed a
311 maximum number of 20 hours per month ~~for persons who also~~
312 ~~receive in-home support services.~~

313 ~~2. Limited support coordination services are the only type~~
314 ~~of support coordination service that may be provided to persons~~
315 ~~under the age of 18 who live in the family home.~~

316 ~~(b)3.~~ Personal support care assistance services are limited
317 to a maximum number of 180 hours per calendar month, as
318 determined by agency rule ~~and may not include rate modifiers.~~

319 Additional hours may be authorized for persons who have

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320 intensive physical, medical, behavioral, or adaptive needs if
321 such hours are essential for avoiding institutionalization. The
322 agency may adopt rules, criteria, and processes for allocating
323 additional hours.

324 (c)4. Residential habilitation services are limited to a
325 rate level based on other services and functional, physical, and
326 behavioral characteristics of the agency's clients, as
327 established by the Agency for Health Care Administration ~~8 hours~~
328 ~~per day. Additional hours may be authorized for persons who have~~
329 ~~intensive medical or adaptive needs and if such hours are~~
330 ~~essential for avoiding institutionalization, or for persons who~~
331 ~~possess behavioral problems that are exceptional in intensity,~~
332 ~~duration, or frequency and present a substantial risk of harming~~
333 ~~themselves or others. This restriction shall be in effect until~~
334 ~~the four-tiered waiver system is fully implemented.~~

335 (d)5. Chore services, nonresidential support services, and
336 homemaker services are eliminated. ~~The agency shall expand the~~
337 ~~definition of in-home support services to allow the service~~
338 ~~provider to include activities previously provided in these~~
339 ~~eliminated services.~~

340 (e)6. Massage therapy, medication review, and psychological
341 assessment services are eliminated.

342 (f)7. The agency shall conduct ~~supplemental~~ cost plan
343 reviews to verify the medical necessity of authorized services
344 for plans ~~that have increased by more than 8 percent during~~
345 ~~either of the 2 preceding fiscal years.~~

346 (g)8. The agency shall maintain ~~implement~~ a consolidated
347 cost-effective, and uniform residential habilitation rate
348 ~~structure to increase savings to the state through a more cost-~~

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349 ~~effective payment method and establish uniform rates for~~
350 ~~intensive behavioral residential habilitation services.~~

351 ~~9. Pending federal approval, the agency may extend current~~
352 ~~support plans for clients receiving services under Medicaid~~
353 ~~waivers for 1 year beginning July 1, 2007, or from the date~~
354 ~~approved, whichever is later. Clients who have a substantial~~
355 ~~change in circumstances which threatens their health and safety~~
356 ~~may be reassessed during this year in order to determine the~~
357 ~~necessity for a change in their support plan.~~

358 ~~(h)10.~~ The agency shall maintain ~~develop~~ a plan to
359 eliminate redundancies and duplications between in-home support
360 services, companion services, personal care services, and
361 supported living coaching by limiting or consolidating such
362 services.

363 ~~11. The agency shall develop a plan to reduce the intensity~~
364 ~~and frequency of supported employment services to clients in~~
365 ~~stable employment situations who have a documented history of at~~
366 ~~least 3 years' employment with the same company or in the same~~
367 ~~industry.~~

368 (4) The geographic differential for Miami-Dade, Broward,
369 and Palm Beach Counties for residential habilitation services is
370 ~~shall be~~ 7.5 percent.

371 (5) The geographic differential for Monroe County for
372 residential habilitation services is ~~shall be~~ 20 percent.

373 ~~(6) Effective January 1, 2010, and except as otherwise~~
374 ~~provided in this section, a client served by the home and~~
375 ~~community-based services waiver or the family and supported~~
376 ~~living waiver funded through the agency shall have his or her~~
377 ~~cost plan adjusted to reflect the amount of expenditures for the~~

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378 ~~previous state fiscal year plus 5 percent if such amount is less~~
379 ~~than the client's existing cost plan. The agency shall use~~
380 ~~actual paid claims for services provided during the previous~~
381 ~~fiscal year that are submitted by October 31 to calculate the~~
382 ~~revised cost plan amount. If the client was not served for the~~
383 ~~entire previous state fiscal year or there was any single change~~
384 ~~in the cost plan amount of more than 5 percent during the~~
385 ~~previous state fiscal year, the agency shall set the cost plan~~
386 ~~amount at an estimated annualized expenditure amount plus 5~~
387 ~~percent. The agency shall estimate the annualized expenditure~~
388 ~~amount by calculating the average of monthly expenditures,~~
389 ~~beginning in the fourth month after the client enrolled,~~
390 ~~interrupted services are resumed, or the cost plan was changed~~
391 ~~by more than 5 percent and ending on August 31, 2009, and~~
392 ~~multiplying the average by 12. In order to determine whether a~~
393 ~~client was not served for the entire year, the agency shall~~
394 ~~include any interruption of a waiver-funded service or services~~
395 ~~lasting at least 18 days. If at least 3 months of actual~~
396 ~~expenditure data are not available to estimate annualized~~
397 ~~expenditures, the agency may not rebase a cost plan pursuant to~~
398 ~~this subsection. The agency may not rebase the cost plan of any~~
399 ~~client who experiences a significant change in recipient~~
400 ~~condition or circumstance which results in a change of more than~~
401 ~~5 percent to his or her cost plan between July 1 and the date~~
402 ~~that a rebased cost plan would take effect pursuant to this~~
403 ~~subsection.~~

404 ~~(7) The agency shall collect premiums or cost sharing~~
405 ~~pursuant to s. 409.906(13)(c).~~

406 ~~(6)-(8) This section or related rule does not prevent or~~

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407 ~~limit~~ the Agency for Health Care Administration, in consultation
408 with the Agency for Persons with Disabilities, from, or limit
409 the agency in, consultation with the Agency for Persons with
410 ~~Disabilities, from~~ adjusting fees, reimbursement rates, lengths
411 of stay, number of visits, or number of services, or from
412 limiting enrollment, or making any other adjustment necessary to
413 comply with the availability of moneys and any limitations or
414 directions provided in the General Appropriations Act.

415 (7)~~(9)~~ The Agency for Persons with Disabilities shall
416 submit quarterly status reports to the Executive Office of the
417 Governor, the chair of the Senate ~~Ways and Means~~ Committee on
418 Appropriations or its successor, and the chair of the House
419 Appropriations Committee ~~Fiscal Council~~ or its successor
420 regarding the financial status of home and community-based
421 services, including the number of enrolled individuals who are
422 receiving services through one or more programs; the number of
423 individuals who have requested services who are not enrolled but
424 who are receiving services through one or more programs, with a
425 description indicating the programs from which the individual is
426 receiving services; the number of individuals who have refused
427 an offer of services but who choose to remain on the list of
428 individuals waiting for services; the number of individuals who
429 have requested services, but who are not receiving ~~no~~ services;
430 a frequency distribution indicating the length of time
431 individuals have been waiting for services; and information
432 concerning the actual and projected costs compared to the amount
433 appropriated by the Legislature ~~of the appropriation available~~
434 to the program and any projected surpluses or deficits. If at
435 any time an analysis by the agency, in consultation with the

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436 Agency for Health Care Administration, indicates that the cost
437 of services is expected to exceed the amount appropriated, the
438 agency shall submit a corrective action plan in accordance with
439 subsection (6) ~~subsection (8)~~ to the Executive Office of the
440 Governor, the chair of the Senate ~~Ways and Means~~ Committee on
441 Appropriations or its successor, and the chair of the House
442 Appropriations Committee ~~Fiscal Council~~ or its successor to
443 remain within the amount appropriated. The agency shall work
444 with the Agency for Health Care Administration to implement the
445 plan so as to remain within the appropriation.

446 (8) ~~(10)~~ Implementation of Medicaid waiver programs and
447 services authorized under this chapter is limited by the funds
448 appropriated for the individual budgets pursuant to s. 393.0662
449 ~~and the four-tiered waiver system pursuant to subsection (3).~~
450 Contracts with independent support coordinators and service
451 providers must include provisions requiring compliance with
452 agency cost containment initiatives. The agency shall implement
453 monitoring and accounting procedures necessary to track actual
454 expenditures and project future spending compared to available
455 appropriations for Medicaid waiver programs. When necessary
456 based on projected deficits, the agency shall ~~must~~ establish
457 specific corrective action plans that incorporate corrective
458 actions taken by ~~of~~ contracted providers which ~~that~~ are
459 sufficient to align program expenditures with annual
460 appropriations. ~~If deficits continue during the 2012-2013 fiscal~~
461 ~~year, the agency in conjunction with the Agency for Health Care~~
462 ~~Administration shall develop a plan to redesign the waiver~~
463 ~~program and submit the plan to the President of the Senate and~~
464 ~~the Speaker of the House of Representatives by September 30,~~

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465 2013. At a minimum, the plans ~~plan~~ must include the following
466 elements:

467 (a) *Budget predictability.*—Agency budget recommendations
468 must include specific steps to restrict spending ~~to budgeted~~
469 ~~amounts based on alternatives to the iBudget and four-tiered~~
470 ~~Medicaid waiver models.~~

471 (b) *Services.*—The agency shall identify ~~core~~ services that
472 are essential to provide for client health and safety and
473 recommend elimination of coverage for other services that are
474 not affordable based on available resources.

475 (c) *Flexibility.*—The plan must ~~redesign~~ shall be responsive
476 to individual needs and, to the extent possible, encourage
477 client control over allocated resources for their needs.

478 (d) *Support coordination services.*—The plan must identify
479 possible modifications to ~~shall modify~~ the manner of providing
480 support coordination services to improve management of service
481 utilization and increase accountability and responsiveness to
482 agency priorities.

483 ~~(e) Reporting.~~—~~The agency shall provide monthly reports to~~
484 ~~the President of the Senate and the Speaker of the House of~~
485 ~~Representatives on plan progress and development on July 31,~~
486 ~~2013, and August 31, 2013.~~

487 ~~(f) Implementation.~~—~~The implementation of a redesigned~~
488 ~~program is subject to legislative approval and shall occur no~~
489 ~~later than July 1, 2014. The Agency for Health Care~~
490 ~~Administration shall seek federal waivers as needed to implement~~
491 ~~the redesigned plan approved by the Legislature.~~

492 Section 6. Subsections (1), (4), (8), and (9) of section
493 393.067, Florida Statutes, are amended to read:

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494 393.067 Facility licensure.—

495 (1) The agency shall provide through its licensing
496 authority and by rule license application procedures, provider
497 qualifications, facility and client care standards, requirements
498 for client records, requirements for staff qualifications and
499 training, and requirements for monitoring foster care
500 facilities, group home facilities, and residential habilitation
501 centers, ~~and comprehensive transitional education programs~~ that
502 serve agency clients.

503 (4) The application must ~~shall~~ be under oath and must ~~shall~~
504 contain the following:

505 (a) If the applicant is an individual, the name and address
506 of the applicant, ~~if an applicant is an individual;~~ if the
507 applicant is a firm, partnership, or association, the name and
508 address of each member thereof; if the applicant is a
509 corporation, its name and address and the name and address of
510 each director and each officer thereof; and, for any applicant,
511 the name by which the facility or program is to be known.

512 (b) The location of the facility or program for which a
513 license is sought.

514 (c) The name of the person or persons under whose
515 management or supervision the facility will be operated or the
516 program will be conducted.

517 (d) The number and type of residents or clients for which
518 the facility or program will provide maintenance, care,
519 education, or treatment ~~is to be provided by the facility or~~
520 ~~program.~~

521 ~~(e) The number and location of the component centers or~~
522 ~~units which will compose the comprehensive transitional~~

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523 ~~education program.~~

524 (e)~~(f)~~ A description of the types of services and treatment
525 to be provided by the facility or program.

526 (f)~~(g)~~ Information relating to the number, experience, and
527 training of the employees of the facility or program.

528 (g)~~(h)~~ Certification that the staff of the facility or
529 program will receive training to detect, report, and prevent
530 sexual abuse, abuse, neglect, exploitation, and abandonment, as
531 defined in ss. 39.01 and 415.102, of residents and clients.

532 (h)~~(i)~~ ~~Such~~ Other information as the agency determines is
533 necessary to carry out the provisions of this chapter.

534 (8) The agency, after consultation with the Division of
535 Emergency Management, shall adopt rules for foster care
536 facilities, group home facilities, and residential habilitation
537 centers which establish minimum standards for the preparation
538 and annual update of a comprehensive emergency management plan.
539 At a minimum, the rules must provide for plan components that
540 address emergency evacuation transportation; adequate sheltering
541 arrangements; postdisaster activities, including emergency
542 power, food, and water; postdisaster transportation; supplies;
543 staffing; emergency equipment; individual identification of
544 residents and transfer of records; and responding to family
545 inquiries. The comprehensive emergency management plan for ~~all~~
546 ~~comprehensive transitional education programs and for homes~~
547 serving individuals who have complex medical conditions is
548 subject to review and approval by the local emergency management
549 agency. During its review, the local emergency management agency
550 shall ensure that the agency and the Division of Emergency
551 Management, at a minimum, are given the opportunity to review

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552 the plan. ~~Also,~~ Appropriate volunteer organizations also must be
553 given the opportunity to review the plan. The local emergency
554 management agency shall complete its review within 60 days and
555 either approve the plan or advise the facility of necessary
556 revisions.

557 (9) The agency may conduct unannounced inspections to
558 determine compliance by foster care facilities, group home
559 facilities, and residential habilitation centers, ~~and~~
560 ~~comprehensive transitional education programs~~ with the
561 applicable provisions of this chapter and the rules adopted
562 hereunder pursuant hereto, including ~~the~~ rules adopted for
563 training staff of a facility or a program to detect, report, and
564 prevent sexual abuse, abuse, neglect, exploitation, and
565 abandonment, as defined in ss. 39.01 and 415.102, of residents
566 and clients. The facility or program shall make copies of
567 inspection reports available to the public upon request.

568 Section 7. Subsection (1) of section 393.0678, Florida
569 Statutes, is amended to read:

570 393.0678 Receivership proceedings.—

571 (1) The agency may petition a court of competent
572 jurisdiction for the appointment of a receiver for a
573 ~~comprehensive transitional education program~~, a residential
574 habilitation center, ~~or~~ a group home facility owned and operated
575 by a corporation or partnership when any of the following
576 conditions exist:

577 (a) Any person is operating a facility without a license
578 and refuses to make application for a license as required by s.
579 393.067.

580 (b) The licensee is closing the facility or has informed

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581 the department that it intends to close the facility,l and
582 adequate arrangements have not been made for relocation of the
583 residents within 7 days, exclusive of weekends and holidays,
584 after ~~of~~ the closing of the facility.

585 (c) The agency determines that conditions exist in the
586 facility which present an imminent danger to the health, safety,
587 or welfare of the residents of the facility or which present a
588 substantial probability that death or serious physical harm
589 would result therefrom. Whenever possible, the agency shall
590 facilitate the continued operation of the program.

591 (d) The licensee cannot meet its financial obligations to
592 provide food, shelter, care, and utilities. Evidence such as the
593 issuance of bad checks or the accumulation of delinquent bills
594 for such items as personnel salaries, food, drugs, or utilities
595 constitutes prima facie evidence that the ownership of the
596 facility lacks the financial ability to operate the home in
597 accordance with the requirements of this chapter and ~~all~~ rules
598 promulgated thereunder.

599 Section 8. Subsection (2) of section 393.135, Florida
600 Statutes, is amended to read:

601 393.135 Sexual misconduct prohibited; reporting required;
602 penalties.—

603 (2) A covered person who engages in sexual misconduct with
604 an individual with a developmental disability who:

605 (a) Resides in a residential facility, including any
606 ~~comprehensive transitional education program~~, developmental
607 disabilities center, foster care facility, group home facility,
608 intermediate care facility for the developmentally disabled, or
609 residential habilitation center; or

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610 (b) Is eligible to receive services from the agency under
611 this chapter,
612
613 commits a felony of the second degree, punishable as provided in
614 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
615 found guilty of violating this subsection without having
616 committed the crime of sexual battery.

617 Section 9. Section 393.18, Florida Statutes, is repealed.

618 Section 10. Paragraph (b) of subsection (1) of section
619 383.141, Florida Statutes, is amended to read:

620 383.141 Prenatally diagnosed conditions; patient to be
621 provided information; definitions; information clearinghouse;
622 advisory council.—

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

624 (b) "Developmental disability" has the same meaning as in
625 s. 393.063 ~~includes Down syndrome and other developmental~~
626 ~~disabilities defined by s. 393.063(12).~~

627 Section 11. Paragraph (c) of subsection (3) of section
628 394.875, Florida Statutes, is amended to read:

629 394.875 Crisis stabilization units, residential treatment
630 facilities, and residential treatment centers for children and
631 adolescents; authorized services; license required.—

632 (3) The following are exempt from licensure as required in
633 ss. 394.455-394.903:

634 ~~(c) Comprehensive transitional education programs licensed~~
635 ~~under s. 393.067.~~

636 Section 12. Paragraph (d) of subsection (2) of section
637 1002.385, Florida Statutes, is amended to read:

638 1002.385 The Gardiner Scholarship.—

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639 (2) DEFINITIONS.—As used in this section, the term:

640 (d) "Disability" means, for a 3- or 4-year-old child or for

641 a student in kindergarten to grade 12, having autism spectrum

642 disorder, as defined in the Diagnostic and Statistical Manual of

643 Mental Disorders, Fifth Edition, published by the American

644 Psychiatric Association; having cerebral palsy, ~~as defined in s.~~

645 ~~393.063(6)~~; Down syndrome, ~~as defined in s. 393.063(15)~~; an

646 intellectual disability, ~~as defined in s. 393.063(24)~~; Phelan-

647 McDermid syndrome, ~~as defined in s. 393.063(28)~~; Prader-Willi

648 syndrome, or as defined in s. 393.063(29); spina bifida, or as

649 ~~defined in s. 393.063(40)~~; being a high-risk child, as those

650 terms are defined in s. 393.063 ~~s. 393.063(23)(a)~~; or having

651 muscular dystrophy; Williams syndrome; rare diseases that which

652 affect patient populations of fewer than 200,000 individuals in

653 the United States, as defined by the National Organization for

654 Rare Disorders; anaphylaxis; deafness ~~deaf~~; visual impairment

655 ~~visually impaired~~; or traumatic brain injury or being

656 hospitalized ~~injured~~; ~~hospital~~ or homebound; or identification

657 as dual sensory impaired, as that term is defined by rules of

658 the State Board of Education and evidenced by reports from local

659 school districts. The term "hospital or homebound" includes a

660 student who has a medically diagnosed physical or psychiatric

661 condition or illness, as defined by ~~the~~ state board ~~in~~ rule, and

662 who is confined to the home or hospital for more than 6 months.

663 Section 13. This act shall take effect July 1, 2019.