

By Senator Dudley

25-847A-98

1 A bill to be entitled
2 An act relating to persons with developmental
3 disabilities; requiring that the Department of
4 Children and Family Services develop a plan for
5 closing the developmental services institutions
6 by a specified date and relocating the
7 residents to homes in the community; providing
8 for funding to be discontinued for facilities
9 that serve more than a specified number of
10 residents; providing an exception for cluster
11 homes in operation on a specified date;
12 creating the Commission on Reforms for Persons
13 with Developmental Disabilities to oversee the
14 integration of persons into homes in the
15 community; providing for membership of the
16 commission; providing for organization of the
17 commission and meetings; specifying duties of
18 the commission; requiring that the commission
19 make biennial reports to the Governor, the
20 Legislature, and certain other officials;
21 amending s. 393.062, F.S.; revising legislative
22 findings and intent with respect to programs
23 for persons with developmental disabilities;
24 amending s. 393.063, F.S.; revising
25 definitions; amending s. 393.064, F.S.;
26 providing requirements for prevention services
27 provided for children with developmental
28 disabilities; amending s. 393.0651, F.S.;
29 revising requirements for the family or
30 individual support plan; providing for services
31 to be provided in the most inclusive

1 environment; revising certain facilities that
2 are considered for placement; amending s.
3 393.0655, F.S., relating to screening of direct
4 service providers; conforming provisions to
5 changes made by the act; amending s. 393.066,
6 F.S.; providing for residential services to be
7 provided in small homes that do not serve more
8 than a specified number of individuals;
9 amending s. 393.067, F.S.; deleting references
10 to the comprehensive transition education
11 program; providing for discontinuing the
12 funding for certain facilities after a
13 specified date; providing that a residential
14 facility is a single-family unit and a
15 noncommercial residential use for purposes of
16 local laws and ordinances; amending s. 393.068,
17 F.S.; revising the requirements for the
18 residential services provided under the family
19 care program; providing for certain services to
20 be provided under a voucher system; amending s.
21 393.075, F.S., relating to general liability
22 coverage; conforming provisions to changes made
23 by the act; repealing s. 393.11, F.S., relating
24 to involuntary admission to residential
25 services; amending s. 393.13, F.S., relating to
26 the Bill of Rights of Persons with
27 Developmental Disabilities; providing
28 requirements for the personal treatment of
29 persons with developmental disabilities;
30 amending s. 393.14, F.S.; providing
31 requirements for the department's multiyear

1 plan; amending s. 393.15, F.S., relating to the
2 Community Resources Development Trust Fund;
3 conforming provisions to changes made by the
4 act; amending s. 393.165, F.S.; revising
5 legislative findings and intent with respect to
6 providing services for persons with
7 developmental disabilities in small residential
8 homes; amending s. 393.166, F.S.; providing for
9 the licensure of facilities that house not more
10 than a specified number of persons with
11 developmental disabilities; amending s. 393.17,
12 F.S.; providing requirements for the
13 department's certification program; repealing
14 s. 393.21, F.S., relating to developmental
15 services institutions; amending s. 393.31,
16 F.S.; authorizing the department to contract
17 with rehabilitation workshop facilities;
18 amending s. 393.22, F.S.; providing for
19 determining eligibility for services; amending
20 s. 393.50, F.S.; providing for extended
21 employment for persons with developmental
22 disabilities; amending s. 393.501, F.S.;
23 revising the department's rulemaking authority;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. The Department of Children and Family
29 Services shall develop a plan by March 30, 1999, for closing
30 the four developmental services institutions in the state
31 operated under chapter 393, Florida Statutes, and shall

1 relocate the residents to homes in the community by July 30,
2 2003. In addition, by July 30, 2003, the department shall
3 discontinue the support and funding under chapter 393, Florida
4 Statutes, for any private facility that serves more than six
5 individuals with developmental disabilities, except that a
6 cluster home in operation on July 1, 1998, and which otherwise
7 complies with chapter 393, Florida Statutes, shall remain
8 eligible for support and funding after July 30, 2003.

9 Section 2. The Commission on Reforms for Persons with
10 Developmental Disabilities.--

11 (1) The Commission on Reforms for Persons with
12 Developmental Disabilities is created to oversee the
13 establishment and implementation of a system to safely
14 integrate persons with developmental disabilities into homes
15 in the community of not more than six persons and to provide
16 adequate support and services for such persons, or to safely
17 integrate persons with developmental disabilities, after an
18 informed choice, into cluster homes in operation on July 1,
19 1998. The commission shall develop a plan for implementing
20 this integration and shall monitor the progress of
21 implementation. The commission is assigned to the
22 Developmental Services Program Office of the Department of
23 Children and Family Services for administrative and fiscal
24 purposes, but the commission shall function independently of
25 the department for all other purposes.

26 (2) Appointments to the commission shall be made by
27 January 15, 1999. The members of the commission shall be
28 appointed from areas within the state to reflect the state's
29 population distribution. The President of the Senate shall
30 appoint four members of the Senate to the commission and the
31 Speaker of the House of Representatives shall appoint four

1 members of the House of Representatives to the commission. In
2 addition, the Governor shall appoint the following members:

3 (a) Four members of the staff of the Executive Office
4 of the Governor.

5 (b) Two representatives of the Florida Protection and
6 Advocacy System for Individuals with Developmental
7 Disabilities.

8 (c) A representative of the Association for Retarded
9 Citizens.

10 (d) A representative of the Developmental Disabilities
11 Council.

12 (e) An individual, or the parent of an individual, who
13 resides in a state-operated institution for persons with
14 developmental disabilities.

15 (f) An individual, or the parent of an individual, who
16 resides in a private institutional setting.

17 (g) An individual, or the parent of an individual, who
18 resides in a supported-living environment.

19 (h) An individual, or the parent of an individual, who
20 resides in a group-living environment.

21 (i) Two individuals with developmental disabilities
22 who are active self-advocates.

23 (j) A representative of the Florida Association of
24 Rehabilitation Facilities.

25 (k) A representative of the support coordination
26 system of the family care program within the Department of
27 Children and Family Services.

28 (l) A representative who is collectively nominated by
29 the groups that represent individuals who have spina bifida,
30 Prader-Willi syndrome, autism, or spinal cord injuries.

31

1 (m) A representative of the Statewide Human Rights
2 Advocacy Committee.

3 (3) Recognized statewide organizations that represent
4 the organizations listed in subsection (2) shall submit at
5 least two and not more than three nominees to the Governor for
6 consideration for appointment to the commission. Commission
7 members should represent the ethnic, racial, gender, and
8 economic population of the state. A vacancy on the commission
9 shall be filled in the same manner as the original
10 appointment. A member may be removed by the appointing
11 authority for cause. Any member who, without cause, fails to
12 attend three consecutive meetings may be removed by the
13 appointing authority.

14 (4) The commission shall adopt internal organizational
15 procedures or bylaws necessary for its efficient operation.
16 The commission shall elect a chairperson and a vice
17 chairperson, who shall act as chairperson in the absence of
18 the chairperson. The commission may appoint committees from
19 its membership or may create ad hoc advisory committees as
20 necessary. The commission shall clearly assign to each
21 committee duties that are consistent with the duties of the
22 commission specified in this section. At least one such
23 committee must be created to address the development of
24 policies for safely integrating persons with developmental
25 disabilities into homes in the community, providing adequate
26 support and services for such persons, and monitoring the
27 integration. Any committee shall serve the commission in a
28 strictly advisory capacity and must have a commission member
29 as its chairperson.

30 (5) The commission shall consider various incentives
31 by which the Department of Children and Family Services may

1 encourage providers that operate facilities that serve more
2 than six individuals with developmental disabilities to
3 convert to facilities that offer supported-living programs in
4 homes in the community which serve six or fewer individuals.
5 By January 15, 1999, the department shall specifically
6 identify the goals and objectives of the commission. By
7 October 1, 1999, the commission shall submit its first
8 biennial report of recommendations to the Governor, the
9 President of the Senate, the Speaker of the House of
10 Representatives, the Secretary of Children and Family
11 Services, the Protection and Advocacy Association, and each
12 Cabinet member.

13 (6) Members of the commission shall serve without
14 compensation but are entitled to reimbursement for per diem
15 and travel expenses incurred in the performance of their
16 duties as provided in section 112.061, Florida Statutes.
17 Legislators are entitled to receive travel and per diem
18 expenses in the same manner as provided for meetings of
19 legislative committees. When appropriate, commission members
20 who are parents shall receive a stipend for the costs incurred
21 for child care while attending commission meetings.

22 (7) By July 30, 2003, each individual with
23 developmental disabilities who resides in a facility that
24 serves more than six individuals must be offered the choice of
25 living in a home in the community that serves six or fewer
26 individuals.

27 (8) The commission shall review and recommend
28 procedures for safely integrating persons with developmental
29 disabilities into homes in the community that serve not more
30 than six persons and shall recommend the repeal or
31 modification of laws, fiscal policies, or rules that stand in

1 the way of such integration. Specifically, the commission
2 shall:

3 (a) Serve as an advisory body to oversee the
4 development, establishment, implementation, and maintenance of
5 services that are tailored to meet the individual needs of a
6 person with developmental disabilities and that allow the
7 individual to participate fully in his or her community. This
8 responsibility includes:

9 1. Holding public hearings, as necessary, in various
10 parts of the state. The purpose of these hearings is to
11 receive public comment on the status of the integration of
12 persons with developmental disabilities into homes in the
13 community that serve not more than six persons. When feasible,
14 alternative methods such as teleconferencing shall be employed
15 to increase public involvement.

16 2. Observing the development and implementation of
17 adequate transition plans for persons with developmental
18 disabilities.

19 3. Recommending changes in laws, rules, and policies
20 needed to implement and maintain a system to safely integrate
21 persons with developmental disabilities into homes in the
22 community and to provide for accountability by persons
23 responsible for implementation.

24 (b) Review and, with assistance from the Department of
25 Children and Family Services, analyze the necessary changes
26 identified by the commission. The commission's report must
27 include recommendations for changes in the department's
28 service delivery system.

29 (c) Recommend to the Legislature and the Department of
30 Children and Family Services, as appropriate, the components
31 of a system of improving the delivery of services and for

1 providing for accountability of persons responsible for
2 delivering services. Initial recommendations must be reviewed
3 and revised as necessary and must include:

4 1. Performance standards for effectively delivering
5 services and achieving the goals set forth in this section,
6 including a definition of what constitutes adequate progress
7 in meeting the performance standards. The commission shall
8 establish the performance standards by April 15, 1999.

9 2. Methods for measuring the department's progress in
10 achieving the goals set forth in this section. These
11 assessment methods must include the most effective and
12 efficient procedures available from the current system of
13 assessment and alternative and new assessment practices.

14 3. Methods for reporting to the public on the progress
15 made by the department, the service districts, and individual
16 service providers in achieving the goals set forth in this
17 section. The commission shall emphasize reporting on
18 improvement and progress in the service delivery system. The
19 commission shall also develop methods for reporting the status
20 of persons with developmental disabilities after transition
21 into homes within the community and on the services that are
22 available within communities.

23 4. Ways to effectively use existing methods and
24 develop new methods to recognize service providers that meet
25 or make adequate progress in meeting the goals set forth in
26 this section. The commission shall also consider developing
27 incentives to reward service providers that make exceptional
28 progress in meeting the goals.

29 5. Guidelines that may be adopted as rules by the
30 Department of Children and Family Services to be used to
31 determine if a service provider has failed to meet the goals

1 set forth in this section after 3 years of assistance and
2 intervention, including recommended actions to be taken
3 against the provider. The guidelines must be stringent and
4 must ensure that a service provider is not permitted to
5 continue to inadequately serve persons with developmental
6 disabilities.

7 (d) Use the talents, expertise, and resources within
8 the state, to whatever extent practicable. The commission may
9 call upon appropriate agencies of state government for staff
10 assistance, clerical resources, materials, and other support
11 services and coordinate and consult with existing agency and
12 legislative staff, in order that minimum costs and maximum
13 expertise may be achieved.

14 (e) Have the authority to apply for and accept funds,
15 grants, donations, expenses, in-kind services, or other valued
16 goods or services from the government of the United States or
17 any of its agencies, state government, local governments, or
18 any other public or private source. Funds or services acquired
19 or accepted under this paragraph shall be used to carry out
20 the commission's assigned duties and responsibilities.

21 (f) Keep full, detailed, and accurate records pursuant
22 to chapter 119, Florida Statutes.

23 (g) Prepare and submit to the Governor, the President
24 of the Senate, the Speaker of the House of Representatives,
25 the Secretary of Children and Family Services, the Protection
26 and Advocacy Association, and each Cabinet member a biennial
27 report and recommendations. The biennial reports of the
28 commission shall be made available to other appropriate
29 governmental officials and to any other interested person in
30 this state.

31

1 Section 3. Section 393.062, Florida Statutes, is
2 amended to read:

3 393.062 Legislative findings and declaration of
4 intent.--The Legislature finds and declares that existing
5 state programs for the treatment of individuals with
6 development disabilities ~~who are developmentally disabled~~,
7 which often unnecessarily place clients in large state
8 institutions, are unreasonably costly, are ineffective in
9 bringing the individual client to his or her maximum
10 potential, and are in fact debilitating to ~~a great majority of~~
11 clients. A redirection in state treatment programs for
12 individuals with developmental disabilities ~~who are~~
13 ~~developmentally disabled~~ is necessary if any significant
14 amelioration of the problems faced by such individuals is ever
15 to take place. Such redirection should place primary emphasis
16 on programs that have the potential to prevent or reduce the
17 severity of developmental disabilities. Further, the
18 Legislature declares that greatest priority shall be given to
19 the development and implementation of community-based
20 residential placements, services, and treatment programs for
21 individuals with developmental disabilities ~~who are~~
22 ~~developmentally disabled~~ which will enable such individuals to
23 achieve their greatest potential for independent and
24 productive living, which will enable them to live in their own
25 homes or in facilities that serve not more than six
26 individuals located in their own communities, and which will
27 permit clients to be diverted or removed from ~~unnecessary~~
28 institutional placements. The Legislature declares that the
29 goal of this chapter act, to improve the quality of life of
30 all individuals with developmental disabilities
31 ~~developmentally disabled persons~~ by the development and

1 implementation of community-based residential placements,
2 services, and treatment, cannot be met without ensuring the
3 availability of small community residential opportunities for
4 individuals with developmental disabilities ~~developmentally~~
5 ~~disabled persons~~ in the residential areas of this state. The
6 Legislature, therefore, declares that all persons with
7 developmental disabilities who live in licensed community
8 homes shall have a family living environment comparable to
9 other Floridians. The Legislature intends that such
10 residences shall serve not more than six individuals with
11 developmental disabilities and shall be considered and treated
12 as a functional equivalent of a family unit and not as an
13 institution, business, or boarding home. The Legislature
14 declares that, in developing community-based programs and
15 services for individuals with developmental disabilities ~~who~~
16 ~~are developmentally disabled~~, private businesses,
17 not-for-profit corporations, units of local government, and
18 other organizations capable of providing needed services to
19 clients in a cost-efficient manner shall be given preference
20 in lieu of operation of programs directly by state agencies.
21 Finally, it is the intent of the Legislature that all
22 caretakers unrelated to individuals with developmental
23 disabilities receiving care shall be of good moral character.

24 Section 4. Section 393.063, Florida Statutes, is
25 amended to read:

26 393.063 Definitions.--As used in ~~For the purposes of~~
27 this chapter, the term:

28 (1) "Active treatment" means the provision of services
29 by an interdisciplinary team necessary to maximize a client's
30 individual independence or prevent regression or loss of
31 functional status.

1 (2) "Autism" means a pervasive, neurologically based
2 developmental disability of extended duration which causes
3 severe learning, communication, and behavior disorders with
4 age of onset during infancy or childhood. Individuals with
5 autism exhibit impairment in reciprocal social interaction,
6 impairment in verbal and nonverbal communication and
7 imaginative ability, and a markedly restricted repertoire of
8 activities and interests.

9 (3) "Cerebral palsy" means a group of disabling
10 symptoms of extended duration which results from damage to the
11 developing brain that may occur before, during, or after birth
12 and that results in the loss or impairment of control over
13 voluntary muscles. For the purposes of this definition,
14 cerebral palsy does not include those symptoms or impairments
15 resulting solely from a stroke.

16 (4) "Client" means any person determined eligible by
17 the department for developmental services.

18 (5) "Client advocate" means a friend or relative of
19 the client, or of the client's immediate family, who advocates
20 for the best interests of the client in any proceedings under
21 this chapter in which the client or his or her family has the
22 right or duty to participate.

23 (6) "Cluster home" means a facility in operation on
24 July 1, 1998, which consists of three homes that serve not
25 more than eight individuals each.

26 (7)~~(6)~~ "Comprehensive assessment" means the process
27 which is used to determine eligibility for developmental
28 services and develop the family or individual support plan.
29 The term includes review and evaluation of information
30 provided by the applicant, the individual receiving supports
31 or services through developmental services, or the family, and

1 others providing supports or services to the individual or
2 family, as well as the use of formal assessment instruments.

3 ~~(7) "Comprehensive transitional education program"~~
4 ~~means a group of jointly operating centers or units, the~~
5 ~~collective purpose of which is to provide a sequential series~~
6 ~~of educational care, training, treatment, habilitation, and~~
7 ~~rehabilitation services to persons who have developmental~~
8 ~~disabilities, as defined in subsection (11), and who have~~
9 ~~severe or moderate maladaptive behaviors. However, nothing in~~
10 ~~this subsection shall require comprehensive transitional~~
11 ~~education programs to provide services only to persons with~~
12 ~~developmental disabilities, as defined in subsection (11).~~
13 ~~All such services shall be temporary in nature and delivered~~
14 ~~in a structured residential setting with the primary goal of~~
15 ~~incorporating the normalization principle to establish~~
16 ~~permanent residence for persons with maladaptive behaviors in~~
17 ~~facilities not associated with the comprehensive transitional~~
18 ~~education program. The staff shall include psychologists and~~
19 ~~teachers, and such staff personnel shall be available to~~
20 ~~provide services in each component center or unit of the~~
21 ~~program. The psychologists shall be individuals who are~~
22 ~~licensed in this state and certified as behavior analysts in~~
23 ~~this state, or individuals who meet the professional~~
24 ~~requirements established by the department for district~~
25 ~~behavior analysts and are certified as behavior analysts in~~
26 ~~this state.~~

27 ~~(a) Comprehensive transitional education programs~~
28 ~~shall include a minimum of two component centers or units, as~~
29 ~~defined in this paragraph, one of which shall be either an~~
30 ~~intensive treatment and educational center or a transitional~~
31 ~~training and educational center, which provide services to~~

1 ~~persons with maladaptive behaviors in the following sequential~~
2 ~~order:~~

3 1. ~~Intensive treatment and educational center. This~~
4 ~~component is a self-contained residential unit providing~~
5 ~~intensive psychological and educational programming for~~
6 ~~persons with severe maladaptive behaviors, whose behaviors~~
7 ~~preclude placement in a less restrictive environment due to~~
8 ~~the threat of danger or injury to themselves or others.~~

9 2. ~~Transitional training and educational center. This~~
10 ~~component is a residential unit for persons with moderate~~
11 ~~maladaptive behaviors, providing concentrated psychological~~
12 ~~and educational programming emphasizing a transition toward a~~
13 ~~less restrictive environment.~~

14 3. ~~Community transition residence. This component is~~
15 ~~a residential center providing educational programs and such~~
16 ~~support services, training, and care as are needed to assist~~
17 ~~persons with maladaptive behaviors to avoid regression to more~~
18 ~~restrictive environments while preparing them for more~~
19 ~~independent living. Continuous-shift staff shall be required~~
20 ~~for this component.~~

21 4. ~~Alternative living center. This component is a~~
22 ~~residential unit providing an educational and family living~~
23 ~~environment for persons with maladaptive behaviors, in a~~
24 ~~moderately unrestricted setting. Residential staff shall be~~
25 ~~required for this component.~~

26 5. ~~Independent living education center. This~~
27 ~~component is a facility providing a family living environment~~
28 ~~for persons with maladaptive behaviors, in a largely~~
29 ~~unrestricted setting which includes education and monitoring~~
30 ~~appropriate to support the development of independent living~~
31 ~~skills by the students.~~

1 ~~(b) Centers or units that are components of a~~
2 ~~comprehensive transitional education program are subject to~~
3 ~~the license issued to the comprehensive transitional education~~
4 ~~program and may be located on either single or multiple sites.~~

5 ~~(c) Comprehensive transitional education programs~~
6 ~~shall develop individual education plans for each person with~~
7 ~~maladaptive behaviors who receives services therein. Such~~
8 ~~individual education plans shall be developed in accordance~~
9 ~~with the criteria included in Pub. L. No. 94-142, 20 U.S.C.~~
10 ~~ss. 401 et seq., and 34 C.F.R. part 300.~~

11 ~~(d) In no instance shall the total number of persons~~
12 ~~with maladaptive behaviors being provided services in a~~
13 ~~comprehensive transitional education program exceed 120.~~

14 ~~(e) This subsection shall authorize licensure for~~
15 ~~comprehensive transitional education programs which by July 1,~~
16 ~~1989:~~

17 ~~1. Are in actual operation; or~~

18 ~~2. Own a fee simple interest in real property for~~
19 ~~which a county or city government has approved zoning allowing~~
20 ~~for the placement of the facilities described in this~~
21 ~~subsection, and have registered an intent with the department~~
22 ~~to operate a comprehensive transitional education program.~~

23 (8) "Day service" means the care, protection, and
24 supervision of a client for a period of less than 24 hours a
25 day on a regular basis which supplements for the client, in
26 accordance with his or her individual needs, daily care,
27 enrichment opportunities, and health supervision.

28 (9) "Day facility" means any nonresidential facility
29 which provides day services.

30 (10) "Department" means the Department of Children and
31 Family Health and Rehabilitative Services.

1 (11) "Developmental disability" means a disorder or
2 syndrome that is attributable to retardation, cerebral palsy,
3 autism, spina bifida, or Prader-Willi syndrome and that
4 constitutes a substantial handicap that can reasonably be
5 expected to continue indefinitely.

6 (12) "Developmental services institution" means a
7 state-owned and state-operated facility, formerly known as a
8 "Sunland Center," providing for the care, habilitation, and
9 rehabilitation of clients.

10 (13) "Developmental training facility" means any
11 nonresidential facility which provides basic training and
12 habilitation to clients.

13 (14) "Direct service provider," also known as
14 "caregiver" in chapter 415 or "caretaker" in provisions
15 relating to employment security checks, means a person 18
16 years of age or older who has direct contact with individuals
17 with developmental disabilities and is unrelated to the
18 individuals with developmental disabilities.

19 (a) The term "direct service provider" also includes
20 any person, including members of the direct service provider's
21 family, over 12 years of age who resides with the direct
22 service provider when:

23 1. The direct service provider provides supports or
24 services in his or her residence;

25 2. The direct service provider provides supports or
26 services in a facility adjacent to his or her residence; or

27 3. The person residing with the direct service
28 provider has direct contact with the individual with
29 developmental disabilities during the hours of provision of
30 supports or services.

31

1 (b) Persons residing with the direct service provider,
2 including family members, who are between the ages of 12 years
3 and 18 years are not required to be fingerprinted, but shall
4 be screened for delinquency records.

5 (c) A volunteer who assists on an intermittent basis
6 for less than 40 hours per month is not a direct service
7 provider for the purposes of screening if the volunteer is
8 under the direct and constant supervision of persons who meet
9 the personnel requirements of s. 393.0655.

10 (d) A physician, nurse, or other professional licensed
11 and regulated by the Department of Business and Professional
12 Regulation is not a direct service provider for the purposes
13 of screening if the service he or she is providing to a client
14 is within the scope of practice for which he or she is
15 licensed.

16 (e) A person selected by the family or the individual
17 with developmental disabilities and paid by the family or the
18 individual to provide supports or services is not a direct
19 service provider for the purpose of screening.

20 (15) "District" means a service district of the
21 department.

22 (16) "Domicile" means the place where a client legally
23 resides, which place is his or her permanent home. Domicile
24 may be established as provided in s. 222.17. Domicile may not
25 be established in Florida by a minor who has no parent
26 domiciled in Florida, or by a minor who has no legal guardian
27 domiciled in Florida, or by any alien not classified as a
28 resident alien.

29 (17) "Enclave" means a work station in public or
30 private business or industry where a small group of persons
31 with developmental disabilities is employed and receives

1 training and support services or follow-along services among
2 ~~nonhandicapped~~ workers without disabilities.

3 (18) "Epilepsy" means a chronic brain disorder of
4 various causes which is characterized by recurrent seizures
5 due to excessive discharge of cerebral neurons. When found
6 concurrently with retardation, autism, or cerebral palsy,
7 epilepsy is considered a secondary disability for which the
8 client is eligible to receive services to ameliorate this
9 condition according to the provisions of this chapter.

10 (19) "Express and informed consent" means consent
11 voluntarily given in writing with sufficient knowledge and
12 comprehension of the subject matter involved to enable the
13 person giving consent to make an understanding and enlightened
14 decision without any element of force, fraud, deceit, duress,
15 or other form of constraint or coercion.

16 (20) "Extended employee" means a person who has been
17 employed in a rehabilitation workshop facility in excess of 24
18 months. This period shall include all developmental services
19 relating to evaluation, personal training, and work-adjustment
20 training, and subsequent facility employment.

21 (21) "Extended employment" means meaningful
22 remunerative activity for at least 20 hours per week.

23 (22) "Family care program" means an alternative to the
24 individual living in a residential facility ~~residential~~
25 ~~placement~~, in which a direct service provider provides a home
26 for a client and assists him or her to the extent necessary
27 for the client to participate in normal activities and to meet
28 the demands of daily living. The program provides the support
29 needed by the client's family or caretaker to meet the
30 individual needs of the client.

31

1 (23) "Follow-along services" means those support
2 services which shall be provided to persons with developmental
3 disabilities in all supported employment programs and may
4 include, but are not limited to, family support, assistance in
5 meeting transportation and medical needs, employer
6 intervention, performance evaluation, advocacy, replacement,
7 retraining or promotional assistance, or other similar support
8 services.

9 (24) "Foster care home facility" means a home that
10 ~~residential facility which~~ provides a family living
11 environment including supervision and care necessary to meet
12 the physical, emotional, and social needs of its residents.
13 The capacity of such a home may facility shall not be more
14 than three residents.

15 (25) "Group home ~~facility~~" means a home that
16 ~~residential facility which~~ provides a family living
17 environment including supervision and care necessary to meet
18 the physical, emotional, and social needs of its residents.
19 The capacity of such a home facility shall be at least 4
20 residents but not more than six ~~15~~ residents. For the
21 purposes of this chapter, a group home may facilities shall
22 not be considered a commercial enterprise enterprises.

23 (26) "Guardian advocate" means a person appointed by
24 the circuit court to represent a person with developmental
25 disabilities in any proceedings brought pursuant to s. 393.12,
26 and excludes the use of the same term as applied to a guardian
27 advocate for mentally ill persons in chapter 394.

28 (27) "Habilitation" means the process by which a
29 client is assisted to acquire and maintain those life skills
30 which enable the client to cope more effectively with the
31 demands of his or her condition and environment and to raise

1 the level of his or her physical, mental, and social
2 efficiency. It includes, but is not limited to, programs of
3 formal structured education and treatment.

4 (28) "High-risk child" means, for the purposes of this
5 chapter, a child from birth to 5 years of age with one or more
6 of the following characteristics:

7 (a) A developmental delay in cognition, language, or
8 physical development.

9 (b) A child surviving a catastrophic infectious or
10 traumatic illness known to be associated with developmental
11 delay, when funds are specifically appropriated.

12 (c) A child with a parent or guardian with
13 developmental disabilities ~~who is developmentally disabled~~ and
14 who requires assistance in meeting the child's developmental
15 needs.

16 (d) A child who has a physical or genetic anomaly
17 associated with developmental disability.

18 (29) "Intermediate care facility for the
19 developmentally disabled" or "ICF/DD" means a
20 state-owned-and-operated residential facility licensed in
21 accordance with state law, and certified by the Federal
22 Government pursuant to the Social Security Act, as a provider
23 of Medicaid services to persons who are mentally retarded or
24 who have related conditions. The capacity of such a facility
25 shall not be more than 120 clients.

26 (30) "Job coach" means a person who provides
27 employment-related training at a work site to individuals with
28 developmental disabilities.

29 (31) "Medical/dental services" means those services
30 which are provided or ordered for a client by a person
31 licensed pursuant to the provisions of chapter 458, chapter

1 459, or chapter 466. Such services may include, but are not
2 limited to, prescription drugs, specialized therapies, nursing
3 supervision, hospitalization, dietary services, prosthetic
4 devices, surgery, specialized equipment and supplies, adaptive
5 equipment, and other services as required to prevent or
6 alleviate a medical or dental condition.

7 (32) "Mobile work crew" means a group of workers
8 employed by an agency that provides services outside the
9 agency, usually under service contracts.

10 (33) "Normalization principle" means the principle of
11 letting the client obtain an existence as close to the normal
12 as possible, making available to the client patterns and
13 conditions of everyday life which are as close as possible to
14 the norm and patterns of the mainstream of society.

15 (34) "Personal services" include, but are not limited
16 to, such services as: individual assistance with or
17 supervision of essential activities of daily living for
18 self-care, including ambulation, bathing, dressing, eating,
19 grooming, and toileting, and other similar services which the
20 department may define by rule. "Personal services" shall not
21 be construed to mean the provision of medical, nursing,
22 dental, or mental health services by the staff of a facility,
23 except as provided in this chapter. In addition, an emergency
24 response device installed in the apartment or living area of a
25 resident shall not be classified as a personal service.

26 (35) "Prader-Willi syndrome" means an inherited
27 condition typified by neonatal hypotonia with failure to
28 thrive, hyperphagia or an excessive drive to eat which leads
29 to obesity usually at 18 to 36 months of age, mild to moderate
30 retardation, hypogonadism, short stature, mild facial
31 dysmorphism, and a characteristic neurobehavior.

1 (36) "Reassessment" means a process which periodically
2 develops, through annual review and revision of a client's
3 family or individual support plan, a knowledgeable statement
4 of current needs and past development for each client.

5 (37) "Rehabilitation workshop facility" means a place
6 operated by a for-profit or nonprofit agency engaged in the
7 manufacture or production of products or provision of
8 services, which provides gainful rehabilitation to severely
9 handicapped persons until such persons can become employed or
10 which provides gainful work to persons with developmental
11 disabilities ~~who are developmentally disabled~~.

12 (38) "Relative" means an individual who is connected
13 by affinity or consanguinity to the client and who is 18 years
14 of age or more.

15 (39) "Resident" means any person with developmental
16 disabilities ~~who is developmentally disabled~~ residing at a
17 residential facility in the state, whether or not such person
18 is a client of the department.

19 (40) "Residential facility" means a facility providing
20 room and board and personal care for persons with
21 developmental disabilities. Until July 1, 2003, the term
22 includes a developmental services institution, an intermediate
23 care facility for persons with developmental disabilities, and
24 a home in the community that serves not more than six persons.
25 On or after July 1, 2003, a residential facility shall be
26 limited to mean a home in the community that serves not more
27 than six persons.

28 (41) "Residential habilitation center" means a
29 community residential facility operated primarily for the
30 diagnosis, treatment, habilitation, or rehabilitation of its
31 residents, which facility provides, in a structured

1 residential setting, individualized continuing evaluation,
2 planning, 24-hour supervision, and coordination and
3 integration of health or rehabilitative services to help each
4 resident reach his or her maximum functioning capabilities.
5 The capacity of such a facility shall not be less than nine
6 residents. After October 1, 1989, no new residential
7 habilitation centers shall be licensed and the licensed
8 capacity shall not be increased for any existing residential
9 habilitation center.

10 (42) "Respite service" means appropriate, short-term,
11 temporary care that is provided to a person with developmental
12 disabilities to meet the planned or emergency needs of the
13 person with developmental disabilities or the family or other
14 direct service provider.

15 (43) "Retardation" means significantly subaverage
16 general intellectual functioning existing concurrently with
17 deficits in adaptive behavior and manifested during the period
18 from conception to age 18. "Significantly subaverage general
19 intellectual functioning," for the purpose of this definition,
20 means performance which is two or more standard deviations
21 from the mean score on a standardized intelligence test
22 specified in the rules of the department. "Adaptive
23 behavior," for the purpose of this definition, means the
24 effectiveness or degree with which an individual meets the
25 standards of personal independence and social responsibility
26 expected of his or her age, cultural group, and community.

27 (44) "Screening," for purposes of employment,
28 contracting, or certification, means the act of assessing the
29 background of direct service providers and independent support
30 coordinators, who are not related to clients for whom they
31 provide services, and includes, but is not limited to,

1 employment history checks, local criminal records checks
2 through local law enforcement agencies, fingerprinting for all
3 purposes and checks in this subsection, statewide criminal
4 records checks through the Department of Law Enforcement, and
5 federal criminal records checks through the Federal Bureau of
6 Investigation; except that screening for volunteers included
7 under the definition of personnel includes only local criminal
8 records checks through local law enforcement agencies for
9 current residence and residence immediately prior to
10 employment as a volunteer, if different; and statewide
11 criminal records correspondence checks through the Department
12 of Law Enforcement.

13 (45) "Severe self-injurious behavior" means any
14 chronic behavior that results in injury to the person's own
15 body, which includes, but is not limited to, self-hitting,
16 head banging, self-biting, scratching, and the ingestion of
17 harmful or potentially harmful nutritive or nonnutritive
18 substances.

19 (46) "Specialized therapies" means those treatments or
20 activities prescribed by and provided by an appropriately
21 trained, licensed, or certified professional or staff person
22 and may include, but are not limited to, physical therapy,
23 speech therapy, respiratory therapy, occupational therapy,
24 behavior therapy, physical management services, and related
25 specialized equipment and supplies.

26 (47) "Spina bifida" means, for purposes of this
27 chapter, a person with a medical diagnosis of spina bifida
28 cystica or myelomeningocele.

29 (48) "Support coordinator" means a person who is
30 designated by the department to assist individuals and
31 families in identifying their desires, capacities, needs, and

1 resources, as well as finding and gaining access to necessary
2 supports and services; coordinating the delivery of supports
3 and services; advocating on behalf of the individual and
4 family; maintaining relevant records; and monitoring and
5 evaluating the delivery of supports and services to determine
6 the extent to which they meet the needs and expectations
7 identified by the individual, family, and others who
8 participated in the development of the support plan.

9 (49) "Supported employee" means a person whose
10 developmental disability has traditionally kept him or her
11 from integrated, community-based employment and who requires
12 ongoing support or follow-along services in order to maintain
13 community-based employment.

14 (50) "Supported employment" means employment located
15 or provided in a normal employment setting which provides at
16 least 20 hours employment per week in an integrated work
17 setting, with earnings paid on a commensurate wage basis, and
18 for which support or follow-along services are needed for
19 continuing job maintenance.

20 (51) "Supported living" means a category of
21 individually determined services designed and coordinated in
22 such a manner as to provide assistance to adult clients who
23 require ongoing supports to live as independently as possible
24 in their own homes, to be integrated into the community, and
25 to participate in community life to the fullest extent
26 possible.

27 (52) "Training" means a planned approach to assisting
28 a client to attain or maintain his or her maximum potential
29 and includes services ranging from sensory stimulation to
30 instruction in skills for independent living and employment.

31

1 (53) "Treatment" means the prevention, amelioration,
2 or cure of a client's physical and mental disabilities or
3 illnesses.

4 Section 5. Subsection (2) and paragraph (e) of
5 subsection (4) of section 393.064, Florida Statutes, are
6 amended to read:

7 393.064 Prevention.--

8 (2) Prevention services provided by the developmental
9 services program include services to high-risk children and
10 ~~developmentally disabled~~ children with developmental
11 disabilities from birth to 5 years of age, and their families,
12 to meet the intent of chapter 411. Such services shall include
13 individual evaluations or assessments necessary to diagnose a
14 developmental disability or high-risk condition and to
15 determine appropriate individual family and support services,
16 unless evaluations or assessments are the responsibility of
17 the children's medical services program for children ages
18 birth to 3 years eligible for services under this chapter or
19 part H of the Individuals with Disabilities Education Act, and
20 may include:

21 (a) Early intervention services, including
22 developmental training and specialized therapies. Early
23 intervention services, which are the responsibility of the
24 children's medical services program for children ages birth to
25 3 years who are eligible for services under this chapter or
26 under part H of the Individuals with Disabilities Education
27 Act, shall not be provided through the developmental services
28 program unless funding is specifically appropriated to the
29 developmental services program for this purpose.

30 (b) Support services, such as respite care, parent
31 education and training, parent-to-parent counseling, homemaker

1 services, and other services which allow families to maintain
2 and provide quality care to children in their homes. The
3 children's medical services program is responsible for the
4 provision of services to children from birth to 3 years who
5 are eligible for services under this chapter.

6 (4) There is created at the developmental services
7 institution in Gainesville a research and education unit.
8 Such unit shall be named the Raymond C. Philips Research and
9 Education Unit. The functions of such unit shall include:

10 (e) Ensuring that health professionals ~~in the~~
11 ~~developmental services institution~~ at Gainesville have access
12 to information systems that will allow them to remain updated
13 on newer knowledge and maintain their postgraduate education
14 standards.

15 Section 6. Section 393.0651, Florida Statutes, is
16 amended to read:

17 393.0651 Family or individual support plan.--The
18 department shall provide for an appropriate family support
19 plan for children ages birth to 18 years of age and an
20 individual support plan for each client. The parent or
21 guardian of the client or, if competent, the client, or, when
22 appropriate, the client advocate, shall be consulted in the
23 development of the plan and shall receive a copy of the plan.
24 Each plan must ~~shall~~ include the most appropriate, most
25 inclusive ~~least restrictive~~, and most cost-beneficial
26 environment for accomplishment of the objectives for client
27 progress and a specification of all services authorized. The
28 plan must ~~shall~~ include provisions for the most appropriate
29 level of care for the client. Within the specification of
30 needs and services for each client, when residential care is
31 necessary, the department shall move toward placement of

1 clients in residential facilities based within the client's
2 community. The ultimate goal of each plan, whenever possible,
3 shall be to enable the client to live a dignified life in the
4 most inclusive least restrictive setting, be that in the
5 individual's home or in small residential homes in the
6 community. For children under 6 years of age, the family
7 support plan shall be developed within the 45-day application
8 period as specified in s. 393.065(1); for all applicants 6
9 years of age or older, the family or individual support plan
10 shall be developed within the 60-day period as specified in
11 that subsection.

12 (1) The department shall develop and specify by rule
13 the core components of support plans to be used by each
14 district.

15 (2)(a) The family or individual support plan shall be
16 integrated with the individual education plan (IEP) for all
17 clients who are public school students entitled to a free
18 appropriate public education under the Individuals with
19 Disabilities Education Act, I.D.E.A., as amended. The family
20 or individual support plan and IEP shall be implemented to
21 maximize the attainment of educational and habilitation goals.
22 If the IEP for a student enrolled in a public school program
23 indicates placement in a public or private residential program
24 is necessary to provide special education and related services
25 to a client, the local education agency shall provide for the
26 costs of that service in accordance with the requirements of
27 the Individuals with Disabilities Education Act, I.D.E.A., as
28 amended. The residential program shall serve not more than six
29 participants with developmental disabilities. ~~This does shall~~
30 not preclude local education agencies and the department from
31 sharing the residential service costs of students who are

1 clients and require residential placement. ~~Under no~~
2 ~~circumstances shall~~ Clients entitled to a public education or
3 their parents may not be assessed a fee by the department
4 under s. 402.33 for placement in a residential program.

5 (b) For clients who are entering or exiting the school
6 system, an interdepartmental staffing team composed of
7 representatives of the department and the local school system
8 shall develop a written transitional living and training plan
9 with the participation of the client or with the parent or
10 guardian of the client, or the client advocate, as
11 appropriate.

12 (3) Each family or individual support plan shall be
13 facilitated through case management designed solely to advance
14 the individual needs of the client.

15 (4) In the development of the family or individual
16 support plan, a client advocate may be appointed by the
17 support planning team for a client who is a minor or for a
18 client who is not capable of express and informed consent
19 when:

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

21 (b) The whereabouts of the parent or guardian cannot
22 be discovered; or

23 (c) The state is the only legal representative of the
24 client.

25
26 Such appointment does ~~shall not be construed to~~ extend the
27 powers of the client advocate to include any of those powers
28 delegated by law to a legal guardian.

29 (5) The department shall place a client in the most
30 appropriate and most inclusive ~~least restrictive~~, and
31 cost-beneficial, residential facility according to his or her

1 individual support ~~habilitation~~ plan. The parent or guardian
2 of the client or, if competent, the client, or, when
3 appropriate, the client advocate, and the administrator of the
4 residential program ~~facility~~ to which placement is proposed
5 shall be consulted in determining the appropriate placement
6 for the client. Considerations for placement shall be made in
7 the following order:

8 (a) Client's own home or the home of a family member
9 or direct service provider.

10 (b) Foster care home ~~facility~~.

11 (c) A residential placement that involves a companion
12 or mentoring program.

13 (d)(e) ~~Group home~~ facility.

14 ~~(d) Intermediate care facility for the developmentally~~
15 ~~disabled.~~

16 (e) A small residential home that serves not more than
17 six individuals with developmental disabilities which is other
18 facilities licensed by the department and offers which offer
19 special programs for people with developmental disabilities.

20 (f) A facility in operation on July 1, 1998, that
21 serves more than six individuals with developmental
22 disabilities. Such facility may receive funding under this
23 chapter until July 30, 2003.

24 (g)(f) A cluster home ~~Developmental services~~
25 ~~institution.~~

26 (6) In developing a client's annual family or
27 individual support plan, the individual or family with the
28 assistance of the support planning team shall identify
29 measurable objectives for client progress and shall specify a
30 time period expected for achievement of each objective.

31

1 (7) The individual, family, and support coordinator
2 shall review progress in achieving the objectives specified in
3 each client's family or individual support plan, and shall
4 revise the plan annually, following consultation with the
5 client, if competent, or with the parent or guardian of the
6 client, or, when appropriate, the client advocate. The
7 department shall annually report in writing to the client, if
8 competent, or to the parent or guardian of the client, or to
9 the client advocate, when appropriate, with respect to the
10 client's habilitative and medical progress.

11 (8) Any client, or any parent of a minor client, or
12 guardian, authorized guardian advocate, or client advocate for
13 a client, who is substantially affected by the client's
14 initial family or individual support plan, or the annual
15 review thereof, shall have the right to file a notice to
16 challenge the decision pursuant to ss. 120.569 and 120.57.
17 Notice of such right to appeal shall be included in all
18 support plans provided by the department.

19 Section 7. Subsection (2) of section 393.0655, Florida
20 Statutes, is amended to read:

21 393.0655 Screening of direct service providers.--

22 (2) EXEMPTIONS FROM DISQUALIFICATION.--The department
23 may grant exemptions from disqualification from working with
24 children or individuals with developmental disabilities ~~the~~
25 ~~developmentally disabled~~ as provided in s. 435.07.

26 Section 8. Section 393.066, Florida Statutes, is
27 amended to read:

28 393.066 Community services and treatment for persons
29 with developmental disabilities ~~who are developmentally~~
30 ~~disabled~~.--

31

1 (1) The Department of Children and Family Health and
2 ~~Rehabilitative~~ Services shall plan, develop, organize, and
3 implement its programs of services and treatment along
4 district lines for persons with developmental disabilities ~~who~~
5 ~~are developmentally disabled along district lines~~. The goal
6 of such programs shall be to allow clients to live as
7 independently as possible in their own homes or in small homes
8 that serve not more than six individuals with developmental
9 disabilities ~~communities~~ and to achieve productive lives as
10 close to normal as possible.

11 (2) All programs of services and treatment for clients
12 shall be administered through the districts and shall serve
13 all clients regardless of the type of residential setting in
14 which the client lives. All elements of community-based
15 services shall be made available in each service district and
16 eligibility for these services shall be consistent across
17 districts. In addition, all purchased services shall be
18 approved by the district.

19 (3) All services needed shall be purchased instead of
20 provided directly by the department, when such arrangement is
21 more cost-efficient than having those services provided by the
22 department.

23 (4) Community-based services shall, to the extent of
24 available resources, include:

25 (a) Day services, including developmental training
26 services.

27 (b) Family care services.

28 (c) Guardian advocate referral services.

29 (d) Medical/dental services.

30 (e) Parent training.

31 (f) Recreation.

1 (g) Residential services in small homes that serve not
2 more than six individuals with developmental disabilities.

3 (h) Respite services.

4 (i) Social services.

5 (j) Specialized therapies.

6 (k) Supported employment, including enclave, job
7 coach, mobile work crew, and follow-along services.

8 (l) Supported living.

9 (m) Training, including behavioral programming.

10 (n) Transportation.

11 (o) Other habilitative and rehabilitative services as
12 needed.

13
14 Services to clients with spina bifida shall not include
15 medical services except as appropriated by the Legislature.

16 (5) Provided it is consistent with the intent of the
17 Legislature, the department shall prioritize increased
18 appropriations provided for community-based services for
19 ~~developmentally disabled~~ individuals with developmental
20 disabilities toward individualized, community-based supports
21 and services for consumers and their families. Further, the
22 department's 5-year plan for Developmental Services shall
23 reflect a priority toward individualized, community-based
24 supports and services for consumers and their families.

25 (6) The department shall utilize the services of
26 private businesses, not-for-profit organizations, and units of
27 local government whenever such services are more
28 cost-efficient than such services provided directly by the
29 department, including arrangements for provision of
30 residential facilities.

31

1 (7) In order to improve the potential for utilization
2 of more cost-effective, community-based residential
3 facilities, the department shall promote the statewide
4 development of day services for clients ~~who live with a direct~~
5 ~~service provider in a community-based residential facility and~~
6 ~~who do not require 24-hour-a-day care in a hospital or other~~
7 ~~health care institution, but who may, in the absence of day~~
8 ~~services, require admission to a developmental services~~
9 ~~institution.~~ Each day service facility shall provide a
10 protective physical environment for clients, ensure that
11 direct service providers meet the minimum standards for good
12 moral character as contained in s. 393.0655, make available to
13 all day service participants at least one meal on each day of
14 operation, provide facilities to enable participants to obtain
15 needed rest while attending the program, as appropriate, and
16 provide social and educational activities designed to
17 stimulate interest and provide socialization skills.

18 (8) For the purpose of making needed community-based
19 residential facilities available at the least possible cost to
20 the state, the department may ~~is authorized to~~ lease privately
21 owned residential facilities under long-term rental
22 agreements, if such rental agreements are projected to be less
23 costly to the state over the useful life of the facility than
24 state purchase or state construction of such a facility. In
25 addition, the department is authorized to permit, on any
26 public land to which the department holds the lease,
27 construction of a residential facility for which the
28 department has entered into a long-term rental agreement as
29 specified in this subsection. A residence leased or
30 constructed under this subsection may not serve more than six
31 individuals with developmental disabilities.

1 (9) The department may adopt rules to ensure that
2 caretakers in day facilities comply with the requirements for
3 good moral character.

4 Section 9. Section 393.067, Florida Statutes, is
5 amended to read:

6 393.067 Licensure of residential facilities ~~and~~
7 ~~comprehensive transitional education programs.--~~

8 (1) The department shall license and provide funding
9 for developmental services institutions, private intermediate
10 care facilities for persons with developmental disabilities,
11 and cluster homes according to rules adopted by the
12 department. After July 1, 2003, only homes in the community
13 that serve not more than six individuals shall be considered
14 residential facilities that are eligible to receive funds
15 under this chapter.

16 ~~(2)(1)~~ The department shall provide through its
17 licensing authority a system of provider qualifications,
18 standards, training criteria for meeting standards, and
19 monitoring for residential facilities ~~and comprehensive~~
20 ~~transitional education programs.~~

21 ~~(3)(2)~~ The department shall conduct inspections and
22 reviews of residential facilities ~~and comprehensive~~
23 ~~transitional education programs~~ annually.

24 (4) A residential facility shall be deemed a
25 single-family unit and a noncommercial residential use for
26 purposes of local laws and ordinances. However, a residential
27 facility may not be located within 1,000 feet of another
28 residential facility.

29 ~~(5)(3)~~ An application for a license for a residential
30 facility ~~or a comprehensive transitional education program~~
31 shall be made to the department ~~of Health and Rehabilitative~~

1 ~~Services~~ on a form furnished by it and shall be accompanied by
2 the appropriate license fee.

3 (6)~~(4)~~ The application shall be under oath and must
4 ~~shall~~ contain the following:

5 (a) The name and address of the applicant, if an
6 applicant is an individual; if the applicant is a firm,
7 partnership, or association, the name and address of each
8 member thereof; if the applicant is a corporation, its name
9 and address and the name and address of each director and each
10 officer thereof; and the name by which the facility or program
11 is to be known.

12 (b) The location of the facility ~~or program~~ for which
13 a license is sought.

14 (c) The name of the person or persons under whose
15 management or supervision the facility ~~or program~~ will be
16 conducted.

17 (d) The number and type of residents or clients for
18 which maintenance, care, education, or treatment is to be
19 provided by the facility ~~or program~~.

20 ~~(e) The number and location of the component centers
21 or units which will compose the comprehensive transitional
22 education program.~~

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

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

27 (g)~~(h)~~ Certification that the staff of the facility ~~or~~
28 ~~program~~ will receive training to detect and prevent sexual
29 abuse of residents and clients.

30
31

1 (h)~~(i)~~ Such other information as the department
2 determines is necessary to carry out the provisions of this
3 chapter.

4 (7)~~(5)~~ The applicant shall submit evidence which
5 establishes the good moral character of the manager or
6 supervisor of the facility ~~or program~~ and the direct service
7 providers in the facility ~~or program~~ and its component centers
8 or units. A license may be issued if all the screening
9 materials have been timely submitted; however, a license may
10 not be issued or renewed if any of the direct service
11 providers have failed the screening required by s. 393.0655.

12 (a)1. A licensed residential facility that ~~or~~
13 ~~comprehensive transitional education program which~~ applies for
14 renewal of its license shall submit to the department a list
15 of direct service providers who have worked on a continuous
16 basis at the applicant facility ~~or program~~ since submitting
17 fingerprints to the department, identifying those direct
18 service providers for whom a written assurance of compliance
19 was provided by the department and identifying those direct
20 service providers who have recently begun working at the
21 facility ~~or program~~ and are awaiting the results of the
22 required fingerprint check along with the date of the
23 submission of those fingerprints for processing. The
24 department shall by rule determine the frequency of requests
25 to the Department of Law Enforcement to run state criminal
26 records checks for such direct service providers except for
27 those direct service providers awaiting the results of initial
28 fingerprint checks for employment at the applicant facility ~~or~~
29 ~~program~~. The department shall review the records of the direct
30 service providers at the applicant facility ~~or program~~ with
31 respect to the crimes specified in s. 393.0655 and shall

1 notify the facility ~~or program~~ of its findings. When
2 disposition information is missing on a criminal record, it
3 shall be the responsibility of the person being screened, upon
4 request of the department, to obtain and supply within 30 days
5 the missing disposition information to the department. Failure
6 to supply the missing information within 30 days or to show
7 reasonable efforts to obtain such information shall result in
8 automatic disqualification.

9 2. The applicant shall sign an affidavit under penalty
10 of perjury stating that all new direct service providers have
11 been fingerprinted and that the facility's ~~or program's~~
12 remaining direct service providers have worked at the
13 applicant facility ~~or program~~ on a continuous basis since
14 being initially screened at that facility ~~or program~~ or have a
15 written assurance of compliance from the department.

16 (b) As a prerequisite for issuance of the initial
17 license to a residential facility ~~or comprehensive~~
18 ~~transitional education program~~:

19 1. The applicant shall submit to the department a
20 complete set of fingerprints, taken by an authorized law
21 enforcement agency or an employee of the department who is
22 trained to take fingerprints, for the manager, supervisor, or
23 direct service providers of the facility ~~or program~~;

24 2. The department shall submit the fingerprints to the
25 Department of Law Enforcement for state processing and for
26 federal processing by the Federal Bureau of Investigation; and

27 3. The department shall review the record of the
28 manager or supervisor with respect to the crimes specified in
29 s. 393.0655(1) and shall notify the applicant of its findings.
30 When disposition information is missing on a criminal record,
31 it shall be the responsibility of the manager or supervisor,

1 upon request of the department, to obtain and supply within 30
2 days the missing disposition information to the department.
3 Failure to supply the missing information within 30 days or to
4 show reasonable efforts to obtain such information shall
5 result in automatic disqualification.

6 (c) The department or a residential facility ~~or~~
7 ~~comprehensive transitional education program~~ may not use the
8 criminal records, juvenile records, or abuse registry
9 information of a person obtained under this subsection for any
10 purpose other than determining if that person meets the
11 minimum standards for good moral character for a manager or
12 supervisor of, or direct service provider in, such a facility
13 ~~or program~~. The criminal records, juvenile records, or abuse
14 registry information obtained by the department or a
15 residential facility ~~or comprehensive transitional education~~
16 ~~program~~ for determining the moral character of a manager,
17 supervisor, or direct service provider are exempt from s.
18 119.07(1).

19 (8)~~(6)~~ The applicant shall furnish satisfactory proof
20 of financial ability to operate and conduct the facility ~~or~~
21 ~~program~~ in accordance with the requirements of this chapter
22 and all rules adopted under this chapter ~~promulgated~~
23 ~~hereunder~~.

24 (9)~~(7)~~ The department shall adopt ~~promulgate~~ rules
25 establishing minimum standards for licensure of residential
26 facilities ~~and comprehensive transitional education programs~~,
27 including rules requiring facilities ~~and programs~~ to train
28 staff to detect and prevent sexual abuse of residents and
29 clients, minimum standards of quality and adequacy of care,
30 and uniform firesafety standards established by the State Fire
31

1 Marshal which are appropriate to the size of the facility ~~or~~
2 ~~of the component centers or units of the program.~~

3 (10)~~(8)~~ The department and the Agency for Health Care
4 Administration, after consultation with the Department of
5 Community Affairs, shall adopt rules for residential
6 facilities under the respective regulatory jurisdiction of
7 each establishing minimum standards for the preparation and
8 annual update of a comprehensive emergency management plan.
9 At a minimum, the rules must provide for plan components that
10 address emergency evacuation transportation; adequate
11 sheltering arrangements; postdisaster activities, including
12 emergency power, food, and water; postdisaster transportation;
13 supplies; staffing; emergency equipment; individual
14 identification of residents and transfer of records; and
15 responding to family inquiries. The comprehensive emergency
16 management plan for all intermediate care facilities for the
17 developmentally disabled, facilities serving seven or more
18 people, and homes serving individuals who have complex medical
19 conditions is subject to review and approval by the local
20 emergency management agency. During its review, the local
21 emergency management agency shall ensure that the following
22 agencies, at a minimum, are given the opportunity to review
23 the plan: the Agency for Health Care Administration, the
24 Department of Health ~~and Rehabilitative Services~~, and the
25 Department of Community Affairs. Also, appropriate volunteer
26 organizations must be given the opportunity to review the
27 plan. The local emergency management agency shall complete
28 its review within 60 days and either approve the plan or
29 advise the facility of necessary revisions.

30 (11)~~(9)~~ The Agency for Health Care Administration
31 shall establish standards for facilities and equipment to

1 increase the extent to which facilities for intermediate care
2 for developmentally disabled persons are structurally capable
3 of serving as shelters and equipped to be self-supporting
4 during and immediately following disasters.

5 (12)~~(10)~~ The department may conduct unannounced
6 inspections to determine compliance by residential facilities
7 ~~and comprehensive transitional education programs~~ with the
8 applicable provisions of this chapter and the rules adopted
9 under this chapter pursuant hereto, including the rules
10 adopted for training staff of a facility ~~or a program~~ to
11 detect and prevent sexual abuse of residents and clients. The
12 facility ~~or program~~ shall make copies of inspection reports
13 available to the public upon request.

14 ~~(11) An alternative living center and an independent~~
15 ~~living education center, as defined in s. 393.063(7), shall be~~
16 ~~subject to the provisions of s. 419.001, except that such~~
17 ~~centers shall be exempt from the 1,000-foot-radius requirement~~
18 ~~of s. 419.001(2) if:~~

19 ~~(a) Such centers are located on a site zoned in a~~
20 ~~manner so that all the component centers of a comprehensive~~
21 ~~transition education center may be located thereon; or~~

22 ~~(b) There are no more than three such centers within~~
23 ~~said radius of 1,000 feet.~~

24 (13)~~(12)~~ Each residential facility ~~or comprehensive~~
25 ~~transitional education program~~ licensed by the department
26 shall forward annually to the department a true and accurate
27 sworn statement of its costs of providing care to clients
28 funded by the department.

29 (14)~~(13)~~ The department may audit the records of any
30 residential facility if the department ~~or comprehensive~~
31 ~~transitional education program which it has reason to believe~~

1 may not be in full compliance with ~~the provisions of~~ this
2 section; provided that, any financial audit of such facility
3 ~~or program~~ shall be limited to the records of clients funded
4 by the department.

5 (15)~~(14)~~ The department shall establish, for the
6 purpose of control of licensure costs, a uniform management
7 information system and a uniform reporting system with uniform
8 definitions and reporting categories.

9 (16)~~(15)~~ Facilities ~~and programs~~ licensed pursuant to
10 this section shall adhere to all rights specified in s.
11 393.13, including those enumerated in s. 393.13(4).

12 (17)~~(16)~~ An ~~No~~ unlicensed residential facility may not
13 ~~or comprehensive transitional education program~~ shall receive
14 state funds. A license for the operation of a facility ~~or~~
15 ~~program~~ shall not be renewed if the licensee has any
16 outstanding fines assessed pursuant to this chapter wherein
17 final adjudication of such fines has been entered.

18 (18)~~(17)~~ The department shall not be required to
19 contract with new facilities licensed after October 1, 1989,
20 pursuant to this chapter. Pursuant to chapter 287, the
21 department shall continue to contract within available
22 resources for residential services with facilities licensed
23 prior to October 1, 1989, if such facilities comply with the
24 provisions of this chapter and all other applicable laws and
25 regulations.

26 (19)~~(18)~~ The department shall develop a plan by March
27 15, 1991, to phase out all of the unlicensed beds in
28 developmental services institutions by December 30, 1999, and,
29 contingent upon appropriations, ensure that all beds operating
30 after that date are licensed. This plan must address among
31

1 other issues the transfer of funds from developmental services
2 institutions to the community.

3 Section 10. Subsections (1), (2), and (3) of section
4 393.068, Florida Statutes, are amended to read:

5 393.068 Family care program.--

6 (1) The family care program is established for the
7 purpose of providing services and support to families and
8 individuals with developmental disabilities in order to
9 maintain the individual in the home environment and avoid
10 costly out-of-home residential placement. The Legislature
11 recognizes the importance of family support in the long-range
12 success of deinstitutionalization. Services and support
13 available to families and individuals with developmental
14 disabilities shall emphasize community living in small homes
15 and enable individuals with developmental disabilities to
16 enjoy typical lifestyles. Support and flexibility in
17 coordinating support and services are core elements in caring
18 for the individual with a developmental disability ~~who is~~
19 ~~developmentally disabled~~. One way to accomplish this is to
20 recognize that families are the greatest resource available to
21 individuals who have developmental disabilities and that
22 families must be supported in their role as primary care
23 givers. An individual with a developmental disability or the
24 individual's family, when appropriate, may purchase the
25 services authorized under the family care program from
26 individual providers pursuant to a voucher system established
27 by the department. The voucher system shall be funded in
28 accordance with the federally approved waiver program for home
29 and community-based services authorized under s. 409.906(12).
30 Services and support authorized under this program shall

31

1 include the services listed under s. 393.066(4) and, in
2 addition, shall include, but not be limited to:
3 (a) Attendant care.
4 (b) Barrier-free modifications to the home.
5 (c) Home visitation by agency workers.
6 (d) In-home subsidies.
7 (e) Low-interest loans.
8 (f) Parent training.
9 (g) Respite care.
10 (h) Modifications for vehicles used to transport the
11 individual with a developmental disability.
12 (i) Facilitated communication.
13 (j) Family counseling.
14 (k) Equipment and supplies.
15 (l) Self-advocacy training.
16 (m) Roommate services.
17 (n) Integrated community activities.
18 (o) Emergency services.
19 (p) Support coordination.
20 (q) Other support services as identified by the family
21 or individual.
22 (r) Support services provided in accordance with a
23 voucher issued for a specified service.
24 (2) Provided it is consistent with the intent of the
25 Legislature, the department shall prioritize increased
26 appropriations provided for family-based services for
27 ~~developmentally disabled~~ individuals with developmental
28 disabilities toward individualized, family-based supports and
29 services for consumers and their families. Further, the
30 department's 5-year plan for developmental services shall
31 reflect a priority toward individualized, family-based

1 supports and services for consumers and their families. The
2 supports and services shall be provided in small homes that
3 serve not more than six individuals with developmental
4 disabilities.

5 (3) When it is determined by the department to be more
6 cost-effective and in the best interest of the client to
7 maintain such client in the home of a direct service provider
8 that serves not more than six individuals with developmental
9 disabilities, the parent or guardian of the client or, if
10 competent, the client may enroll the client in the family care
11 program. The direct service provider of a client enrolled in
12 the family care program shall be reimbursed according to a
13 rate schedule set by the department. In-home subsidies cited
14 in paragraph (1)(d) shall be provided according to s. 393.0695
15 and are not subject to any other payment method or rate
16 schedule provided for in this section.

17 Section 11. Subsection (3) of section 393.075, Florida
18 Statutes, is amended to read:

19 393.075 General liability coverage.--

20 (3) This section shall not be construed as designating
21 or not designating that a person who owns or operates a foster
22 care home facility or group home facility as described in this
23 section or any other person is an employee or agent of the
24 state. Nothing in this section amends, expands, or supersedes
25 the provisions of s. 768.28.

26 Section 12. Section 393.11, Florida Statutes, is
27 repealed.

28 Section 13. Section 393.13, Florida Statutes, is
29 amended to read:

30 393.13 Personal treatment of persons with
31 developmental disabilities ~~who are developmentally disabled.--~~

1 (1) SHORT TITLE.--This section may be cited ~~act shall~~
2 ~~be known~~ as "The Bill of Rights of Persons with Developmental
3 Disabilities ~~Who are Developmentally Disabled.~~"

4 (2) LEGISLATIVE INTENT.--

5 (a) The Legislature finds and declares that the system
6 of care which the state provides to individuals with
7 developmental disabilities ~~who are developmentally disabled~~
8 must be designed to meet the needs of the clients as well as
9 protect the integrity of their legal and human rights.

10 Further, the current system of care for persons with
11 developmental disabilities ~~who are developmentally disabled~~ is
12 in need of substantial improvement in order to provide truly
13 meaningful treatment and habilitation.

14 (b) The Legislature further finds and declares that
15 the design and delivery of treatment and services to persons
16 with developmental disabilities ~~who are developmentally~~
17 ~~disabled~~ should be directed by the principles of normalization
18 and therefore should:

19 1. Abate the use of large institutions.

20 2. Continue the development of community-based
21 services which provide reasonable alternatives to
22 institutionalization in settings that promote the inclusion of
23 individuals with developmental disabilities in the community
24 ~~are least restrictive to the client.~~

25 3. Provide training and education to individuals with
26 developmental disabilities ~~who are developmentally disabled~~
27 which will maximize their potential to lead independent and
28 productive lives and which will afford opportunities for
29 outward mobility from institutions.

30 (c) It is the intent of the Legislature that
31 duplicative and unnecessary administrative procedures and

1 practices shall be eliminated, and areas of responsibility
2 shall be clearly defined and consolidated in order to
3 economically utilize present resources. Furthermore,
4 personnel providing services should be sufficiently qualified
5 and experienced to meet the needs of the clients, and they
6 must be sufficient in number to provide treatment in a manner
7 which is beneficial to the clients.

8 (d) It is the intent of the Legislature:

9 1. To articulate the existing legal and human rights
10 of persons with developmental disabilities ~~who are~~
11 ~~developmentally disabled~~ so that they may be exercised and
12 protected. Persons with developmental disabilities shall have
13 all the rights enjoyed by citizens of the state and the United
14 States.

15 2. To provide a mechanism for the identification,
16 evaluation, and treatment of persons with developmental
17 disabilities.

18 3. To divert ~~those~~ individuals from institutional
19 commitment after a who, by virtue of comprehensive assessment,
20 by providing adequate supports and services ~~can be placed~~ in
21 less costly, more effective community environments and
22 programs.

23 4. To develop a plan that ~~which~~ will indicate the most
24 effective and efficient manner in which to implement treatment
25 programs that ~~which~~ are meaningful to individuals with
26 developmental disabilities, while safeguarding and respecting
27 the legal and human rights of such individuals.

28 5. Once the plan developed under the provisions of
29 subparagraph 4. is presented to the Legislature, to fund
30 improvements in the program in accordance with the
31

1 availability of state resources and yearly priorities
2 determined by the Legislature.

3 6. To ensure that persons with developmental
4 disabilities receive treatment and habilitation ~~that~~ which
5 fosters the developmental potential of the individual.

6 7. To provide programs for the proper habilitation and
7 treatment of persons with developmental disabilities which
8 shall include, but not be limited to, comprehensive
9 medical/dental care, education, recreation, specialized
10 therapies, training, social services, transportation,
11 guardianship, family care programs, day services, and
12 habilitative and rehabilitative services suited to the needs
13 of the individual regardless of the individual's age or
14 degree or type of disability, ~~or handicapping condition.~~ A No
15 person with developmental disabilities may not ~~shall~~ be
16 deprived of these enumerated services by reason of inability
17 to pay.

18 8. To fully effectuate the normalization principle
19 through the establishment of community services for persons
20 with developmental disabilities as a viable and practical
21 alternative to institutional care at each stage of individual
22 life development. ~~If care in a residential facility becomes~~
23 ~~necessary, it shall be in the least restrictive setting.~~

24 (e) It is further the intent of the Legislature that
25 although a facility that serves more than six individuals may
26 continue to operate until July 30, 2003, such facility may not
27 accept any new admissions to the facility after July 30, 1999.
28 This paragraph does not apply to a cluster home in operation
29 on July 1, 1998.

30 (f)(e) It is the clear, unequivocal intent of this
31 section act to guarantee individual dignity, liberty, pursuit

1 of happiness, and protection of the civil and legal rights of
2 persons with developmental disabilities.

3 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
4 DISABILITIES.--The rights described in this subsection shall
5 apply to all persons with developmental disabilities, whether
6 or not such persons are clients of the department.

7 (a) Persons with developmental disabilities shall have
8 a right to dignity, privacy, and humane care, including the
9 right to be free from sexual abuse in residential facilities.

10 (b) Persons with developmental disabilities shall have
11 the right to religious freedom and practice. Nothing shall
12 restrict or infringe on a person's right to religious
13 preference and practice.

14 (c) Persons with developmental disabilities shall
15 receive services, within available sources, which protect the
16 personal liberty of the individual and which are provided in
17 the most inclusive ~~least restrictive~~ conditions necessary to
18 achieve the purpose of treatment.

19 (d) Persons with developmental disabilities ~~who are~~
20 ~~developmentally disabled~~ shall have a right to participate in
21 an appropriate program of quality education and training
22 services, within available resources, regardless of
23 chronological age or degree of disability. Such persons may
24 be provided with instruction in sex education, marriage, and
25 family planning.

26 (e) Persons with developmental disabilities ~~who are~~
27 ~~developmentally disabled~~ shall have a right to social
28 interaction and to participate in community activities.

29 (f) Persons with developmental disabilities ~~who are~~
30 ~~developmentally disabled~~ shall have a right to physical
31 exercise and recreational opportunities.

1 (g) Persons with developmental disabilities ~~who are~~
2 ~~developmentally disabled~~ shall have a right to be free from
3 harm, including unnecessary physical, chemical, or mechanical
4 restraint, isolation, excessive medication, abuse, or neglect.

5 (h) Persons with developmental disabilities ~~who are~~
6 ~~developmentally disabled~~ shall have a right to consent to or
7 refuse treatment, subject to the provisions of s. 393.12(2)(a)
8 or chapter 744.

9 (i) A person who is ~~No~~ otherwise qualified may not
10 ~~person shall~~, by reason of having a developmental disability,
11 be excluded from participation in, or be denied the benefits
12 of, or be subject to discrimination under, any program or
13 activity that ~~which~~ receives public funds, and all
14 prohibitions set forth under any other statute shall be
15 actionable under this section ~~statute~~.

16 (j) A person who is ~~No~~ otherwise qualified may not
17 ~~person shall~~, by reason of having a developmental disability,
18 be denied the right to vote in public elections.

19 (4) CLIENT RIGHTS.--For purposes of this subsection,
20 the term "client," as defined in s. 393.063, shall also
21 include any person served in a facility licensed pursuant to
22 s. 393.067.

23 (a) Clients shall have an unrestricted right to
24 communication:

25 1. Each client shall be allowed to receive, send, and
26 mail sealed, unopened correspondence. A ~~No~~ client's incoming
27 or outgoing correspondence may not ~~shall~~ be opened, delayed,
28 held, or censored by the facility unless there is reason to
29 believe that it contains items or substances which may be
30 harmful to the client or others, in which case the chief
31 administrator of the facility may direct reasonable

1 examination of such mail and regulate the disposition of such
2 items or substances.

3 2. Clients in residential facilities shall be afforded
4 reasonable opportunities for telephone communication, to make
5 and receive confidential calls, unless there is reason to
6 believe that the content of the telephone communication may be
7 harmful to the client or others, in which case the chief
8 administrator of the facility may direct reasonable
9 observation and monitoring to the telephone communication.

10 3. Clients shall have an unrestricted right to
11 visitation subject to reasonable rules of the facility.
12 However, nothing in this provision shall be construed to
13 permit infringement upon other clients' rights to privacy.

14 (b) Each client has the right to the possession and
15 use of his or her own clothing and personal effects, ~~except in~~
16 ~~those specific instances where the use of some of these items~~
17 ~~as reinforcers is essential for training the client as part of~~
18 ~~an appropriately approved behavioral program.~~ The chief
19 administrator of the facility may take temporary custody of
20 such effects when it is essential to do so for medical or
21 safety reasons. Custody of such personal effects shall be
22 promptly recorded in the client's record, and a receipt for
23 such effects shall be immediately given to the client, if
24 competent, or the client's parent or legal guardian.

25 1. All money belonging to a client held by the
26 department shall be held in compliance with s. 402.17(2).

27 2. All interest on money received and held for the
28 personal use and benefit of a client shall be the property of
29 that client and shall not accrue to the general welfare of all
30 clients or be used to defray the cost of residential care.
31 Interest so accrued shall be used or conserved for the

1 personal use or benefit of the individual client as provided
2 in s. 402.17(2).

3 3. Upon the discharge or death of a client, a final
4 accounting shall be made of all personal effects and money
5 belonging to the client held by the department. All such
6 personal effects and money, including interest, shall be
7 promptly turned over to the client or his or her heirs.

8 (c) Each client shall receive prompt and appropriate
9 medical treatment and care for physical and mental ailments
10 and for the prevention of any illness or disability. Medical
11 treatment shall be consistent with the accepted standards of
12 medical practice in the community.

13 1. Medication shall be administered only at the
14 written order of a physician. Medication shall not be used as
15 punishment, for the convenience of staff, as a substitute for
16 implementation of an individual or family support plan or
17 behavior modification programming, or in unnecessary or
18 excessive quantities.

19 2. Daily notation of medication received by each
20 client in a residential facility shall be kept in the client's
21 record.

22 3. Periodically, but no less frequently than every 6
23 months, the drug regimen of each client in a residential
24 facility shall be reviewed by the attending physician or other
25 appropriate monitoring body, consistent with appropriate
26 standards of medical practice. All prescriptions shall have a
27 termination date.

28 4. When pharmacy services are provided at any
29 residential facility, such services shall be directed or
30 supervised by a professionally competent pharmacist licensed
31 according to the provisions of chapter 465.

1 5. Pharmacy services shall be delivered in accordance
2 with the provisions of chapter 465.

3 6. Prior to instituting a plan of experimental medical
4 treatment or carrying out any necessary surgical procedure,
5 express and informed consent shall be obtained from the
6 client, if competent, or the client's parent or legal
7 guardian. Information upon which the client shall make
8 necessary treatment and surgery decisions shall include, but
9 not be limited to:

10 a. The nature and consequences of such procedures.

11 b. The risks, benefits, and purposes of such
12 procedures.

13 c. Alternate procedures available.

14 7. When the parent or legal guardian of the client is
15 unknown or unlocatable and the physician is unwilling to
16 perform surgery based solely on the client's consent, a court
17 of competent jurisdiction shall hold a hearing to determine
18 the appropriateness of the surgical procedure. The client
19 shall be physically present, unless the client's medical
20 condition precludes such presence, represented by counsel, and
21 provided the right and opportunity to be confronted with, and
22 to cross-examine, all witnesses alleging the appropriateness
23 of such procedure. In such proceedings, the burden of proof by
24 clear and convincing evidence shall be on the party alleging
25 the appropriateness of such procedures. The express and
26 informed consent of a person described in subparagraph 6. may
27 be withdrawn at any time, with or without cause, prior to
28 treatment or surgery.

29 8. The absence of express and informed consent
30 notwithstanding, a licensed and qualified physician may render
31 emergency medical care or treatment to any client who has been

1 injured or who is suffering from an acute illness, disease, or
2 condition if, within a reasonable degree of medical certainty,
3 delay in initiation of emergency medical care or treatment
4 would endanger the health of the client.

5 (d) Each client shall have access to individual
6 storage space for his or her private use.

7 (e) Each client shall be provided with appropriate
8 physical exercise as prescribed in the client's individual or
9 family support plan. Indoor and outdoor facilities and
10 equipment for such physical exercise shall be provided.

11 (f) Each client shall receive humane discipline.

12 (g) A ~~No~~ client may not ~~shall~~ be subjected to a
13 treatment program to eliminate bizarre or unusual behaviors
14 without first being examined by a physician who in his or her
15 best judgment determines that such behaviors are not
16 organically caused.

17 1. Treatment programs involving the use of noxious or
18 painful stimuli shall be prohibited.

19 2. All alleged violations of this paragraph shall be
20 reported immediately to the chief administrative officer of
21 the facility or the district administrator, the department
22 head, and the district human rights advocacy committee. A
23 thorough investigation of each incident shall be conducted and
24 a written report of the finding and results of such
25 investigation shall be submitted to the chief administrative
26 officer of the facility or the district administrator and to
27 the department head within 24 hours after ~~of~~ the occurrence or
28 discovery of the incident.

29 3. The department shall adopt ~~promulgate~~ by rule a
30 system for the oversight of behavioral programs. Such system
31 shall establish guidelines and procedures governing the

1 design, approval, implementation, and monitoring of all
2 behavioral programs involving clients. The system shall
3 ensure statewide and local review by committees of
4 professionals certified as behavior analysts pursuant to s.
5 393.17. A ~~No~~ behavioral program may not ~~shall~~ be implemented
6 unless reviewed according to the rules established by the
7 department under this section. ~~Nothing stated in~~ This section
8 does not ~~shall~~ prohibit the review of programs by the district
9 human rights advocacy committee.

10 (h) Each client engaged in work programs that ~~which~~
11 require compliance with federal wage and hour laws shall be
12 provided with minimum wage protection and fair compensation
13 for labor in accordance with the federal wage-per-hour
14 regulations.

15 (i) Clients shall have the right to be free from
16 unnecessary physical, chemical, or mechanical restraint.
17 Restraints shall be employed only in emergencies or to protect
18 the client from imminent injury to himself or herself or
19 others. Restraints shall not be employed as punishment, for
20 the convenience of staff, or as a substitute for a
21 habilitative plan. Restraints shall impose the least possible
22 restrictions consistent with their purpose and shall be
23 removed when the emergency ends. Restraints shall not cause
24 physical injury to the client and shall be designed to allow
25 the greatest possible comfort.

26 1. Mechanical supports used in normative situations to
27 achieve proper body position and balance shall not be
28 considered restraints, but shall be prescriptively designed
29 and applied under the supervision of a qualified professional
30 with concern for principles of good body alignment,
31 circulation, and allowance for change of position.

1 2. Totally enclosed cribs and barred enclosures shall
2 be considered restraints and are prohibited.

3 3. Daily reports on the employment of physical,
4 chemical, or mechanical restraints by those specialists
5 authorized in the use of such restraints shall be made to the
6 appropriate chief administrator of the facility, and a monthly
7 summary of such reports shall be relayed to the district
8 administrator and the district human rights advocacy
9 committee. The reports shall summarize all such cases of
10 restraints, the type used, the duration of usage, and the
11 reasons therefor. Districts shall submit districtwide
12 quarterly reports of these summaries to the state
13 Developmental Services Program Office.

14 4. The department shall post a copy of the rules
15 promulgated under this section in each living unit of
16 residential facilities. A copy of the rules promulgated under
17 this section shall be given to all staff members of licensed
18 facilities and made a part of all preservice and inservice
19 training programs.

20 (j)1. Each client shall have a central record. The
21 record shall include data pertaining to admission and such
22 other information as may be required under rules of the
23 department.

24 2. Unless waived by the client, if competent, or the
25 client's parent or legal guardian if the client is
26 incompetent, the client's central record shall be confidential
27 and exempt from the provisions of s. 119.07(1), and no part of
28 it shall be released except:

29 a. The record may be released to physicians,
30 attorneys, and government agencies having need of the record
31 to aid the client, as designated by the client, if competent,

1 or the client's parent or legal guardian, if the client is
2 incompetent.

3 b. The record shall be produced in response to a
4 subpoena or released to persons authorized by order of court,
5 excluding matters privileged by other provisions of law.

6 c. The record or any part thereof may be disclosed to
7 a qualified researcher, a staff member of the facility, or an
8 employee of the department when the administrator of the
9 facility or the secretary of the department deems it necessary
10 for the treatment of the client, maintenance of adequate
11 records, compilation of treatment data, or evaluation of
12 programs.

13 d. Information from the records may be used for
14 statistical and research purposes if the information is
15 abstracted in such a way to protect the identity of
16 individuals.

17 3. All central records for each client in residential
18 facilities shall be kept on uniform forms distributed by the
19 department. The central record shall accurately summarize
20 each client's history and present condition.

21 4. The client, if competent, or the client's parent or
22 legal guardian if the client is incompetent, shall be supplied
23 with a copy of the client's central record upon request.

24 (k) Each client residing in a residential facility who
25 is eligible to vote in public elections according to the laws
26 of the state shall have the right to vote. Facilities
27 operators shall arrange the means to exercise the client's
28 right to vote.

29 (5) LIABILITY FOR VIOLATIONS.--Any person who violates
30 or abuses any rights or privileges of persons with
31 developmental disabilities ~~who are developmentally disabled~~

1 provided by this section ~~is act shall be~~ liable for damages as
2 determined by law. Any person who acts in good-faith ~~good~~
3 ~~faith~~ compliance with the ~~provisions of this~~ section ~~is act~~
4 ~~shall be~~ immune from civil or criminal liability for actions
5 in connection with evaluation, admission, habilitative
6 programming, education, treatment, or discharge of a client.
7 However, this section does ~~shall~~ not relieve any person from
8 liability if such person is guilty of negligence, misfeasance,
9 nonfeasance, or malfeasance.

10 (6) NOTICE OF RIGHTS.--Each person with developmental
11 disabilities, if competent, or parent or legal guardian of
12 such person if the person is incompetent, shall promptly
13 receive from the Department of Children and Family Health and
14 ~~Rehabilitative~~ Services or the Department of Education a
15 written copy of this section ~~act~~. Each person with
16 developmental disabilities able to comprehend shall be
17 promptly informed, in the language or other mode of
18 communication which such person understands, of the above
19 legal rights of persons with developmental disabilities.

20 (7) RESIDENT GOVERNMENT.--Each residential facility
21 providing services to clients who are desirous and capable of
22 participating shall initiate and develop a program of resident
23 government to hear the views and represent the interests of
24 all clients served by the facility. The resident government
25 shall be composed of residents elected by other residents,
26 staff advisers skilled in the administration of community
27 organizations, and a representative of the district human
28 rights advocacy committee. The resident government shall work
29 closely with the district human rights advocacy committee and
30 the district administrator to promote the interests and
31 welfare of all residents in the facility.

1 Section 14. Subsection (1) of section 393.14, Florida
2 Statutes, is amended to read:

3 393.14 Multiyear plan.--

4 (1) The department is authorized to begin
5 implementation of the provisions of this chapter act within
6 the limits of current appropriations. The department shall
7 develop a multiyear plan which will provide for the phased-in
8 implementation of the provisions of this chapter act over the
9 decade following first presentation of the plan to the
10 Legislature. The multiyear plan for implementation shall be
11 presented to the Legislature by January 31, 1990, and every 2
12 years thereafter. The plan shall include, but not be limited
13 to:

14 (a) An analysis and inventory of existing programs,
15 facilities, and services dealing with persons with
16 developmental disabilities ~~who are developmentally disabled~~.

17 (b) A survey and analysis outlining the needs of the
18 system of care for persons with developmental disabilities ~~who~~
19 ~~are developmentally disabled~~ to accomplish the purpose and
20 intent of this act. This analysis shall include:

21 1. Comprehensive information relating to the
22 conceptual basis and statement of criteria which will be used
23 for the identification and categorization of all department
24 clients and the expected level and amount of service each
25 category of client will require.

26 2. A description of the present client population,
27 based on the above criteria.

28 3. Client population forecasts.

29 4. Client profiles.

30 5. Service area resources, needs, and capabilities.

31 6. Residential and nonresidential community programs.

1 7. An analysis of the future functions of institutions
2 and their profile.

3 8. An analysis of the financing necessary to implement
4 needs, which shall include a statement of the actual cost
5 necessary to implement each program and the actual cost of
6 each unit of service to the client for both institutional and
7 community placements.

8 9. A clear and detailed description of the needs of
9 persons waiting for services and the cost to the state in both
10 human and economic terms if those persons are not served
11 within the fiscal year the plan is submitted.

12 (c) A plan for the coordination of the state's
13 service, programs, and facilities for persons with
14 developmental disabilities ~~who are developmentally disabled~~.

15 (d) A detailed study of methods to implement
16 alternatives to institutionalization and how those methods can
17 best be utilized.

18 Section 15. Subsections (1) and (4) of section 393.15,
19 Florida Statutes, are amended to read:

20 393.15 Legislative intent; Community Resources
21 Development Trust Fund.--

22 (1) The Legislature finds and declares that the
23 development of community-based treatment facilities for
24 persons with developmental disabilities ~~who are~~
25 ~~developmentally disabled~~ is desirable and recommended and
26 should be encouraged and fostered by the state. The
27 Legislature further recognizes that the development of such
28 facilities is financially difficult for private individuals,
29 due to initial expenditures required to adapt existing
30 structures to the special needs of persons with developmental
31 disabilities ~~who are developmentally disabled~~ who may be

1 served in community-based foster care, group home,
2 developmental training, and supported employment programs.
3 Therefore, it is the intent of the Legislature by this chapter
4 ~~act~~ to develop a loan trust fund to provide support and
5 encouragement in the establishment of community-based foster
6 care, group home, developmental training, and supported
7 employment programs for persons with developmental
8 disabilities ~~who are developmentally disabled~~.

9 (4) The department may grant to an eligible program a
10 lump-sum loan in one payment not to exceed the cost to the
11 program of providing 2 months' services, care, or maintenance
12 to each person with developmental disabilities ~~who is~~
13 ~~developmentally disabled~~ to be placed in the program by the
14 department, or the actual cost of firesafety renovations to a
15 facility required by the state, whichever is greater. Loans
16 granted to programs shall not be in lieu of payment for
17 maintenance, services, or care provided, but shall stand
18 separate and distinct. The department shall adopt ~~promulgate~~
19 rules, as provided in chapter 120, to determine the standards
20 under which a program shall be eligible to receive a loan as
21 provided in this section and criteria for the equitable
22 allocation of loan trust funds when eligible applications
23 exceed the funds available.

24 Section 16. Section 393.165, Florida Statutes, is
25 amended to read:

26 393.165 Legislative findings.--

27 (1) The Legislature finds:

28 (a) That noninstitutional home and community-based
29 services are a cost-effective and appropriate alternative to
30 institutional care for many individuals who would otherwise be
31 served in institutional settings.†

1 (b) That the Intermediate Care Facility for the
2 Developmentally Disabled program is an optional institutional
3 service authorized by Title XIX of the Social Security Act and
4 that this act encourages states to develop and utilize
5 alternatives to optional institutional services for Medicaid
6 clients through authorization of waivers that allow for
7 federal financial participation in the provision of services
8 in noninstitutional settings for clients who are eligible for
9 Medicaid-reimbursed institutional services.†

10 (c) That utilization of noninstitutional funding
11 mechanisms for individuals residing outside of
12 ~~state-owned-and-operated~~ institutions allows individuals to be
13 appropriately served at less cost than is possible through the
14 Intermediate Care Facility for the Developmentally Disabled
15 program.†

16 (d) That federal regulations diminish the ability of
17 the state to manage resources currently used to reimburse
18 ~~privately owned or operated~~ intermediate care facilities for
19 the developmentally disabled to enable the most cost-effective
20 utilization of resources appropriated to programs that serve
21 individuals with developmental disabilities.†

22 (e) That the waiver for home and community-based
23 services for Medicaid recipients provides a complete range of
24 supports and services that are available to individuals in the
25 homes within the community.

26 (f) That the waiver for home and community-based
27 services for Medicaid recipients is intended to promote the
28 inclusion of individuals with developmental disabilities in
29 homes in communities by providing a range of services, chosen
30 by the individual, in consultation with family members,
31 advocates, and support coordinators, and after a thorough

1 assessment, including, but not limited to, support
2 coordination services, residential nursing services,
3 residential habilitation therapies, personal care services,
4 skilled nursing services, homemaker services, dietician and
5 nutrition services, adult dental services, respite care
6 services, occupational therapy, physical therapy, speech
7 therapy, respiratory therapy, behavioral therapy, therapy
8 evaluations, supported living services, nonresidential support
9 services, in-home support services, adult and child day
10 training, special medical equipment and supplies, chore
11 services, environmental modifications, companion services,
12 transportation services, and more than 40 additional services
13 available under the state Medicaid program.

14 (g) That individuals with developmental disabilities
15 who live in large group-home settings may not be genuinely
16 experiencing community living and that smaller, individualized
17 living arrangements create the types of community environments
18 that best serve the interests of individuals with
19 developmental disabilities.

20 ~~(e) That there are fundamental differences in the~~
21 ~~respective roles of private and public facilities that serve~~
22 ~~individuals with developmental disabilities and that these~~
23 ~~differences justify funding private and public facilities~~
24 ~~through different funding mechanisms;~~

25 ~~(h)(f)~~ That there is a critical state need to continue
26 financing the institutional services provided for individuals
27 with developmental disabilities so that such individuals
28 continue to receive adequate care in small residential homes
29 in the community. ~~in state-owned and-operated facilities for~~
30 ~~the developmentally disabled through the Intermediate Care~~
31 ~~Facility for the Developmentally Disabled program to provide~~

1 ~~for the adequate care of the clients who reside in these~~
2 ~~facilities; and~~

3 (i)~~(g)~~ That the most appropriate and cost-effective
4 care for state-supported clients who reside in privately owned
5 or operated residential facilities for individuals with
6 developmental disabilities is provided through
7 community-based, noninstitutional service delivery models that
8 are financed through noninstitutional financing mechanisms.

9 (2) In accordance with the findings in subsection (1),
10 it is the intent of the Legislature that, when safely
11 possible, in order to ~~both~~ reduce the cost of serving
12 individuals with developmental disabilities, and provide
13 appropriate alternative services to institutional care, and to
14 use any realized savings to provide developmental services to
15 individuals who are not receiving services. ~~privately owned or~~
16 ~~operated~~ Facilities authorized to receive reimbursement
17 through the Medicaid Intermediate Care Facility for the
18 Developmentally Disabled program ~~on June 30, 1996,~~ shall no
19 longer be reimbursed through that program but may continue to
20 serve clients who reside in homes through noninstitutional
21 service arrangements that are financed through
22 noninstitutional funding mechanisms. ~~It is further the intent~~
23 ~~of the Legislature that individuals who reside in~~
24 ~~state-owned and operated intermediate care facilities for the~~
25 ~~developmentally disabled shall continue to receive services~~
26 ~~financed through the Medicaid Intermediate Care Facility for~~
27 ~~the Developmentally Disabled program.~~

28 Section 17. Section 393.166, Florida Statutes, is
29 amended to read:

30 393.166 Home for special services; licensure;
31 standards.--The Agency for Health Care Administration shall

1 issue a license as a home for special services to each
2 facility desiring such licensure, if the facility was eligible
3 to receive reimbursement through the Intermediate Care
4 Facility for the Developmentally Disabled program on June 30,
5 1996, and if the facility serves not more than six individuals
6 with developmental disabilities. Individuals with
7 developmental disabilities who reside in homes for special
8 services licensed pursuant to this section may receive
9 services reimbursed through the home and community-based
10 services waiver, provided all other Medicaid eligibility
11 criteria are satisfied. A license granted pursuant to this
12 section shall be valid until the expiration of the facility's
13 Intermediate Care Facility for the Developmentally Disabled
14 license. The Agency for Health Care Administration shall
15 develop standards for facilities licensed pursuant to this
16 section which shall include appropriate sanctions for
17 noncompliance with the standards and shall specify the terms
18 for renewal of licenses. Any license granted pursuant to this
19 section shall be contingent upon the facility allowing access
20 to the Agency for Health Care Administration to conduct
21 inspections to ensure compliance with standards.

22 Section 18. Section 393.17, Florida Statutes, is
23 amended to read:

24 393.17 Behavioral programs; certification of behavior
25 analysts; fees.--The department shall implement a
26 certification program to ensure that qualified persons oversee
27 the design and implementation of behavioral programs for
28 persons with developmental disabilities ~~who are~~
29 ~~developmentally disabled~~. Certification shall be determined
30 by examination of competencies in applying behavior analysis
31 with persons with developmental disabilities ~~who are~~

1 ~~developmentally disabled~~ within established competency
2 clusters. These competency clusters shall include, but not be
3 limited to, behavioral assessments, observation and recording,
4 behavioral program development and monitoring, and other areas
5 as determined by professional practitioners of behavior
6 analysis. Fees shall be charged for certification not to
7 exceed the cost of development and administration of the
8 examination and periodic renewal of certification. The
9 department shall establish by rule the procedures for
10 certification and certification renewal.

11 Section 19. Section 393.21, Florida Statutes, is
12 repealed.

13 Section 20. Section 393.31, Florida Statutes, is
14 amended to read:

15 393.31 Department authorized to contract with
16 rehabilitation workshop facility.--

17 (1) Whenever it appears to the satisfaction of the
18 Department of Children and Family ~~Health and Rehabilitative~~
19 Services that a ~~developmentally disabled~~ person with
20 developmental disabilities over the age of 16 years can
21 reasonably be expected to benefit from, or if his or her best
22 interests reasonably require, extended employment in a
23 rehabilitation workshop facility operated by an approved
24 nonprofit organization, the department is authorized to
25 contract with the organization for the furnishing of extended
26 employment to the ~~developmentally disabled~~ person with
27 developmental disabilities.

28 (2) The department shall maintain a register of
29 nonprofit organizations operating rehabilitation workshop
30 facilities which, after inspection of the facilities for
31 extended employment provided by them, the department deems

1 qualified to meet the needs of such ~~developmentally disabled~~
2 persons with developmental disabilities. The inspections
3 shall also determine the eligibility of such organizations to
4 receive the funds hereinbefore specified.

5 Section 21. Subsections (2) and (7) of section 393.32,
6 Florida Statutes, are amended to read:

7 393.32 Eligibility and standards of service.--

8 (2) The determination of developmental disability
9 shall be made by the Department of Children and Family Health
10 ~~and Rehabilitative~~ Services upon the basis of psychological or
11 medical records on file in the rehabilitation workshop
12 facility that provide suitable and adequate evidence of the
13 developmental disability. The psychological or medical
14 records which determine the condition of developmental
15 disability shall not be more than 2 years old at the time of
16 application by the facility for the support of such person.
17 The department may require reexamination of a person by the
18 facility in order to revalidate developmental disability.

19 (7) The maximum number of ~~developmentally disabled~~
20 persons with developmental disabilities in extended employment
21 in any one rehabilitation workshop facility for whom the
22 facility may receive support shall not exceed the maximum
23 number of work stations available at any one full-time shift
24 in the facility. For purposes of this subsection, "full-time"
25 means a minimum of 5 hours of work daily. However, exceptions
26 may be made on an individual basis, and consideration shall be
27 given to medical reports rendered.

28 Section 22. Section 393.50, Florida Statutes, is
29 amended to read:

30 393.50 Extended employment; purpose.--

31 (1) The purpose of the extended employment program is:

1 (a) To provide extended employment in rehabilitation
2 workshop facilities for ~~developmentally disabled~~ persons with
3 developmental disabilities who are over 16 years of age and
4 are, as a result of their disability, unable to enter the
5 competitive labor market.

6 (b) To encourage the development, improvement, and
7 expansion of rehabilitation workshop facilities for
8 ~~developmentally disabled~~ persons with developmental
9 disabilities.

10 (2) The department shall adopt ~~promulgate~~ rules to
11 implement the extended employment program pursuant to the
12 purpose described in subsection (1).

13 Section 23. Section 393.501, Florida Statutes, is
14 amended to read:

15 393.501 Rulemaking.--

16 (1) The department shall adopt rules to carry out the
17 provisions of ss. 393.002-393.503 ~~ss. 393.001-393.501~~.

18 (2) Such rules must ~~shall~~ address the number of
19 facilities on a single parcel or adjacent parcels of land, ~~and~~
20 ~~in addition, for ICF/MR, the rate and location of facility~~
21 ~~development and level of care.~~

22 ~~(3) Existing policies and procedures which affect~~
23 ~~clients or applicants, and their families, must be adopted by~~
24 ~~January 1, 1992.~~

25 Section 24. This act shall take effect July 1, 1998.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Revises various provisions of ch. 393, F.S., the Developmental Disabilities Prevention and Community Services Act. Revises terminology so that the chapter applies to persons with developmental disabilities rather than persons who are developmentally disabled. Provides that it is the intent of the Legislature to serve persons with developmental disabilities in their own homes or in facilities that serve not more than six individuals. Provides that by July 30, 2003, each person who resides in a facility that serves more than six individuals be given the opportunity to live in a small residential facility. Revises requirements for family or individual support plans so that services are provided in the most inclusive environment. Requires the Department of Children and Family Services to develop a plan for closing the developmental services institutions and relocating the residents into homes in the community by July 30, 2003. Provides that cluster homes in operation on July 1, 1998, may continue to operate after July 30, 2003. Creates the Commission on Reforms for Persons with Developmental Disabilities to oversee the integration of persons with developmental disabilities into homes in the community. Requires that the commission issue biennial reports to the Governor, the Legislature, the Secretary of Children and Family Services, the Protection and Advocacy Association, and Cabinet members. Repeals provisions governing the involuntary admission of a person into residential treatment. (See bill for details.)