

By Senator McKay

26-1037-00

See HB

1                                   A bill to be entitled  
2           An act relating to obsolete, expired, or  
3           repealed provisions of law; repealing various  
4           provisions of law that have become obsolete,  
5           have had their effect, have served their  
6           purpose, or have been impliedly repealed or  
7           superseded; repealing s. 393.067(18), F.S.,  
8           relating to a plan to phase out unlicensed beds  
9           in developmental services institutions;  
10          repealing s. 393.22(2), F.S., relating to  
11          review and identification of programs that have  
12          barriers to services for clients based on  
13          categorical disabilities and development of a  
14          plan to eliminate barriers to appropriate  
15          services; repealing ss. 393.31, 393.32, and  
16          393.50, F.S., relating to the extended  
17          employment program for developmentally disabled  
18          persons; repealing s. 393.063(21) and (22),  
19          F.S., relating to the definitions of "extended  
20          employee" and "extended employment," to  
21          conform; amending ss. 92.53, 400.464, 914.16,  
22          914.17, and 918.16, F.S.; conforming  
23          cross-references; repealing s. 393.501(3),  
24          F.S., relating to a deadline for adoption of  
25          rules on policies and procedures affecting  
26          clients or applicants, and their families,  
27          under ch. 393, F.S., the Developmental  
28          Disabilities Prevention and Community Services  
29          Act; repealing s. 397.407(2), F.S., relating to  
30          a report to the Legislature on the level of  
31          licensure fees needed to cover the cost of

1 regulation of substance abuse service  
2 providers; repealing s. 400.4415, F.S.,  
3 relating to the assisted living facilities  
4 advisory committee; repealing s. 419.002, F.S.,  
5 relating to the statewide registry of licensed  
6 community residential homes; repealing s.  
7 430.710, F.S., relating to the long-term care  
8 interagency advisory council; repealing s. 142,  
9 ch. 95-418, Laws of Florida, relating to the  
10 Panel for the Study of Skilled Nursing Care;  
11 repealing s. 5, ch. 98-85, Laws of Florida,  
12 relating to a workgroup on Medicaid patient  
13 access to nursing home beds; providing an  
14 effective date.

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

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18 Section 1. Subsection (18) of section 393.067, Florida  
19 Statutes, is repealed.

20 Section 2. Subsection (2) of section 393.22, Florida  
21 Statutes, is repealed.

22 Section 3. Subsections (21) and (22) of section  
23 393.063, Florida Statutes, and sections 393.31, 393.32, and  
24 393.50, Florida Statutes, are repealed.

25 Section 4. Subsection (1) of section 92.53, Florida  
26 Statutes, is amended to read:

27 92.53 Videotaping of testimony of victim or witness  
28 under age 16 or person with mental retardation.--

29 (1) On motion and hearing in camera and a finding that  
30 there is a substantial likelihood that a victim or witness who  
31 is under the age of 16 or who is a person with mental

1 retardation as defined in s. 393.063(42)~~(44)~~would suffer at  
2 least moderate emotional or mental harm due to the presence of  
3 the defendant if the child or person with mental retardation  
4 is required to testify in open court, or that such victim or  
5 witness is otherwise unavailable as defined in s. 90.804(1),  
6 the trial court may order the videotaping of the testimony of  
7 the victim or witness in a case, whether civil or criminal in  
8 nature, in which videotaped testimony is to be utilized at  
9 trial in lieu of trial testimony in open court.

10 Section 5. Paragraph (b) of subsection (6) of section  
11 400.464, Florida Statutes, is amended to read:

12 400.464 Home health agencies to be licensed;  
13 expiration of license; exemptions; unlawful acts; penalties.--

14 (6) The following are exempt from the licensure  
15 requirements of this part:

16 (b) Home health services provided by a state agency,  
17 either directly or through a contractor with:

18 1. The Department of Elderly Affairs.

19 2. The Department of Health, a community health  
20 center, or a rural health network that furnishes home visits  
21 for the purpose of providing environmental assessments, case  
22 management, health education, personal care services, family  
23 planning, or followup treatment, or for the purpose of  
24 monitoring and tracking disease.

25 3. Services provided to persons who have developmental  
26 disabilities, as defined in s. 393.063(11).

27 4. Companion and sitter organizations that were  
28 registered under s. 440.509(1) on January 1, 1999, and were  
29 authorized to provide personal services under s.

30 393.063(33)~~(35)~~under a developmental services provider  
31 certificate on January 1, 1999, may continue to provide such

1 services to past, present, and future clients of the  
2 organization who need such services, notwithstanding the  
3 provisions of this act.

4 5. The Department of Children and Family Services.

5 Section 6. Section 914.16, Florida Statutes, is  
6 amended to read:

7 914.16 Child abuse and sexual abuse of victims under  
8 age 16 or persons with mental retardation; limits on  
9 interviews.--The chief judge of each judicial circuit, after  
10 consultation with the state attorney and the public defender  
11 for the judicial circuit, the appropriate chief law  
12 enforcement officer, and any other person deemed appropriate  
13 by the chief judge, shall provide by order reasonable limits  
14 on the number of interviews that a victim of a violation of s.  
15 794.011, s. 800.04, or s. 827.03 who is under 16 years of age  
16 or a victim of a violation of s. 794.011, s. 800.02, s.  
17 800.03, or s. 825.102 who is a person with mental retardation  
18 as defined in s. 393.063(42)~~(44)~~ must submit to for law  
19 enforcement or discovery purposes. The order shall, to the  
20 extent possible, protect the victim from the psychological  
21 damage of repeated interrogations while preserving the rights  
22 of the public, the victim, and the person charged with the  
23 violation.

24 Section 7. Subsection (2) of section 914.17, Florida  
25 Statutes, is amended to read:

26 914.17 Appointment of advocate for victims or  
27 witnesses who are minors or persons with mental retardation.--

28 (2) An advocate shall be appointed by the court to  
29 represent a person with mental retardation as defined in s.  
30 393.063(42)~~(44)~~ in any criminal proceeding if the person with  
31 mental retardation is a victim of or witness to abuse or

1 neglect, or if the person with mental retardation is a victim  
2 of a sexual offense or a witness to a sexual offense committed  
3 against a minor or person with mental retardation. The court  
4 may appoint an advocate in any other criminal proceeding in  
5 which a person with mental retardation is involved as either a  
6 victim or a witness. The advocate shall have full access to  
7 all evidence and reports introduced during the proceedings,  
8 may interview witnesses, may make recommendations to the  
9 court, shall be noticed and have the right to appear on behalf  
10 of the person with mental retardation at all proceedings, and  
11 may request additional examinations by medical doctors,  
12 psychiatrists, or psychologists. It is the duty of the  
13 advocate to perform the following services:

14 (a) To explain, in language understandable to the  
15 person with mental retardation, all legal proceedings in which  
16 the person shall be involved;

17 (b) To act, as a friend of the court, to advise the  
18 judge, whenever appropriate, of the person with mental  
19 retardation's ability to understand and cooperate with any  
20 court proceedings; and

21 (c) To assist the person with mental retardation and  
22 the person's family in coping with the emotional effects of  
23 the crime and subsequent criminal proceedings in which the  
24 person with mental retardation is involved.

25 Section 8. Subsection (1) of section 918.16, Florida  
26 Statutes, is amended to read:

27 918.16 Sex offenses; testimony of person under age 16  
28 or person with mental retardation; testimony of victim;  
29 courtroom cleared; exceptions.--

30 (1) Except as provided in subsection (2), in the trial  
31 of any case, civil or criminal, when any person under the age

1 of 16 or any person with mental retardation as defined in s.  
2 393.063(42)~~(44)~~ is testifying concerning any sex offense, the  
3 court shall clear the courtroom of all persons except parties  
4 to the cause and their immediate families or guardians,  
5 attorneys and their secretaries, officers of the court,  
6 jurors, newspaper reporters or broadcasters, court reporters,  
7 and, at the request of the victim, victim or witness advocates  
8 designated by the state attorney's office.

9 Section 9. Subsection (3) of section 393.501, Florida  
10 Statutes, is repealed.

11 Section 10. Subsection (2) of section 397.407, Florida  
12 Statutes, is repealed.

13 Section 11. Section 400.4415, Florida Statutes, is  
14 repealed.

15 Section 12. Section 419.002, Florida Statutes, is  
16 repealed.

17 Section 13. Section 430.710, Florida Statutes, is  
18 repealed.

19 Section 14. Section 142 of chapter 95-418, Laws of  
20 Florida, is repealed.

21 Section 15. Section 5 of chapter 98-85, Laws of  
22 Florida, is repealed.

23 Section 16. This act shall take effect upon becoming a  
24 law.

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LEGISLATIVE SUMMARY

Repeals various provisions of law that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded. Repeals provisions relating to a plan to phase out unlicensed beds in developmental services institutions; review and identification of programs that have barriers to services for clients based on categorical disabilities and development of a plan to eliminate barriers to appropriate services; the extended employment program for developmentally disabled persons; a deadline for adoption of rules on policies and procedures affecting clients or applicants, and their families, under ch. 393, F.S., the Developmental Disabilities Prevention and Community Services Act; a report to the Legislature on the level of licensure fees needed to cover the cost of regulation of substance abuse service providers; the assisted living facilities advisory committee; the statewide registry of licensed community residential homes; the long-term care interagency advisory council; the Panel for the Study of Skilled Nursing Care; and a workgroup on Medicaid patient access to nursing home beds.