

By Senator Peaden

1-411-02

1 A bill to be entitled
2 An act relating to persons with developmental
3 disabilities; amending s. 393.063, F.S.;
4 redefining the term "retardation" to revise
5 certain requirements for the standardized
6 intelligence test used to make such
7 determination; redefining the term "supported
8 living" to limit the number of persons who may
9 live in a single housing unit where such
10 assistance is provided; amending ss. 393.13,
11 393.501, F.S.; requiring that the Department of
12 Children and Family Services adopt rules
13 governing certification programs for behavior
14 analysts; requiring the department to adopt
15 rules for administering certain waivers and
16 delivering services to persons with
17 developmental disabilities; repealing s.
18 393.17, F.S., relating to rules for the
19 certification of behavior analysts; providing
20 an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:
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24 Section 1. Subsections (42) and (50) of section
25 393.063, Florida Statutes, are amended to read:

26 393.063 Definitions.--For the purposes of this
27 chapter:

28 (42) "Retardation" means significantly subaverage
29 general intellectual functioning existing concurrently with
30 deficits in adaptive behavior and manifested during the period
31 from conception to age 18. "Significantly subaverage general

1 intellectual functioning," for the purpose of this definition,
2 means performance that ~~which~~ is two or more standard
3 deviations from the mean score on a standardized intelligence
4 test administered by a person authorized to administer such a
5 test under chapter 490 ~~specified in the rules of the~~
6 ~~department~~. "Adaptive behavior," for the purpose of this
7 definition, means the effectiveness or degree with which an
8 individual meets the standards of personal independence and
9 social responsibility expected of his or her age, cultural
10 group, and community.

11 (50) "Supported living" means a category of
12 individually determined services designed and coordinated in
13 such a manner as to provide assistance to adult clients who
14 require ongoing supports to live as independently as possible
15 in their own homes, to be integrated into the community, and
16 to participate in community life to the fullest extent
17 possible. Not more than three persons who have developmental
18 disabilities may live together in a single housing unit.

19 Section 2. Paragraph (g) of subsection (4) of section
20 393.13, Florida Statutes, is amended to read:

21 393.13 Personal treatment of persons who are
22 developmentally disabled.--

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

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

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

3 2. All alleged violations of this paragraph shall be
4 reported immediately to the chief administrative officer of
5 the facility or the district administrator, the department
6 head, and the Florida local advocacy council. A thorough
7 investigation of each incident shall be conducted and a
8 written report of the finding and results of such
9 investigation shall be submitted to the chief administrative
10 officer of the facility or the district administrator and to
11 the department head within 24 hours of the occurrence or
12 discovery of the incident.

13 3. The department shall adopt ~~promulgate~~ by rule a
14 system for the oversight of behavioral programs. The rules
15 must include criteria for designating a certification program
16 for behavior analysts which ensures that qualified persons
17 oversee the design and administration of behavioral programs
18 for persons who are developmentally disabled. Such system
19 shall establish guidelines and procedures governing the
20 design, approval, implementation, and monitoring of all
21 behavioral programs involving clients. The system shall ensure
22 statewide and local review by committees of professionals
23 certified as behavior analysts ~~pursuant to s. 393.17.~~ A No
24 behavioral program may not shall be implemented unless
25 reviewed according to the rules established by the department
26 under this paragraph section. ~~Nothing stated in~~ This section
27 does not shall prohibit the review of programs by the Florida
28 statewide or local advocacy councils.

29 Section 3. Section 393.501, Florida Statutes, is
30 amended to read:

31 393.501 Rulemaking.--

1 ~~(1)~~ The department shall adopt rules to administer
2 ~~carry out the provisions of this chapter. The rules must~~
3 include:

4 (1) Provisions for administering waivers authorized
5 under s. 409.906 for developmental services and home and
6 community-based services, including eligibility criteria for
7 providers and recipients; criteria and procedures for
8 enrollment and termination; qualifications for providing and
9 receiving services; criteria for authorizing and using
10 services; and standards for the quality and delivery of
11 services.

12 (2) Standards and procedures for coordinating support
13 services, including criteria for applications and for
14 determining eligibility for services for developmental
15 disabilities, procedures for support planning, the
16 responsibilities of support coordinators, and standards for
17 the quality and delivery of services.

18 (3) Provisions for establishing a supported living
19 program, including definitions of terms; standards governing
20 eligibility for services, selection of housing, selection of
21 providers by participants, and planning for services; and
22 requirements for ongoing monitoring.

23 ~~(4)(2)~~ Requirements for ~~Such rules shall address~~ the
24 number of facilities on a single parcel or adjacent parcels of
25 land, and, in addition, ~~for ICF/MR,~~ the rate and location of
26 facility development and level of care for intermediate care
27 facilities for the developmentally disabled.

28 Section 4. Section 393.17, Florida Statutes, is
29 repealed.

30 Section 5. This act shall take effect July 1, 2002.

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SENATE SUMMARY

Revises the standard used for determining retardation under ch. 393, F.S., to require that the intelligence test used to make such determination be administered by a person authorized under ch. 490, F.S., relating to psychological services. Limits the number of persons who may live in a single housing unit that provides services for supported living for persons with developmental disabilities. Requires that the Department of Children and Family Services adopt rules for certification programs for behavior analysts and adopt additional rules governing the delivery of services to persons with developmental disabilities. (See bill for details.)