

By the Committee on Children and Families; and Senator Peaden

300-850-02

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; requiring that the Department of  
8           Children and Family Services adopt a rule for  
9           supported-living programs; amending s. 393.501,  
10          F.S.; requiring the Department of Children and  
11          Family Services to adopt rules for  
12          administering certain waivers and delivering  
13          services to persons who have developmental  
14          disabilities; amending s. 765.401, F.S.;  
15          providing for health care decisions for persons  
16          having a developmental disability; providing an  
17          effective date.

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

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21           Section 1. Subsections (42) and (50) of section  
22 393.063, Florida Statutes, are amended to read:

23           393.063 Definitions.--For the purposes of this  
24 chapter:

25           (42) "Retardation" means significantly subaverage  
26 general intellectual functioning existing concurrently with  
27 deficits in adaptive behavior and manifested during the period  
28 from conception to age 18. "Significantly subaverage general  
29 intellectual functioning," for the purpose of this definition,  
30 means performance that ~~which~~ is two or more standard  
31 deviations from the mean score on a standardized intelligence

1 test administered by a person authorized to administer such a  
2 test under chapter 490 ~~specified in the rules of the~~  
3 ~~department.~~ "Adaptive behavior," for the purpose of this  
4 definition, means the effectiveness or degree with which an  
5 individual meets the standards of personal independence and  
6 social responsibility expected of his or her age, cultural  
7 group, and community.

8 (50) "Supported living" means a category of  
9 individually determined services designed and coordinated in  
10 such a manner as to provide assistance to adult clients who  
11 require ongoing supports to live as independently as possible  
12 in their own homes, to be integrated into the community, and  
13 to participate in community life to the fullest extent  
14 possible. The department shall adopt rules that specify the  
15 number of persons having a developmental disability who may  
16 live together in a single housing unit in a supported-living  
17 program.

18 Section 2. Section 393.501, Florida Statutes, is  
19 amended to read:

20 393.501 Rulemaking.--

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

24 (1) Provisions for administering waivers authorized  
25 under s. 409.906 for developmental services and home and  
26 community-based services, including eligibility criteria for  
27 providers and recipients; criteria and procedures for  
28 enrollment and termination; qualifications for providing and  
29 receiving services; criteria for authorizing and using  
30 services; and standards for the quality and delivery of  
31 services.

1           (2) Standards and procedures for coordinating support  
2 services, including criteria for applications and for  
3 determining eligibility for services for developmental  
4 disabilities, procedures for support planning, the  
5 responsibilities of support coordinators, and standards for  
6 the quality and delivery of services.

7           (3) Provisions for establishing a supported living  
8 program, including definitions of terms; standards governing  
9 eligibility for services, selection of housing, selection of  
10 providers by participants, and planning for services; and  
11 requirements for ongoing monitoring.

12           ~~(4)(2)~~ Requirements for ~~Such rules shall address~~ the  
13 number of facilities on a single parcel or adjacent parcels of  
14 land, and, in addition, ~~for ICF/MR,~~ the rate and location of  
15 facility development and level of care for intermediate care  
16 facilities for the developmentally disabled.

17           Section 3. Subsections (1) and (3) of section 765.401,  
18 Florida Statutes, are amended to read:

19           765.401 The proxy.--

20           (1) If the patient has not executed an advance  
21 directive, or designated a surrogate to execute an advance  
22 directive, if or the designated or alternate surrogate is no  
23 longer available to make health care decisions, or if a  
24 guardian advocate has not been appointed for a person having a  
25 developmental disability as defined under s. 393.063(12),  
26 health care decisions may be made for the patient by any of  
27 the following individuals, in the following order of priority,  
28 if no individual in a prior class is reasonably available,  
29 willing, or competent to act:

30           (a) The judicially appointed guardian of the patient,  
31 who has been authorized to consent to medical treatment, if

1 such guardian has previously been appointed; however, this  
2 paragraph shall not be construed to require such appointment  
3 before a treatment decision can be made under this subsection;

4 (b) The patient's spouse;

5 (c) An adult child of the patient, or if the patient  
6 has more than one adult child, a majority of the adult  
7 children who are reasonably available for consultation;

8 (d) A parent of the patient;

9 (e) The adult sibling of the patient or, if the  
10 patient has more than one sibling, a majority of the adult  
11 siblings who are reasonably available for consultation;

12 (f) An adult relative of the patient who has exhibited  
13 special care and concern for the patient and who has  
14 maintained regular contact with the patient and who is  
15 familiar with the patient's activities, health, and religious  
16 or moral beliefs; or

17 (g) A close friend of the patient.

18 (3) Before exercising the incapacitated patient's  
19 rights to select or decline health care, the proxy must comply  
20 with the provisions of ss. 765.205 and 765.305, except that a  
21 proxy's decision to withhold or withdraw life-prolonging  
22 procedures must be supported by clear and convincing evidence  
23 that the decision would have been the one the patient would  
24 have chosen had the patient been competent or, if there is no  
25 indication of what the patient would have chosen, that the  
26 decision is in the patient's best interest. Before exercising  
27 the rights of a person who has a developmental disability as  
28 defined under s. 393.063(12) to withhold or withdraw  
29 life-prolonging procedures, a proxy must comply with s.  
30 393.12.

31 Section 4. This act shall take effect July 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 364

Removes all provisions for modifying the certification program for behavior analysts serving persons who are developmentally disabled.

Requires that the Department of Children and Family Services adopt a rule that will specify the number of persons having a developmental disability who may live together in a single housing unit under a supported living program.

Specifies a procedure in s. 765.401, F.S., for a person with a developmental disability to receive medical care when no guardian advocate has been appointed.