

By Senator Wasserman Schultz

34-226-03

1 A bill to be entitled
2 An act relating to developmental disabilities;
3 amending s. 393.063, F.S.; adding the genetic
4 disease familial dysautonomia to the list of
5 disabilities defined and covered under ch. 393,
6 F.S.; amending ss. 92.53, 400.464, 419.001,
7 914.16, 914.17, and 918.16, F.S., relating to
8 testimony of victims and witnesses, home health
9 agencies, community residential homes, and
10 victims and witnesses who are minors or persons
11 with mental retardation; conforming
12 cross-references to changes made by the act;
13 providing an effective date.

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

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17 Section 1. Subsections (12) and (19) of section
18 393.063, Florida Statutes, are amended, present subsections
19 (21) through (52) of that section are redesignated as
20 subsections (22) through (53), respectively, and a new
21 subsection (21) is added to that section, to read:

22 393.063 Definitions.--For the purposes of this
23 chapter:

24 (12) "Developmental disability" means a disorder or
25 syndrome that is attributable to retardation, cerebral palsy,
26 autism, spina bifida, familial dysautonomia, or Prader-Willi
27 syndrome and that constitutes a substantial handicap that can
28 reasonably be expected to continue indefinitely.

29 (19) "Epilepsy" means a chronic brain disorder of
30 various causes which is characterized by recurrent seizures
31 due to excessive discharge of cerebral neurons. When found

1 concurrently with retardation, autism, familial dysautonomia
2 or cerebral palsy, epilepsy is considered a secondary
3 disability for which the client is eligible to receive
4 services to ameliorate this condition according to the
5 provisions of this chapter.

6 (21) "Familial dysautonomia" means a genetic
7 neurological condition characterized by decreased pain and
8 temperature sensation, absence of overflow tearing, pernicious
9 vomiting, spine curvature, and blood pressure lability. The
10 incidence of the disease within the Ashkenazi Jewish
11 population is one in 3,600, based on an estimated carrier
12 frequency of one in 32. Genetic testing is available using DNA
13 diagnostics with an accuracy of 99 percent. The carrier
14 frequency in non-Jewish individuals is unknown.

15 Section 2. Subsection (1) of section 92.53, Florida
16 Statutes, is amended to read:

17 92.53 Videotaping of testimony of victim or witness
18 under age 16 or person with mental retardation.--

19 (1) On motion and hearing in camera and a finding that
20 there is a substantial likelihood that a victim or witness who
21 is under the age of 16 or who is a person with mental
22 retardation as defined in s. 393.063 ~~s. 393.063(42)~~ would
23 suffer at least moderate emotional or mental harm due to the
24 presence of the defendant if the child or person with mental
25 retardation is required to testify in open court, or that such
26 victim or witness is otherwise unavailable as defined in s.
27 90.804(1), the trial court may order the videotaping of the
28 testimony of the victim or witness in a case, whether civil or
29 criminal in nature, in which videotaped testimony is to be
30 utilized at trial in lieu of trial testimony in open court.

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1 Section 3. Paragraph (b) of subsection (5) of section
2 400.464, Florida Statutes, is amended to read:

3 400.464 Home health agencies to be licensed;
4 expiration of license; exemptions; unlawful acts; penalties.--

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

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

9 1. The Department of Elderly Affairs.

10 2. The Department of Health, a community health
11 center, or a rural health network that furnishes home visits
12 for the purpose of providing environmental assessments, case
13 management, health education, personal care services, family
14 planning, or followup treatment, or for the purpose of
15 monitoring and tracking disease.

16 3. Services provided to persons who have developmental
17 disabilities, as defined in s. 393.063 ~~s. 393.063(12)~~.

18 4. Companion and sitter organizations that were
19 registered under s. 400.509(1) on January 1, 1999, and were
20 authorized to provide personal services under s. 393.063 ~~s.~~
21 ~~393.063(33)~~ under a developmental services provider
22 certificate on January 1, 1999, may continue to provide such
23 services to past, present, and future clients of the
24 organization who need such services, notwithstanding the
25 provisions of this act.

26 5. The Department of Children and Family Services.

27 Section 4. Paragraph (d) of subsection (1) of section
28 419.001, Florida Statutes, is amended to read:

29 419.001 Site selection of community residential
30 homes.--

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1 (1) For the purposes of this section, the following
2 definitions shall apply:

3 (d) "Resident" means any of the following: a frail
4 elder as defined in s. 400.618; a physically disabled or
5 handicapped person as defined in s. 760.22(7)(a); a
6 developmentally disabled person as defined in s. 393.063 ~~s.~~
7 ~~393.063(12)~~; a nondangerous mentally ill person as defined in
8 s. 394.455(18); or a child as defined in s. 39.01(14), s.
9 984.03(9) or (12), or s. 985.03(8).

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

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

29 Section 6. Subsection (2) of section 914.17, Florida
30 Statutes, is amended to read:

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1 914.17 Appointment of advocate for victims or
2 witnesses who are minors or persons with mental retardation.--

3 (2) An advocate shall be appointed by the court to
4 represent a person with mental retardation as defined in s.
5 393.063 ~~s. 393.063(42)~~ in any criminal proceeding if the
6 person with mental retardation is a victim of or witness to
7 abuse or neglect, or if the person with mental retardation is
8 a victim of a sexual offense or a witness to a sexual offense
9 committed against a minor or person with mental retardation.
10 The court may appoint an advocate in any other criminal
11 proceeding in which a person with mental retardation is
12 involved as either a victim or a witness. The advocate shall
13 have full access to all evidence and reports introduced during
14 the proceedings, may interview witnesses, may make
15 recommendations to the court, shall be noticed and have the
16 right to appear on behalf of the person with mental
17 retardation at all proceedings, and may request additional
18 examinations by medical doctors, psychiatrists, or
19 psychologists. It is the duty of the advocate to perform the
20 following services:

21 (a) To explain, in language understandable to the
22 person with mental retardation, all legal proceedings in which
23 the person shall be involved;

24 (b) To act, as a friend of the court, to advise the
25 judge, whenever appropriate, of the person with mental
26 retardation's ability to understand and cooperate with any
27 court proceedings; and

28 (c) To assist the person with mental retardation and
29 the person's family in coping with the emotional effects of
30 the crime and subsequent criminal proceedings in which the
31 person with mental retardation is involved.

1 Section 7. Subsection (1) of section 918.16, Florida
2 Statutes, is amended to read:

3 918.16 Sex offenses; testimony of person under age 16
4 or person with mental retardation; testimony of victim;
5 courtroom cleared; exceptions.--

6 (1) Except as provided in subsection (2), in the trial
7 of any case, civil or criminal, when any person under the age
8 of 16 or any person with mental retardation as defined in s.
9 393.063 ~~s. 393.063(42)~~ is testifying concerning any sex
10 offense, the court shall clear the courtroom of all persons
11 except parties to the cause and their immediate families or
12 guardians, attorneys and their secretaries, officers of the
13 court, jurors, newspaper reporters or broadcasters, court
14 reporters, and, at the request of the victim, victim or
15 witness advocates designated by the state attorney's office.

16 Section 8. This act shall take effect July 1, 2003.

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19 SENATE SUMMARY

20 Defines the term "familial dysautonomia" and adds this
21 genetic disease to the list of developmental disabilities
22 covered under ch. 393, F.S.
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