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

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

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

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

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

(19) "Epilepsy" means a chronic brain disorder of various causes which is characterized by recurrent seizures due to excessive discharge of cerebral neurons. When found concurrently with retardation, autism, familial dysautonomia, or cerebral palsy, epilepsy is considered a secondary disability



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31 for which the client is eligible to receive services to  
32 ameliorate this condition according to the provisions of this  
33 chapter.

34 (21) "Familial dysautonomia" means a genetic neurological  
35 condition characterized by decreased pain and temperature  
36 sensation, absence of overflow tearing, pernicious vomiting,  
37 spine curvature, and blood pressure lability. The incidence of  
38 the disease within the Ashkenazi Jewish population is one in  
39 3,600, based on an estimated carrier frequency of one in 32.  
40 Genetic testing is available using DNA diagnostics with an  
41 accuracy of 99 percent. The carrier frequency in non-Jewish  
42 individuals is unknown.

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

45 92.53 Videotaping of testimony of victim or witness under  
46 age 16 or person with mental retardation.--

47 (1) On motion and hearing in camera and a finding that  
48 there is a substantial likelihood that a victim or witness who  
49 is under the age of 16 or who is a person with mental  
50 retardation as defined in s. 393.063 ~~s. 393.063(42)~~ would suffer  
51 at least moderate emotional or mental harm due to the presence  
52 of the defendant if the child or person with mental retardation  
53 is required to testify in open court, or that such victim or  
54 witness is otherwise unavailable as defined in s. 90.804(1), the  
55 trial court may order the videotaping of the testimony of the  
56 victim or witness in a case, whether civil or criminal in  
57 nature, in which videotaped testimony is to be utilized at trial  
58 in lieu of trial testimony in open court.

59 Section 3. Paragraph (b) of subsection (5) of section  
60 400.464, Florida Statutes, is amended to read:



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61 400.464 Home health agencies to be licensed; expiration of  
 62 license; exemptions; unlawful acts; penalties.--

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

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

67 1. The Department of Elderly Affairs.

68 2. The Department of Health, a community health center, or  
 69 a rural health network that furnishes home visits for the  
 70 purpose of providing environmental assessments, case management,  
 71 health education, personal care services, family planning, or  
 72 followup treatment, or for the purpose of monitoring and  
 73 tracking disease.

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

76 4. Companion and sitter organizations that were registered  
 77 under s 400.509(1) on January 1, 1999, and were authorized to  
 78 provide personal services under s. 393.063 ~~s. 393.063(33)~~ under  
 79 a developmental services provider certificate on January 1,  
 80 1999, may continue to provide such services to past, present,  
 81 and future clients of the organization who need such services,  
 82 notwithstanding the provisions of this act.

83 5. The Department of Children and Family Services.

84 Section 4. Paragraph (d) of subsection (1) of section  
 85 419.001, Florida Statutes, is amended to read:

86 419.001 Site selection of community residential homes.--

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

89 (d) "Resident" means any of the following: a frail elder  
 90 as defined in s. 400.618; a physically disabled or handicapped



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91 person as defined in s. 760.22(7)(a); a developmentally disabled  
 92 person as defined in s. 393.063 ~~s. 393.063(12)~~; a nondangerous  
 93 mentally ill person as defined in s. 394.455(18); or a child as  
 94 defined in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03(8).

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

97 914.16 Child abuse and sexual abuse of victims under age  
 98 16 or persons with mental retardation; limits on  
 99 interviews.--The chief judge of each judicial circuit, after  
 100 consultation with the state attorney and the public defender for  
 101 the judicial circuit, the appropriate chief law enforcement  
 102 officer, and any other person deemed appropriate by the chief  
 103 judge, shall provide by order reasonable limits on the number of  
 104 interviews that a victim of a violation of s. 794.011, s.  
 105 800.04, or s. 827.03 who is under 16 years of age or a victim of  
 106 a violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102  
 107 who is a person with mental retardation as defined in s. 393.063  
 108 ~~s. 393.063(42)~~ must submit to for law enforcement or discovery  
 109 purposes. The order shall, to the extent possible, protect the  
 110 victim from the psychological damage of repeated interrogations  
 111 while preserving the rights of the public, the victim, and the  
 112 person charged with the violation.

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

115 914.17 Appointment of advocate for victims or witnesses  
 116 who are minors or persons with mental retardation.--

117 (2) An advocate shall be appointed by the court to  
 118 represent a person with mental retardation as defined in s.  
 119 393.063 ~~s. 393.063(42)~~ in any criminal proceeding if the person  
 120 with mental retardation is a victim of or witness to abuse or



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121 neglect, or if the person with mental retardation is a victim of  
 122 a sexual offense or a witness to a sexual offense committed  
 123 against a minor or person with mental retardation. The court may  
 124 appoint an advocate in any other criminal proceeding in which a  
 125 person with mental retardation is involved as either a victim or  
 126 a witness. The advocate shall have full access to all evidence  
 127 and reports introduced during the proceedings, may interview  
 128 witnesses, may make recommendations to the court, shall be  
 129 noticed and have the right to appear on behalf of the person  
 130 with mental retardation at all proceedings, and may request  
 131 additional examinations by medical doctors, psychiatrists, or  
 132 psychologists. It is the duty of the advocate to perform the  
 133 following services:

134 (a) To explain, in language understandable to the person  
 135 with mental retardation, all legal proceedings in which the  
 136 person shall be involved;

137 (b) To act, as a friend of the court, to advise the judge,  
 138 whenever appropriate, of the person with mental retardation's  
 139 ability to understand and cooperate with any court proceedings;  
 140 and

141 (c) To assist the person with mental retardation and the  
 142 person's family in coping with the emotional effects of the  
 143 crime and subsequent criminal proceedings in which the person  
 144 with mental retardation is involved.

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

147 918.16 Sex offenses; testimony of person under age 16 or  
 148 person with mental retardation; testimony of victim; courtroom  
 149 cleared; exceptions.--

150 (1) Except as provided in subsection (2), in the trial of



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151 any case, civil or criminal, when any person under the age of 16  
152 or any person with mental retardation as defined in s. 393.063  
153 ~~s. 393.063(42)~~ is testifying concerning any sex offense, the  
154 court shall clear the courtroom of all persons except parties to  
155 the cause and their immediate families or guardians, attorneys  
156 and their secretaries, officers of the court, jurors, newspaper  
157 reporters or broadcasters, court reporters, and, at the request  
158 of the victim, victim or witness advocates designated by the  
159 state attorney's office.

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