

HB 127

2007

1 A bill to be entitled

2 An act relating to developmental disabilities
3 institutions; creating s. 393.35, F.S.; providing
4 legislative intent; requiring the Agency for Persons with
5 Disabilities to give written notice to certain specified
6 persons if the agency proposes to close or reduce the
7 resident population of a developmental disabilities
8 institution; providing the content of the notice;
9 requiring the Governor and Cabinet to hold a public
10 hearing; requiring that notice of the public hearing be
11 given in a specified manner; providing the content to be
12 considered at the public hearing; requiring the Governor
13 and Cabinet to approve or disapprove the proposal of the
14 agency; requiring a specified level of funding until the
15 plan is completed; creating a family advisory council;
16 providing duties and responsibilities for the council;
17 providing for membership on the council; providing that
18 the provisions of the act are retroactive; requiring the
19 agency to follow the notice and public hearing procedures
20 for any developmental disabilities institution for which
21 the agency has announced a plan to close or reduce the
22 resident population; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 393.35, Florida Statutes, is created to
27 read:

28 393.35 Developmental disabilities institutions.--

29 (1) INTENT.--It is the intent of the Legislature that the
30 Agency for Persons with Disabilities not close or reduce the
31 resident population of a developmental disabilities institution
32 unless it has complied with the provisions of this section.

33 (2) NOTICE.--

34 (a) If the agency intends to take action resulting in the
35 closure or reduction in the resident population of a
36 developmental disabilities institution or in any manner
37 authorizes or encourages the immediate or staged closure or
38 reduction in the resident population of an institution, the
39 agency must provide written notice to the Governor and Cabinet,
40 each resident of the institution, an adult member of the
41 resident's immediate family, if known, and the resident's
42 guardian.

43 (b) Notice of the agency's intent to close or reduce the
44 resident population of a developmental disabilities institution
45 must be delivered to each resident, an adult member of the
46 resident's immediate family, and the guardian of the resident by
47 registered mail.

48 (c) The notice must advise the resident, an adult member
49 of the resident's immediate family, or the guardian of the
50 resident that the resident has the right to initiate legal
51 action relating to the notice provision of this subsection and
52 to the closure or reduction in the resident population of the
53 developmental disabilities institution.

54 (3) PUBLIC HEARING.--

55 (a) The agency may not close or reduce the resident
56 population of a developmental disabilities institution unless

57 the requirements for a public hearing set forth in this
58 subsection have been met.

59 (b) If the agency proposes to close or reduce the resident
60 population of a developmental disabilities institution, the
61 Governor and Cabinet must schedule a public hearing.

62 (c) The Governor and Cabinet must give notice of the
63 public hearing to each resident, an adult member of the
64 resident's immediate family, if known, the guardian of the
65 resident, and each member of the Legislature not less than 90
66 days before the scheduled date of the hearing. Notice of the
67 public hearing shall be by registered mail.

68 (4) TESTIMONY.--In order to ensure the health, safety, and
69 welfare of each resident affected by the closure or reduction in
70 the resident population of the institution, the public hearing
71 shall include, but need not be limited to, testimony concerning:

72 (a) The capacity of the community to provide services,
73 including health care, from experienced community providers that
74 have appropriate staff.

75 (b) The total cost of reducing the resident population or
76 closing the institution.

77 (c) The effect that a reduction in the resident population
78 or closure of the institution will have on the residents of the
79 institution.

80 (d) The monitoring and safety systems for individuals in
81 the community that will be in place to protect the health and
82 safety of each resident.

83 (e) The process that will be used to develop a community
84 living plan for each resident.

85 (f) The services that are necessary to provide family and
 86 guardian involvement in the development of the community living
 87 plan.

88 (g) The responsibility of each state agency and local
 89 government for the closure or reduction in the resident
 90 population of the institution.

91 (h) The procedures that will be used to transfer ownership
 92 of the institution to another entity or the plan to reuse the
 93 property.

94 (i) The plan of the agency to reemploy the employees of
 95 the institution.

96 (j) Any other issue identified by the Legislature, a
 97 resident, a family member or guardian, or other interested
 98 party.

99 (5) ACTION BY GOVERNOR AND CABINET REQUIRED.--

100 (a) After consideration of the testimony and other
 101 evidence, the Governor and Cabinet shall approve or disapprove
 102 the plan of the agency to close or reduce the resident
 103 population of the developmental disabilities institution.

104 (b) If the Governor and Cabinet approve the plan of the
 105 agency to close or reduce the resident population of a specific
 106 developmental disabilities institution, the Governor and Cabinet
 107 shall direct the agency to give each affected resident, an adult
 108 member of an affected resident's immediate family, if known, and
 109 the guardian of an affected resident written assurance that the
 110 resident may choose to receive services in another developmental
 111 disabilities institution or in a community-based setting.

112 (6) MAINTENANCE OF EFFORT.--If the Governor and Cabinet

113 approve the agency's plan to close or reduce the resident
 114 population of a developmental disabilities institution, the
 115 agency shall maintain the level of funding to the institution in
 116 the same amount that was allocated to the institution for the
 117 year that the closure or reduction of the resident population
 118 was approved until the agency's plan to close or reduce the
 119 resident population is completed.

120 (7) FAMILY ADVISORY COUNCIL.--

121 (a) The Governor and Cabinet shall appoint a family
 122 advisory council to advise the Governor and Cabinet on issues
 123 affecting the residential services for people with developmental
 124 disabilities. The family advisory council shall perform the
 125 following duties, including, but not limited to:

126 1. A review of the state's adherence to federal law and to
 127 s. 2, Art. I of the State Constitution as it relates to
 128 residential choice.

129 2. A study of the developmental disabilities institutions
 130 in this state, including:

131 a. The demographics of residents served in the
 132 institutions;

133 b. The cost-effectiveness of current institution programs;

134 c. The staffing that is necessary to provide quality care;

135 and

136 d. The possibility of converting a developmental
 137 disabilities institution to serve as an outpatient health care
 138 and evaluation clinic for people with developmental disabilities
 139 who live in the community or in family homes, in order to
 140 complement, but not replace, existing inpatient residential,

HB 127

2007

141 health care, recreational, and therapeutic services in the
142 institution.

143 3. A study of the waiting list for residential services,
144 including consideration of the ability of community homes and
145 developmental disabilities institutions to serve people on the
146 waiting list.

147 4. A review of any other issue relating to residential
148 capacity, quality of care, and access for people with
149 developmental disabilities.

150 (b) The family advisory council shall consist of 21
151 members who are appointed by the Governor and Cabinet as
152 follows:

153 1. Eight family members or guardians of residents in a
154 developmental disabilities institution, with at least one member
155 representing each operating developmental disabilities
156 institution.

157 2. Two members representing residents of intermediate care
158 facilities for the developmentally disabled.

159 3. One member representing the Governor and one member
160 representing each Cabinet officer.

161 4. One member representing the agency.

162 5. Three individuals who receive community-based services,
163 or family members or guardians of those individuals.

164 6. Three members appointed by the Governor and Cabinet.

165 (c) The family advisory council shall be appointed no
166 later than 6 months after the effective date of this act.

167 (d) The family advisory council shall meet at least
168 quarterly, or more frequently as needed.

HB 127

2007

169 (e) The agency shall provide staff and information support
170 to assist the family advisory council in the performance of its
171 duties.

172 (f) Members of the family advisory council shall receive
173 no salary, but are entitled to reimbursement for travel and per
174 diem expenses, as provided in s. 112.061, while performing their
175 duties under this subsection.

176 Section 2. The provisions of this act are retroactive. The
177 Agency for Persons with Disabilities is subject to the
178 provisions of this act on the effective date of this act and
179 shall follow the notice and public hearing procedures for any
180 developmental disabilities institution for which the agency has
181 announced a plan to close or reduce the resident population
182 before the effective date of the act.

183 Section 3. This act shall take effect upon becoming a law.