

Bill No. SB 402

Barcode 204858

CHAMBER ACTION

Senate

House

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The Committee on Children, Families, and Elder Affairs
(Haridopolos) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

393.35 Developmental disabilities institutions.--

(1) INTENT.--It is the intent of the Legislature that
the Agency for Persons with Disabilities not close or reduce
by more than 10 percent the resident population of a
developmental disabilities institution unless it has complied
with the provisions of this section.

(2) NOTICE.--

(a) If the agency intends to take action resulting in
the closure or reduction of more than 10 percent in the
resident population of a developmental disabilities
institution or in any manner authorizes or encourages the
immediate or phased closure or reduction of more than 10

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1 percent in the resident population of an institution, the
 2 agency must provide written notice to the Governor and
 3 Cabinet, each resident of the institution, the guardian of the
 4 resident, and any other individual authorized under the Health
 5 Insurance Portability and Accountability Act of 1996 (HIPPA),
 6 Pub. L. No. 104-191.

7 (b) Notice of the agency's intent to close or reduce
 8 by more than 10 percent the resident population of a
 9 developmental disabilities institution must be delivered by
 10 registered mail.

11 (c) The notice must advise the resident, the guardian
 12 of the resident, and any other individual authorized under the
 13 Health Insurance Portability and Accountability Act of 1996,
 14 Pub. L. No. 104-191, that the resident has the right to
 15 initiate legal action relating to the notice provision of this
 16 subsection and to the closure or reduction by more than 10
 17 percent in the resident population of the developmental
 18 disabilities institution.

19 (3) PUBLIC HEARING.--

20 (a) The agency may not close or reduce by more than 10
 21 percent the resident population of a developmental
 22 disabilities institution unless the requirements for a public
 23 hearing set forth in this subsection have been met.

24 (b) If the agency proposes to close or reduce by more
 25 than 10 percent the resident population of a developmental
 26 disabilities institution, the Governor and Cabinet must
 27 schedule a public hearing.

28 (c) The Governor and Cabinet shall give notice of the
 29 public hearing to each resident, the guardian of the resident,
 30 any other individual authorized under the Health Insurance
 31 Portability and Accountability Act of 1996, Pub. L. No.

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1 104-191, and each member of the Legislature not less than 90
2 days before the scheduled date of the hearing. Notice of the
3 public hearing must be by registered mail.

4 (4) TESTIMONY.--In order to ensure the health, safety,
5 and welfare of each resident affected by the closure or
6 reduction by more than 10 percent of the resident population
7 of the institution, the public hearing must include, but need
8 not be limited to, testimony concerning:

9 (a) The capacity of the community to provide services,
10 including health care, from experienced community providers
11 that have appropriate staff.

12 (b) The total cost of reducing the resident population
13 or closing the institution.

14 (c) The effect that a reduction in the resident
15 population or closure of the institution will have on the
16 residents of the institution.

17 (d) The monitoring and safety systems for individuals
18 in the community which will be in place to protect the health
19 and safety of each resident.

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

22 (f) The services that are necessary to provide family
23 and guardian involvement in the development of the community
24 living plan.

25 (g) The responsibility of each state agency and local
26 government for the closure or reduction in the resident
27 population of the institution.

28 (h) The procedures that will be used to transfer
29 ownership of the institution to another entity or the plan to
30 reuse the property.

31 (i) The plan of the agency to reemploy the employees

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1 of the institution.

2 (j) Any other issue identified by the Legislature, a
3 resident, a family member or guardian, or other interested
4 party.

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

6 (a) After consideration of the testimony and other
7 evidence, the Governor and Cabinet shall approve or disapprove
8 the plan of the agency to close or reduce by more than 10
9 percent the resident population of the developmental
10 disabilities institution.

11 (b) If the Governor and Cabinet approve the plan of
12 the agency to close or reduce by more than 10 percent the
13 resident population of a specific developmental disabilities
14 institution, the Governor and Cabinet shall direct the agency
15 to give each affected resident, the guardian of the resident,
16 and any other individual authorized under the Health Insurance
17 Portability and Accountability Act of 1996, Pub. L. No.
18 104-191, written assurance that the resident may choose to
19 receive services in another developmental disabilities
20 institution or in a community-based setting.

21 Section 2. The Agency for Persons with Disabilities
22 shall provide a monthly report to the Governor, the President
23 of the Senate, and the Speaker of the House of Representatives
24 detailing the progress of the phase-down of the Gulf Coast
25 Center located in Fort Myers, Florida. The report must also be
26 posted on the agency's website. The report must include the
27 actual population in conjunction with targeted census, the
28 location of residential placements by number and type, the
29 number of significant reportable events, and statistics
30 regarding placement choice and placement preference of
31 individuals residing in the facility, or their legal guardian

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1 or guardian advocate, and efforts the agency has made to
 2 assist in placement decisions with individuals or their
 3 guardians. The first report is due on August 1, 2007, and
 4 shall continue monthly until the closure of the Gulf Coast
 5 Center. The agency shall also conduct a study and prepare a
 6 report on the feasibility of developing an alternate facility
 7 for residents who choose to stay in the existing facility or
 8 in an intermediate care facility setting. The study must be
 9 completed by December 1, 2007.

10 Section 3. This act shall take effect July 1, 2007.

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

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17 and insert:

18 A bill to be entitled
 19 An act relating to developmental disabilities
 20 institutions; creating s. 393.35, F.S.;

21 providing legislative intent; requiring the
 22 Agency for Persons with Disabilities to give
 23 written notice to certain specified persons if
 24 the agency proposes to close or reduce by more
 25 than 10 percent the resident population of a
 26 developmental disabilities institution;

27 providing the content of the notice; requiring
 28 the Governor and Cabinet to hold a public
 29 hearing; requiring that notice of the public
 30 hearing be given in a specified manner;

31 providing the issues to be considered at the

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1 public hearing; requiring the Governor and
2 Cabinet to approve or disapprove the proposal
3 of the agency; requiring the agency to provide
4 monthly reports; requiring the agency to
5 conduct a study and prepare a report on the
6 feasibility of an alternate facility; providing
7 an effective date.
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