

By Senator Fasano

11-309B-07

1 A bill to be entitled
 2 An act relating to developmental disabilities
 3 institutions; creating s. 393.35, F.S.;
 4 providing legislative intent; requiring the
 5 Agency for Persons with Disabilities to give
 6 written notice to certain specified persons if
 7 the agency proposes to close or reduce the
 8 resident population of a developmental
 9 disabilities institution; providing the content
 10 of the notice; requiring the Governor and
 11 Cabinet to hold a public hearing; requiring
 12 that notice of the public hearing be given in a
 13 specified manner; providing the content to be
 14 considered at the public hearing; requiring the
 15 Governor and Cabinet to approve or disapprove
 16 the proposal of the agency; requiring a
 17 specified level of funding until the plan is
 18 completed; creating a family advisory council;
 19 providing duties and responsibilities for the
 20 council; providing for membership on the
 21 council; providing that the provisions of the
 22 act are retroactive; requiring the agency to
 23 follow the notice and public-hearing procedures
 24 for any developmental disabilities institution
 25 for which the agency has announced a plan to
 26 close or reduce the resident population;
 27 providing an effective date.
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 29 Be It Enacted by the Legislature of the State of Florida:
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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

3 393.35 Developmental disabilities institutions.--

4 (1) INTENT.--It is the intent of the Legislature that
5 the Agency for Persons with Disabilities not close or reduce
6 the resident population of a developmental disabilities
7 institution unless it has complied with the provisions of this
8 section.

9 (2) NOTICE.--

10 (a) If the agency intends to take action resulting in
11 the closure of a developmental disabilities institution or in
12 any manner authorizes or encourages the immediate or staged
13 closure of an institution, the agency must provide written
14 notice to the Governor and Cabinet, each resident of the
15 institution, an adult member of the resident's immediate
16 family, if known, and the resident's guardian.

17 (b) Notice of the agency's intent to close or reduce
18 the resident population of a developmental disabilities
19 institution must be delivered to each resident, an adult
20 member of the resident's immediate family, and the guardian of
21 the resident by registered mail.

22 (c) The notice must advise the resident, an adult
23 member of the resident's immediate family, or the guardian of
24 the resident that the resident has the right to initiate legal
25 action relating to the notice provision of this subsection and
26 to the closure of the developmental disabilities institution.

27 (3) PUBLIC HEARING.--

28 (a) The agency may not close or reduce the resident
29 population of a developmental disabilities institution unless
30 the requirements for a public hearing set forth in this
31 subsection have been met.

1 **(b) If the agency proposes to close or reduce the**
2 **residential population of a developmental disabilities**
3 **institution, the Governor and Cabinet must schedule a public**
4 **hearing.**

5 **(c) The Governor and Cabinet must give notice of the**
6 **public hearing to each resident, an adult member of the**
7 **resident's immediate family, if known, the guardian of the**
8 **resident, and each member of the Legislature not less than 90**
9 **days before the scheduled date of the hearing. Notice of the**
10 **public hearing shall be by registered mail.**

11 **(4) TESTIMONY.--In order to ensure the health, safety,**
12 **and welfare of each resident affected by the closure of the**
13 **institution or the reduction of the resident population, the**
14 **public hearing shall include, but need not be limited to,**
15 **testimony concerning:**

16 **(a) The capacity of the community to provide services,**
17 **including health care, from experienced community providers**
18 **that have appropriate staff.**

19 **(b) The total cost of reducing the resident population**
20 **or closing the institution.**

21 **(c) The effect that a reduction in the resident**
22 **population or closure of the institution will have on the**
23 **residents of the institution.**

24 **(d) The monitoring and safety systems for individuals**
25 **and in the community which will be in place to protect the**
26 **health and safety of each resident.**

27 **(e) The process that will be used to develop a**
28 **community living plan for each resident.**

29 **(f) The services that are necessary to provide family**
30 **and guardian involvement in the development of the community**
31 **living plan.**

1 (g) The responsibility of each state agency and local
2 government for the closure or reduction in population of the
3 institution.

4 (h) The procedures that will be used to transfer
5 ownership of the institution to another entity or the plan to
6 reuse the property.

7 (i) The plan of the agency to reemploy the employees
8 of the institution.

9 (j) Any other issue identified by the Legislature, a
10 resident, a family member or guardian, or other interested
11 party.

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

13 (a) After consideration of the testimony and other
14 evidence, the Governor and Cabinet shall approve or disapprove
15 the plan of the agency to close or reduce the resident
16 population of the developmental disabilities institution.

17 (b) If the Governor and Cabinet approve the plan of
18 the agency to close or reduce the resident population of a
19 specific developmental disabilities institution, the Governor
20 and Cabinet shall direct the agency to give each affected
21 resident, an adult member of an affected resident's immediate
22 family, if known, and the guardian of an affected resident
23 written assurance that the resident may choose to receive
24 services in another developmental disabilities institution or
25 in a community-based setting.

26 (6) MAINTENANCE OF EFFORT.--If the Governor and
27 Cabinet approve the agency's plan to close or reduce the
28 resident population of a developmental disabilities
29 institution, the agency shall maintain the level of funding to
30 the institution in the same amount that was allocated to the
31 institution for the year that the closure or reduction of

1 residents was approved until the agency's plan to close or
2 reduce the resident population is completed.

3 (7) FAMILY ADVISORY COUNCIL.--

4 (a) The Governor and Cabinet shall appoint a family
5 advisory council to advise the Governor and Cabinet on issues
6 affecting the residential services for people with
7 developmental disabilities. The family advisory council shall
8 perform the following duties, including, but not limited to:

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

12 2. A study of the developmental disabilities
13 institutions in this state, including:

14 a. The demographics of residents served in the
15 institutions;

16 b. The cost-effectiveness of current institution
17 programs;

18 c. The staffing that is necessary to provide quality
19 care; and

20 d. The possibility of converting a developmental
21 disabilities institution to serve as an out-patient health
22 care and evaluation clinic for people with developmental
23 disabilities who live in the community or in family homes, in
24 order to complement, but not replace, existing in-patient
25 residential, health care, recreational, and therapeutic
26 services in the institution.

27 3. A study of the waiting list for residential
28 services, including consideration of the ability of community
29 homes and developmental disabilities institutions to serve
30 people on the waiting list.

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1 4. A review of any other issue relating to residential
2 capacity, quality of care, and access for people with
3 developmental disabilities.

4 (b) The family advisory council shall consist of 21
5 members who are appointed by the Governor and Cabinet as
6 follows:

7 1. Eight family members or guardians of residents in a
8 developmental disabilities institution, with at least one
9 member representing each operating developmental disabilities
10 institution.

11 2. Two members representing residents of intermediate
12 care facilities for the developmentally disabled.

13 3. One member representing each Cabinet office.

14 4. One member representing the agency.

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

17 6. Three members appointed by the Governor and
18 Cabinet.

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

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

23 (e) The agency shall provide staff and information
24 support to assist the family advisory council in the
25 performance of its duties.

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

30 Section 2. The provisions of this act are retroactive.
31 The Agency for Persons with Disabilities is subject to the

1 provisions of this act on the effective date of this act and
2 shall follow the notice and public-hearing procedures for any
3 developmental disabilities institution for which the agency
4 has announced a plan to close or reduce the resident
5 population before the effective date of the act.

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

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10 SENATE SUMMARY

11 Provides legislative intent. Requires the Agency for
12 Persons with Disabilities to give written notice to
13 certain specified persons if the agency proposes to close
14 or reduce the resident population of a developmental
15 disabilities institution. Requires the Governor and
16 Cabinet to hold a public hearing. Requires that notice of
17 the public hearing be given in a specified manner.
18 Requires the Governor and Cabinet to approve or
19 disapprove the proposal of the agency. Creates a family
20 advisory council and provides duties and responsibilities
21 for the council. Provides for membership criteria for the
22 council. Provides that the provisions of the act are
23 retroactive and requires the agency to follow the notice
24 and public-hearing procedures for any developmental
25 disabilities institution for which the agency has
26 announced a plan to close or reduce the resident
27 population.
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