

By the Committee on Children, Families, and Elder Affairs; and
Senators Fasano and Bennett

586-2161-07

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 by more
8 than 10 percent the resident population of a
9 developmental disabilities institution;
10 providing the content of the notice; requiring
11 the Governor and Cabinet to hold a public
12 hearing; requiring that notice of the public
13 hearing be given in a specified manner;
14 providing the issues to be considered at the
15 public hearing; requiring the Governor and
16 Cabinet to approve or disapprove the proposal
17 of the agency; requiring the agency to provide
18 monthly reports; requiring the agency to
19 conduct a study and prepare a report on the
20 feasibility of an alternate facility; providing
21 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 393.35, Florida Statutes, is
26 created to read:

27 393.35 Developmental disabilities institutions.--
28 (1) INTENT.--It is the intent of the Legislature that
29 the Agency for Persons with Disabilities not close or reduce
30 by more than 10 percent the resident population of a
31

1 developmental disabilities institution unless it has complied
2 with the provisions of this section.

3 (2) NOTICE.--

4 (a) If the agency intends to take action resulting in
5 the closure or reduction of more than 10 percent in the
6 resident population of a developmental disabilities
7 institution or in any manner authorizes or encourages the
8 immediate or phased closure or reduction of more than 10
9 percent in the resident population of an institution, the
10 agency must provide written notice to the Governor and
11 Cabinet, each resident of the institution, the guardian of the
12 resident, and any other individual authorized under the Health
13 Insurance Portability and Accountability Act of 1996 (HIPPA),
14 Pub. L. No. 104-191.

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

19 (c) The notice must advise the resident, the guardian
20 of the resident, and any other individual authorized under the
21 Health Insurance Portability and Accountability Act of 1996,
22 Pub. L. No. 104-191, that the resident has the right to
23 initiate legal action relating to the notice provision of this
24 subsection and to the closure or reduction by more than 10
25 percent in the resident population of the developmental
26 disabilities institution.

27 (3) PUBLIC HEARING.--

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

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

5 (c) The Governor and Cabinet shall give notice of the
6 public hearing to each resident, the guardian of the resident,
7 any other individual authorized under the Health Insurance
8 Portability and Accountability Act of 1996, Pub. L. No.
9 104-191, and each member of the Legislature not less than 90
10 days before the scheduled date of the hearing. Notice of the
11 public hearing must be by registered mail.

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

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

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

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

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

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

30
31

1 (f) The services that are necessary to provide family
2 and guardian involvement in the development of the community
3 living plan.

4 (g) The responsibility of each state agency and local
5 government for the closure or reduction in the resident
6 population of the institution.

7 (h) The procedures that will be used to transfer
8 ownership of the institution to another entity or the plan to
9 reuse the property.

10 (i) The plan of the agency to reemploy the employees
11 of the institution.

12 (j) Any other issue identified by the Legislature, a
13 resident, a family member or guardian, or other interested
14 party.

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

16 (a) After consideration of the testimony and other
17 evidence, the Governor and Cabinet shall approve or disapprove
18 the plan of the agency to close or reduce by more than 10
19 percent the resident population of the developmental
20 disabilities institution.

21 (b) If the Governor and Cabinet approve the plan of
22 the agency to close or reduce by more than 10 percent the
23 resident population of a specific developmental disabilities
24 institution, the Governor and Cabinet shall direct the agency
25 to give each affected resident, the guardian of the resident,
26 and any other individual authorized under the Health Insurance
27 Portability and Accountability Act of 1996, Pub. L. No.
28 104-191, written assurance that the resident may choose to
29 receive services in another developmental disabilities
30 institution or in a community-based setting.

31

1 Section 2. The Agency for Persons with Disabilities
2 shall provide a monthly report to the Governor, the President
3 of the Senate, and the Speaker of the House of Representatives
4 detailing the progress of the phase-down of the Gulf Coast
5 Center located in Fort Myers, Florida. The report must also be
6 posted on the agency's website. The report must include the
7 actual population in conjunction with targeted census, the
8 location of residential placements by number and type, the
9 number of significant reportable events, and statistics
10 regarding placement choice and placement preference of
11 individuals residing in the facility, or their legal guardian
12 or guardian advocate, and efforts the agency has made to
13 assist in placement decisions with individuals or their
14 guardians. The first report is due on August 1, 2007, and
15 shall continue monthly until the closure of the Gulf Coast
16 Center. The agency shall also conduct a study and prepare a
17 report on the feasibility of developing an alternate facility
18 for residents who choose to stay in the existing facility or
19 in an intermediate care facility setting. The study must be
20 completed by December 1, 2007.

21 Section 3. This act shall take effect July 1, 2007.
22
23
24
25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 402

The committee substitute:

1. Limits the bill to proposals to close or reduce by ten percent the population of a DDI;
2. Makes the notice provisions consistent with federal privacy law (HIPAA);
3. Removes the requirement that the agency maintain a specified level of funding throughout the entire process of closing a DDI;
4. Removes the requirement that the Governor appoint a family advisory council;
5. Adds the requirement that APD provide a monthly report regarding the phase-down of the Gulf Coast Center; and
6. Removes the provision making the act retroactive.