

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

20
 21 Be It Enacted by the Legislature of the State of Florida:

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

25 393.35 Developmental disabilities institutions.--
 26 (1) INTENT.--It is the intent of the Legislature that the
 27 Agency for Persons with Disabilities not close or reduce by more
 28 than 10 percent the resident population of a developmental

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29 disabilities institution unless it has complied with the
30 provisions of this section.

31 (2) NOTICE.--

32 (a) If the agency intends to take action resulting in the
33 closure or reduction of more than 10 percent in the resident
34 population of a developmental disabilities institution or in any
35 manner authorizes or encourages the immediate or phased closure
36 or reduction of more than 10 percent in the resident population
37 of an institution, the agency must provide written notice to the
38 Governor and Cabinet, each resident of the institution, the
39 guardian of the resident, and any other individual authorized
40 under the Health Insurance Portability and Accountability Act of
41 1996, Pub. L. No. 104-191.

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

45 (c) The notice must advise the resident, the guardian of
46 the resident, and any other individual authorized under the
47 Health Insurance Portability and Accountability Act of 1996,
48 Pub. L. No. 104-191, that the resident has the right to initiate
49 legal action relating to the notice provision of this subsection
50 and to the closure or reduction by more than 10 percent in the
51 resident population of the developmental disabilities
52 institution.

53 (3) PUBLIC HEARING.--

54 (a) The agency may not close or reduce by more than 10
55 percent the resident population of a developmental disabilities
56 institution unless the requirements for a public hearing set

57 forth in this subsection have been met.

58 (b) If the agency proposes to close or reduce by more than
59 10 percent the resident population of a developmental
60 disabilities institution, the Governor and Cabinet must schedule
61 a public hearing.

62 (c) The Governor and Cabinet shall give notice of the
63 public hearing to each resident, the guardian of the resident,
64 any other individual authorized under the Health Insurance
65 Portability and Accountability Act of 1996, Pub. L. No. 104-191,
66 and each member of the Legislature not less than 90 days before
67 the scheduled date of the hearing. Notice of the public hearing
68 must be by registered mail.

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

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

77 (b) The total cost of reducing the resident population or
78 closing the institution.

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

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

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

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

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

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

96 (i) The plan of the agency to reemploy the employees of
 97 the institution.

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

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

102 (a) After consideration of the testimony and other
 103 evidence, the Governor and Cabinet shall approve or disapprove
 104 the plan of the agency to close or reduce by more than 10
 105 percent the resident population of the developmental
 106 disabilities institution.

107 (b) If the Governor and Cabinet approve the plan of the
 108 agency to close or reduce by more than 10 percent the resident
 109 population of a specific developmental disabilities institution,
 110 the Governor and Cabinet shall direct the agency to give each
 111 affected resident, the guardian of the resident, and any other
 112 individual authorized under the Health Insurance Portability and

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113 Accountability Act of 1996, Pub. L. No. 104-191, written
114 assurance that the resident may choose to receive services in
115 another developmental disabilities institution or in a
116 community-based setting.

117 Section 2. The Agency for Persons with Disabilities shall
118 provide a monthly report to the Governor, the President of the
119 Senate, and the Speaker of the House of Representatives
120 detailing the progress of the phase-down of the Gulf Coast
121 Center located in Fort Myers, Florida. The report must also be
122 posted on the agency's website. The report must include the
123 actual population in conjunction with targeted census, the
124 location of residential placements by number and type, the
125 number of significant reportable events, statistics regarding
126 placement choice and placement preference of individuals
127 residing in the facility, or their legal guardians or guardian
128 advocates, and efforts the agency has made to assist in
129 placement decisions with individuals or their guardians. The
130 first report is due on August 1, 2008, and reporting shall
131 continue monthly until the closure of the Gulf Coast Center. The
132 agency shall also conduct a study and prepare a report on the
133 feasibility of developing an alternate facility for residents
134 who choose to stay in the existing facility or in an
135 intermediate care facility setting. The study must be completed
136 by December 1, 2008.

137 Section 3. This act shall take effect July 1, 2008.