

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/SB 1954

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Rich

SUBJECT: Developmental Disabilities

DATE: March 28, 2008      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Jameson	CF	Fav/CS
2.			HR	
3.			HA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Senate Bill 1954 amends the definition of the term “retardation” to be consistent with the term “developmental disability.” The bill changes the term “developmental disabilities institutions” throughout ch. 393, F.S., to the term “developmental disabilities centers” to accurately reflect the nature of services delivered to the clients of the Agency for Persons with Disabilities (APD or “the agency”).

The bill amends the background screening requirements for direct service providers. The bill authorizes APD to suspend, revoke, or fine a residential facility licensee if that facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult.

The bill authorizes APD to deny an application for licensure if a facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult, or previously had a license revoked by APD, DCF, or AHCA.

The bill provides that unlicensed direct care staff, with proper and validated training may administer certain types of medication to APD clients through feeding tubes.

This bill substantially amends ss. 287.155, 393.063, 393.064, 393.0651, 393.0655, 393.066, 393.0673, 393.135, 393.22, 393.23, 393.506, 402.181, 402.22, 435.03, and repeals s. 393.0657 of the Florida Statutes.

## II. Present Situation:

In October 2004, APD became an agency separate from the Department of Children and Families (DCF), specifically tasked with serving the needs of Floridians with developmental disabilities.<sup>1</sup> Prior to that time, it existed as the Developmental Disabilities Program.<sup>2</sup>

The primary purpose of APD is to work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people served by the agency, provide assistance in identifying needs, and funding to purchase supports and services.<sup>3</sup>

### Developmental Disabilities Institutions

Clients of APD may receive services through home or community settings, private Intermediate Care Facilities, or state-run Developmental Services Institutions. Developmental Services Institutions provide secure<sup>4</sup> residential services for individuals who have been charged with a serious crime and who have been found by the court to be incompetent to proceed through the court process due to mental retardation.<sup>5</sup> There are currently three non-secure Developmental Service Institutions which are staffed by state employees:<sup>6</sup>

- Gulf Coast Center
- Marianna Sunland
- Tacachale

### Background Screening

Currently, APD requires that each direct service provider submit to a Level 2 employment screening pursuant to ch. 435, F.S.<sup>7</sup> Section 393.0657, F.S., currently exempts a person who has undergone any portion of the background screening requirements required in s. 393.0655, F.S., within the last year from being required to repeat those screening requirements.

Section 402.3057, F.S., exempts certain individuals from background screening requirements pursuant to ch. 393, F.S. The exemption does not apply to an individual who has had a 90-day break in employment.<sup>8</sup>

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<sup>1</sup> Section 393.063(9), F.S., defines the term “developmental disability” as a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

<sup>2</sup> Agency for Persons with Disabilities website, <http://apd.myflorida.com/about> (last visited on March 18, 2008).

<sup>3</sup> OPPAGA website, <http://www.oppaga.state.fl.us/profiles/5060> (last visited on March 18, 2008).

<sup>4</sup> The only secure forensic facility under APD is the Mentally Retarded Defendant Program (MRDP) in Chattahoochee. (See APD website: <http://apd.myflorida.com/mrdp/>).

<sup>5</sup> OPPAGA website, <http://www.oppaga.state.fl.us/profiles/5060> (last visited on March 18, 2008).

<sup>6</sup> Agency for Persons with Disabilities website, <http://apd.myflorida.com/customers/institutions.htm> (last visited March 18, 2008).

<sup>7</sup> Section 393.0655, F.S.

<sup>8</sup> Section 402.3057, F.S.

**Administration of Medication**

In 2006, the Legislature amended s. 393.506, F.S., to provide that a direct service provider who is not currently licensed to administer medication may supervise the self-administration of medication or may administer several types of prescription medications to clients, including:<sup>9</sup>

- Oral,
- Transdermal,
- Ophthalmic,
- Otic,
- Rectal,
- Inhaled, or
- Topical.

**III. Effect of Proposed Changes:****Sections 1, 3, 4, 6, 8, 9, 10, 13, 14, and 15**

The bill amends ss. 393.064 and 393.0651, F.S., changing the term “developmental disabilities institutions” to “developmental disabilities centers.” The agency cites the negative connotation of the term “institution” projected on an individual who is receiving services from an institution, for the purpose of this technical change. Currently, two of the three non-secure developmental disability institutions are called “centers” i.e., Sunland Center, Marianna and Gulf Coast Center, Fort Myers.

**Section 2**

The bill amends the definition of the term “retardation” in s. 393.063, F.S., to specify that the condition must manifest before the age of 18 and be expected to continue indefinitely. According to APD, this change is being made to ensure consistency with the definition of the term “developmental disability.”<sup>10</sup>

**Section 5**

The bill amends s. 393.0655, F.S., to provide that a direct service provider who has undergone any part of the employment screening within one year is not required to repeat the screening unless he or she has been unemployed for more than 90 consecutive days. The bill provides that the direct service provider is responsible for providing documentation of the screening and must undergo any remaining screening requirements that have never been conducted or that have not been conducted within one year.

Currently, Section 402.3057, F.S., provides a similar provision to human resource personnel who have been fingerprinted or screened pursuant to ch. 393, F.S. According to APD, this change will offer additional safeguards regarding persons hired to provide services to persons with

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<sup>9</sup> Chapter 2006-37, L.O.F.

<sup>10</sup> Section 393.063(9), F.S., defines the term “developmental disability” as a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

developmental disabilities by requiring an individual who has not been employed for more than 90 days or screened within a year, to be re-screened.

### **Section 7**

The bill authorizes APD to suspend, revoke, or fine a residential facility licensee if that facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult.

The bill authorizes APD to deny an application for licensure if that facility has been found to be responsible for abuse, neglect, abandonment, or exploitation of a child or vulnerable adult, or previously had a license revoked by APD, DCF, or AHCA.

According to AHCA, this provision may require the development of a process that provides continual monitoring and communication between APD and AHCA.

### **Section 11**

The bill amends s. 393.506, F.S., to provide that in addition to other tasks identified in law, a direct service provider, not licensed to administer medication, may administer enteral<sup>11</sup> prescription medications to a client as provided in s. 393.506, F.S.

### **Section 16**

The bill deletes s. 393.0657, F.S., and adds the section's provisions to s. 393.0655, F.S.

### **Section 17**

The bill provides an effective date of July 1, 2008.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

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<sup>11</sup> The website <http://dictionary.reference.com> defines the term "enteral" as of or relating to or inside the intestines.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Children, Families, and Elder Affairs on March 26, 2008:**

- The bill clarifies and expands the department's authority to deny, revoke, or suspend a license or application for licensure in s. 393.0673, F.S.
- The bill reinstates current law in s. 400.063, F.S., relating to the residential facility license fees and fines collected by APD that are deposited into AHCA's Resident Protection Trust Fund.

**B. Amendments:**

None.