

By Senator Rich

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1 A bill to be entitled

2 An act relating to developmental disabilities; amending s.  
3 393.063, F.S.; revising definitions; revising the term  
4 "developmental disabilities institution" to be known as a  
5 "developmental disabilities center"; redefining the term  
6 "retardation"; amending s. 393.0655, F.S.; requiring  
7 certain persons to undergo background screening if they  
8 have been unemployed for more than 90 days; amending s.  
9 393.0673, F.S.; providing additional grounds for denying,  
10 suspending, or revoking a license or imposing a fine  
11 against a provider serving clients of the Agency for  
12 Persons with Disabilities; amending s. 393.506, F.S.;  
13 expanding the types of medications that an unlicensed  
14 direct service provider may administer; amending s.  
15 400.063, F.S.; removing license fees and fines collected  
16 under ch. 393, F.S., from funds deposited into the Agency  
17 for Health Care Administration's Resident Protection Trust  
18 Fund; amending ss. 287.155, 393.064, 393.0651, 393.066,  
19 393.135, 393.22, 393.23, 402.181, 402.22, 435.03, F.S.;  
20 conforming provisions to changes made by the act;  
21 repealing s. 393.0657, F.S., relating to background  
22 screening; providing an effective date.

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

25  
26 Section 1. Subsection (1) of section 287.155, Florida  
27 Statutes, is amended to read:

28 287.155 Motor vehicles; purchase by Department of Children  
29 and Family Services, Agency for Persons with Disabilities,

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30 Department of Health, Department of Juvenile Justice, and  
31 Department of Corrections.--

32 (1) The Department of Children and Family Services, the  
33 Agency for Persons with Disabilities, the Department of Health,  
34 the Department of Juvenile Justice, and the Department of  
35 Corrections may, subject to the approval of the Department of  
36 Management Services, purchase automobiles, trucks, tractors, and  
37 other automotive equipment for the use of:

38 (a) Institutions under the management of the Department of  
39 Children and Family Services, ~~the Agency for Persons with~~  
40 ~~Disabilities,~~ the Department of Health, and the Department of  
41 Corrections;;

42 (b) Developmental disabilities centers operated by the  
43 Agency for Persons with Disabilities; and ~~for the use of~~

44 (c) Residential facilities managed or contracted by the  
45 Department of Juvenile Justice.

46 Section 2. Subsections (10) and (31) of section 393.063,  
47 Florida Statutes, are amended to read:

48 393.063 Definitions.--For the purposes of this chapter, the  
49 term:

50 (10) "Developmental disabilities center ~~institution~~" means  
51 a state-owned and state-operated facility, formerly known as a  
52 "Sunland Center," providing for the care, habilitation, and  
53 rehabilitation of clients with developmental disabilities.

54 (31) "Retardation" means significantly subaverage general  
55 intellectual functioning existing concurrently with deficits in  
56 adaptive behavior which manifests before the age of 18, and which  
57 can reasonably be expected to continue indefinitely. For the  
58 purpose of this definition:

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59           (a) "Significantly subaverage general intellectual  
60 functioning," ~~for the purpose of this definition,~~ means  
61 performance which is two or more standard deviations from the  
62 mean score on a standardized intelligence test specified in the  
63 rules of the agency.

64           (b) "Adaptive behavior," ~~for the purpose of this~~  
65 ~~definition,~~ means the effectiveness or degree with which an  
66 individual meets the standards of personal independence and  
67 social responsibility expected of his or her age, cultural group,  
68 and community.

69           Section 3. Paragraph (e) of subsection (4) of section  
70 393.064, Florida Statutes, is amended to read:

71           393.064 Prevention.--

72           (4) There is created at the developmental disabilities  
73 institution in Gainesville a research and education unit. Such  
74 unit shall be named the Raymond C. Philips Research and Education  
75 Unit. The functions of such unit shall include:

76           (e) Ensuring that health professionals at ~~in~~ the  
77 developmental disabilities center in ~~institution at~~ Gainesville  
78 have access to information systems that ~~will~~ allow them to remain  
79 updated on newer knowledge and maintain their postgraduate  
80 education standards.

81           Section 4. Paragraph (f) of subsection (5) of section  
82 393.0651, Florida Statutes, is amended to read:

83           393.0651 Family or individual support plan.--The agency  
84 shall provide directly or contract for the development of a  
85 family support plan for children ages 3 to 18 years of age and an  
86 individual support plan for each client. The client, if  
87 competent, the client's parent or guardian, or, when appropriate,

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88 | the client advocate, shall be consulted in the development of the  
89 | plan and shall receive a copy of the plan. Each plan must include  
90 | the most appropriate, least restrictive, and most cost-beneficial  
91 | environment for accomplishment of the objectives for client  
92 | progress and a specification of all services authorized. The plan  
93 | must include provisions for the most appropriate level of care  
94 | for the client. Within the specification of needs and services  
95 | for each client, when residential care is necessary, the agency  
96 | shall move toward placement of clients in residential facilities  
97 | based within the client's community. The ultimate goal of each  
98 | plan, whenever possible, shall be to enable the client to live a  
99 | dignified life in the least restrictive setting, be that in the  
100 | home or in the community. For children under 6 years of age, the  
101 | family support plan shall be developed within the 45-day  
102 | application period as specified in s. 393.065(1); for all  
103 | applicants 6 years of age or older, the family or individual  
104 | support plan shall be developed within the 60-day period as  
105 | specified in that subsection.

106 |       (5) The agency shall place a client in the most appropriate  
107 | and least restrictive, and cost-beneficial, residential facility  
108 | according to his or her individual support plan. The client, if  
109 | competent, the client's parent or guardian, or, when appropriate,  
110 | the client advocate, and the administrator of the facility to  
111 | which placement is proposed shall be consulted in determining the  
112 | appropriate placement for the client. Considerations for  
113 | placement shall be made in the following order:

114 |       (f) Developmental disabilities center ~~institution~~.

115 |       Section 5. Present subsections (2) through (4) of section  
116 | 393.0655, Florida Statutes, are redesignated as subsections (3)

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117 through (5), respectively, and a new subsection (2) is added to  
118 that section, to read:

119 393.0655 Screening of direct service providers.--

120 (2) A person who has undergone any portion of the  
121 employment screening required under this section within the last  
122 12 months is not required to repeat the screening unless such  
123 person has been unemployed for more than 90 consecutive days. The  
124 person screened is responsible for providing documentation of the  
125 screening and must undergo screening for any remaining background  
126 screening requirements that have never been conducted or have not  
127 been completed within the last 12 months.

128 Section 6. Subsection (5) of section 393.066, Florida  
129 Statutes, is amended to read:

130 393.066 Community services and treatment.--

131 (5) In order to improve the potential for utilization of  
132 more cost-effective, community-based residential facilities, the  
133 agency shall promote the statewide development of day  
134 habilitation services for clients who live with a direct service  
135 provider in a community-based residential facility and who do not  
136 require 24-hour-a-day care in a hospital or other health care  
137 institution, but who may, in the absence of day habilitation  
138 services, require admission to a developmental disabilities  
139 center ~~institution~~. Each day service facility shall provide a  
140 protective physical environment for clients, ensure that direct  
141 service providers meet minimum screening standards as required in  
142 s. 393.0655, make available to all day habilitation service  
143 participants at least one meal on each day of operation, provide  
144 facilities to enable participants to obtain needed rest while  
145 attending the program, as appropriate, and provide social and

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146 educational activities designed to stimulate interest and provide  
147 socialization skills.

148 Section 7. Present paragraph (c) of subsection (1) of  
149 section 393.0673, Florida Statutes, is redesignated as paragraph  
150 (e), and paragraphs (c) and (d) are added to that subsection, to  
151 read:

152 393.0673 Denial, suspension, revocation of license;  
153 moratorium on admissions; administrative fines; procedures.--

154 (1) The agency may deny, revoke, or suspend a license or  
155 impose an administrative fine, not to exceed \$1,000 per violation  
156 per day, if the applicant or licensee:

157 (c) Has been verified by the Department of Children and  
158 Family Services to be a caregiver responsible for the abuse,  
159 neglect, or abandonment of a child or the abuse, neglect, or  
160 exploitation of a vulnerable adult.

161 (d) Has previously had a license to operate a residential  
162 facility revoked by the agency, the Department of Children and  
163 Family Services, or the Agency for Health Care Administration.

164 Section 8. Subsection (2) of section 393.135, Florida  
165 Statutes, is amended to read:

166 393.135 Sexual misconduct prohibited; reporting required;  
167 penalties.--

168 (2) A covered person who engages in sexual misconduct with  
169 an individual with a developmental disability who:

170 (a) Resides in a residential facility, including a any  
171 comprehensive transitional education program, developmental  
172 disabilities center ~~institution~~, foster care facility, group home  
173 facility, intermediate care facility for the developmentally  
174 disabled, or residential habilitation center; or

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175 (b) Is eligible to receive services from the agency under  
176 this chapter,

177  
178 commits a felony of the second degree, punishable as provided in  
179 s. 775.082, s. 775.083, or s. 775.084. A covered person may be  
180 found guilty of violating this subsection without having  
181 committed the crime of sexual battery.

182 Section 9. Section 393.22, Florida Statutes, is amended to  
183 read:

184 393.22 Financial commitment to community services  
185 programs.--If the ~~In order To ensure that whenever~~ a number of  
186 persons moving ~~move~~ from a developmental disabilities center ~~an~~  
187 ~~institution serving persons with developmental disabilities which~~  
188 is sufficient to allow an entire residential unit within that  
189 institution to be closed, at least ~~no less than~~ 80 percent of the  
190 direct costs of providing services to persons who ~~had~~ resided in  
191 that unit shall be reallocated for community services.

192 Section 10. Section 393.23, Florida Statutes, is amended to  
193 read:

194 393.23 Developmental disabilities centers ~~institutions~~;  
195 trust accounts.--All receipts from the operation of canteens,  
196 vending machines, hobby shops, sheltered workshops, activity  
197 centers, farming projects, and other like activities operated in  
198 a developmental disabilities center ~~institution~~, and moneys  
199 donated to the center ~~institution~~, must be deposited in a trust  
200 account in any bank, credit union, or savings and loan  
201 association authorized by the State Treasury as a qualified  
202 depository to do business in this state, if the moneys are  
203 available on demand.

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204 (1) Moneys in the trust account must be expended for the  
205 benefit, education, and welfare of clients. However, if  
206 specified, moneys that are donated to the center ~~institution~~ must  
207 be expended in accordance with the intentions of the donor. Trust  
208 account money may not be used for the benefit of employees of the  
209 agency or to pay the wages of such employees. The welfare of the  
210 clients includes the expenditure of funds for the purchase of  
211 items for resale at canteens or vending machines, and for the  
212 establishment of, maintenance of, and operation of canteens,  
213 hobby shops, recreational or entertainment facilities, sheltered  
214 workshops, activity centers, farming projects, or other like  
215 facilities or programs established at the centers ~~institutions~~  
216 for the benefit of clients.

217 (2) The center ~~institution~~ may invest, in the manner  
218 authorized by law for fiduciaries, any money in a trust account  
219 which is not necessary for immediate use. The interest earned and  
220 other increments derived from the investments of the money must  
221 be deposited into the trust account for the benefit of clients.

222 (3) The accounting system of a center ~~an institution~~ must  
223 account separately for revenues and expenses for each activity.  
224 The center ~~institution~~ shall reconcile the trust account to the  
225 center's ~~institution's~~ accounting system and check registers and  
226 to the accounting system of the Chief Financial Officer.

227 (4) All sales taxes collected by the center ~~institution~~ as  
228 a result of sales shall be deposited into the trust account and  
229 remitted to the Department of Revenue.

230 (5) Funds shall be expended in accordance with requirements  
231 and guidelines established by the Chief Financial Officer.



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232 Section 11. Subsection (1) of section 393.506, Florida  
233 Statutes, is amended to read:

234 393.506 Administration of medication.--

235 (1) A direct service provider who is not currently licensed  
236 to administer medication may supervise the self-administration of  
237 medication or may administer oral, transdermal, ophthalmic, otic,  
238 rectal, inhaled, enteral, or topical prescription medications to  
239 a client as provided in this section.

240 Section 12. Subsection (1) of section 400.063, Florida  
241 Statutes, is amended to read:

242 400.063 Resident Protection Trust Fund.--

243 (1) A Resident Protection Trust Fund shall be established  
244 for the purpose of collecting and disbursing funds generated from  
245 the license fees and administrative fines as provided for in ss.  
246 ~~393.0673(2)~~, 400.062(3), 400.121(2), and 400.23(8). Such funds  
247 shall be for the sole purpose of paying for the appropriate  
248 alternate placement, care, and treatment of residents who are  
249 removed from a facility licensed under this part or a facility  
250 specified in s. 393.0678(1) in which the agency determines that  
251 existing conditions or practices constitute an immediate danger  
252 to the health, safety, or security of the residents. If the  
253 agency determines that it is in the best interest of the health,  
254 safety, or security of the residents to provide for an orderly  
255 removal of the residents from the facility, the agency may  
256 utilize such funds to maintain and care for the residents in the  
257 facility pending removal and alternative placement. The  
258 maintenance and care of the residents shall be under the  
259 direction and control of a receiver appointed pursuant to s.  
260 393.0678(1) or s. 400.126(1). However, funds may be expended in

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261 an emergency upon a filing of a petition for a receiver, upon the  
262 declaration of a state of local emergency pursuant to s.  
263 252.38(3)(a)5., or upon a duly authorized local order of  
264 evacuation of a facility by emergency personnel to protect the  
265 health and safety of the residents.

266 Section 13. Subsection (1) of section 402.181, Florida  
267 Statutes, is amended to read:

268 402.181 State Institutions Claims Program.--

269 (1) There is created a State Institutions Claims Program,  
270 for the purpose of making restitution for property damages and  
271 direct medical expenses for injuries caused by shelter children  
272 or foster children, or escapees, inmates, or patients of state  
273 institutions under the Department of Children and Family  
274 Services, the Department of Health, the Department of Juvenile  
275 Justice, or the Department of Corrections, or developmental  
276 disabilities centers under the Agency for Persons with  
277 Disabilities.

278 Section 14. Subsection (4) of section 402.22, Florida  
279 Statutes, is amended to read:

280 402.22 Education program for students who reside in  
281 residential care facilities operated by the Department of  
282 Children and Family Services or the Agency for Persons with  
283 Disabilities.--

284 (4) Students age 18 and under who are under the residential  
285 care of the Department of Children and Family Services or the  
286 Agency for Persons with Disabilities and who receive an education  
287 program shall be calculated as full-time equivalent student  
288 membership in the appropriate cost factor as provided for in s.  
289 1011.62(1)(c). Residential care facilities shall include, but not

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290 be limited to, developmental disabilities centers ~~institutions~~  
291 and state mental health facilities. All students shall receive  
292 their education program from the district school system, and  
293 funding shall be allocated through the Florida Education Finance  
294 Program for the district school system.

295 Section 15. Paragraph (a) of subsection (3) of section  
296 435.03, Florida Statutes, is amended to read:

297 435.03 Level 1 screening standards.--

298 (3) Standards must also ensure that the person:

299 (a) For employees and employers licensed or registered  
300 pursuant to chapter 400 or chapter 429, and for employees and  
301 employers of developmental disabilities centers ~~institutions~~ as  
302 defined in s. 393.063, intermediate care facilities for the  
303 developmentally disabled as defined in s. 400.960, and mental  
304 health treatment facilities as defined in s. 394.455, meets the  
305 requirements of this chapter.

306 Section 16. Section 393.0657, Florida Statutes, is  
307 repealed.

308 Section 17. This act shall take effect July 1, 2008.