

By the Committee on Children, Families, and Elder Affairs; and
Senator Rich

586-05909-08

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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 ss.
15 287.155, 393.064, 393.0651, 393.066, 393.135, 393.22,
16 393.23, 402.181, 402.22, 435.03, F.S.; conforming
17 provisions to changes made by the act; repealing s.
18 393.0657, F.S., relating to background screening;
19 providing an effective date.

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

22
23 Section 1. Subsection (1) of section 287.155, Florida
24 Statutes, is amended to read:

25 287.155 Motor vehicles; purchase by Department of Children
26 and Family Services, Agency for Persons with Disabilities,
27 Department of Health, Department of Juvenile Justice, and
28 Department of Corrections.--

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

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

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

41 (c) Residential facilities managed or contracted by the
42 Department of Juvenile Justice.

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

45 393.063 Definitions.--For the purposes of this chapter, the
46 term:

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

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

56 (a) "Significantly subaverage general intellectual
57 functioning," ~~for the purpose of this definition,~~ means

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58 | performance which is two or more standard deviations from the
59 | mean score on a standardized intelligence test specified in the
60 | rules of the agency.

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

66 | Section 3. Paragraph (e) of subsection (4) of section
67 | 393.064, Florida Statutes, is amended to read:

68 | 393.064 Prevention.--

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

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

78 | Section 4. Paragraph (f) of subsection (5) of section
79 | 393.0651, Florida Statutes, is amended to read:

80 | 393.0651 Family or individual support plan.--The agency
81 | shall provide directly or contract for the development of a
82 | family support plan for children ages 3 to 18 years of age and an
83 | individual support plan for each client. The client, if
84 | competent, the client's parent or guardian, or, when appropriate,
85 | the client advocate, shall be consulted in the development of the
86 | plan and shall receive a copy of the plan. Each plan must include

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

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

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

112 | Section 5. Present subsections (2) through (4) of section
113 | 393.0655, Florida Statutes, are redesignated as subsections (3)
114 | through (5), respectively, and a new subsection (2) is added to
115 | that section, to read:

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116 393.0655 Screening of direct service providers.--

117 (2) A person who has undergone any portion of the
118 employment screening required under this section within the last
119 12 months is not required to repeat the screening unless such
120 person has been unemployed for more than 90 consecutive days. The
121 person screened is responsible for providing documentation of the
122 screening and must undergo screening for any remaining background
123 screening requirements that have never been conducted or have not
124 been completed within the last 12 months.

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

127 393.066 Community services and treatment.--

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

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145 Section 7. Section 393.0673, Florida Statutes, is amended
146 to read:

147 393.0673 Denial, suspension, or revocation of license;
148 moratorium on admissions; administrative fines; procedures.--

149 (1) The agency may ~~deny~~, ~~revoke~~, or suspend a license or
150 impose an administrative fine, not to exceed \$1,000 per violation
151 per day, if:

152 (a) The applicant or licensee has:

153 1. ~~(a)~~ Has Falsely represented or omitted a material fact in
154 its license application submitted under s. 393.067;

155 2. ~~(b)~~ Has Had prior action taken against it under the
156 Medicaid or Medicare program; ~~or~~

157 3. ~~(c)~~ Has Failed to comply with the applicable requirements
158 of this chapter or rules applicable to the applicant or licensee.

159 (b) The Department of Children and Family Services has
160 verified that the licensee is responsible for the abuse, neglect,
161 or abandonment of a child or the abuse, neglect, or exploitation
162 of a vulnerable adult.

163 (2) The agency may deny an application for licensure
164 submitted under s. 393.067 if:

165 (a) The applicant has:

166 1. Falsely represented or omitted a material fact in its
167 license application submitted under s. 393.067;

168 2. Had prior action taken against it under the Medicaid or
169 Medicare program;

170 3. Failed to comply with the applicable requirements of
171 this chapter or rules applicable to the applicant; or

172 4. Previously had a license to operate a residential
173 facility revoked by the agency, the Department of Children and

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174 Family Services, or the Agency for Health Care Administration.

175 (b) The Department of Children and Family Services has
176 verified that the applicant is responsible for the abuse,
177 neglect, or abandonment of a child or the abuse, neglect, or
178 exploitation of a vulnerable adult.

179 (3)~~(2)~~ All hearings shall be held within the county in
180 which the licensee or applicant operates or applies for a license
181 to operate a facility as defined herein.

182 (4)~~(3)~~ The agency, as a part of any final order issued by
183 it under this chapter, may impose such fine as it deems proper,
184 except that such fine may not exceed \$1,000 for each violation.
185 Each day a violation of this chapter occurs constitutes a
186 separate violation and is subject to a separate fine, but in no
187 event may the aggregate amount of any fine exceed \$10,000. Fines
188 paid by any facility licensee under the provisions of this
189 subsection shall be deposited in the Resident Protection Trust
190 Fund and expended as provided in s. 400.063.

191 (5)~~(4)~~ The agency may issue an order immediately suspending
192 or revoking a license when it determines that any condition in
193 the facility presents a danger to the health, safety, or welfare
194 of the residents in the facility.

195 (6)~~(5)~~ The agency may impose an immediate moratorium on
196 admissions to any facility when the agency ~~department~~ determines
197 that any condition in the facility presents a threat to the
198 health, safety, or welfare of the residents in the facility.

199 (7)~~(6)~~ The agency shall establish by rule criteria for
200 evaluating the severity of violations and for determining the
201 amount of fines imposed.

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

204 393.135 Sexual misconduct prohibited; reporting required;
205 penalties.--

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

208 (a) Resides in a residential facility, including a any
209 comprehensive transitional education program, developmental
210 disabilities center ~~institution~~, foster care facility, group home
211 facility, intermediate care facility for the developmentally
212 disabled, or residential habilitation center; or

213 (b) Is eligible to receive services from the agency under
214 this chapter,

215
216 commits a felony of the second degree, punishable as provided in
217 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
218 found guilty of violating this subsection without having
219 committed the crime of sexual battery.

220 Section 9. Section 393.22, Florida Statutes, is amended to
221 read:

222 393.22 Financial commitment to community services
223 programs.--~~If the In order To ensure that whenever a number of~~
224 persons moving ~~move~~ from a developmental disabilities center ~~an~~
225 ~~institution serving persons with developmental disabilities which~~
226 is sufficient to allow an entire residential unit within that
227 institution to be closed, at least ~~no less than~~ 80 percent of the
228 direct costs of providing services to persons who ~~had~~ resided in
229 that unit shall be reallocated for community services.

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230 Section 10. Section 393.23, Florida Statutes, is amended to
231 read:

232 393.23 Developmental disabilities centers ~~institutions~~;
233 trust accounts.--All receipts from the operation of canteens,
234 vending machines, hobby shops, sheltered workshops, activity
235 centers, farming projects, and other like activities operated in
236 a developmental disabilities center ~~institution~~, and moneys
237 donated to the center ~~institution~~, must be deposited in a trust
238 account in any bank, credit union, or savings and loan
239 association authorized by the State Treasury as a qualified
240 depository to do business in this state, if the moneys are
241 available on demand.

242 (1) Moneys in the trust account must be expended for the
243 benefit, education, and welfare of clients. However, if
244 specified, moneys that are donated to the center ~~institution~~ must
245 be expended in accordance with the intentions of the donor. Trust
246 account money may not be used for the benefit of employees of the
247 agency or to pay the wages of such employees. The welfare of the
248 clients includes the expenditure of funds for the purchase of
249 items for resale at canteens or vending machines, and for the
250 establishment of, maintenance of, and operation of canteens,
251 hobby shops, recreational or entertainment facilities, sheltered
252 workshops, activity centers, farming projects, or other like
253 facilities or programs established at the centers ~~institutions~~
254 for the benefit of clients.

255 (2) The center ~~institution~~ may invest, in the manner
256 authorized by law for fiduciaries, any money in a trust account
257 which is not necessary for immediate use. The interest earned and

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258 other increments derived from the investments of the money must
259 be deposited into the trust account for the benefit of clients.

260 (3) The accounting system of a center ~~an institution~~ must
261 account separately for revenues and expenses for each activity.
262 The center ~~institution~~ shall reconcile the trust account to the
263 center's ~~institution's~~ accounting system and check registers and
264 to the accounting system of the Chief Financial Officer.

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

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

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

272 393.506 Administration of medication.--

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

278 Section 12. Subsection (1) of section 402.181, Florida
279 Statutes, is amended to read:

280 402.181 State Institutions Claims Program.--

281 (1) There is created a State Institutions Claims Program,
282 for the purpose of making restitution for property damages and
283 direct medical expenses for injuries caused by shelter children
284 or foster children, or escapees, inmates, or patients of state
285 institutions under the Department of Children and Family
286 Services, the Department of Health, the Department of Juvenile

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287 Justice, or the Department of Corrections, or developmental
288 disabilities centers under the Agency for Persons with
289 Disabilities.

290 Section 13. Subsection (4) of section 402.22, Florida
291 Statutes, is amended to read:

292 402.22 Education program for students who reside in
293 residential care facilities operated by the Department of
294 Children and Family Services or the Agency for Persons with
295 Disabilities.--

296 (4) Students age 18 and under who are under the residential
297 care of the Department of Children and Family Services or the
298 Agency for Persons with Disabilities and who receive an education
299 program shall be calculated as full-time equivalent student
300 membership in the appropriate cost factor as provided for in s.
301 1011.62(1)(c). Residential care facilities shall include, but not
302 be limited to, developmental disabilities centers ~~institutions~~
303 and state mental health facilities. All students shall receive
304 their education program from the district school system, and
305 funding shall be allocated through the Florida Education Finance
306 Program for the district school system.

307 Section 14. Paragraph (a) of subsection (3) of section
308 435.03, Florida Statutes, is amended to read:

309 435.03 Level 1 screening standards.--

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

311 (a) For employees and employers licensed or registered
312 pursuant to chapter 400 or chapter 429, and for employees and
313 employers of developmental disabilities centers ~~institutions~~ as
314 defined in s. 393.063, intermediate care facilities for the
315 developmentally disabled as defined in s. 400.960, and mental

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316 health treatment facilities as defined in s. 394.455, meets the
317 requirements of this chapter.

318 Section 15. Section 393.0657, Florida Statutes, is
319 repealed.

320 Section 16. This act shall take effect July 1, 2008.