

By Senator Fasano

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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 certain specified
6 persons if the agency proposes to close or reduce by more
7 than 10 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; specifying 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 to the Governor and Legislature concerning
16 the phase-down of a specified facility; requiring the
17 agency to conduct a study and prepare a report on the
18 feasibility of an alternate facility; providing an
19 effective 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
29 disabilities institution unless it has complied with this

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30 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 to
40 receive notice under the Health Insurance Portability and
41 Accountability Act of 1996 (HIPPA), 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 to receive
47 notice under the Health Insurance Portability and Accountability
48 Act of 1996, Pub. L. No. 104-191, that the resident has the right
49 to initiate legal action relating to the notice provision of this
50 subsection and to the closure or reduction by more than 10
51 percent in the resident population of the developmental
52 disabilities 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

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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 to receive notice under the
65 Health Insurance Portability and Accountability Act of 1996, Pub.
66 L. No. 104-191, and each member of the Legislature not less than
67 90 days before the scheduled date of the hearing. Notice of the
68 public hearing 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 which 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

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88 guardian involvement in the development of the community living
89 plan.

90 (g) The responsibilities of each state agency and local
91 government following 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 the
97 institution.

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

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

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

105 (b) If the Governor and Cabinet approve the plan of the
106 agency to close or reduce by more than 10 percent the resident
107 population of a specific developmental disabilities institution,
108 the Governor and Cabinet shall direct the agency to give each
109 affected resident, the guardian of the resident, and any other
110 individual authorized to receive notice under the Health
111 Insurance Portability and Accountability Act of 1996, Pub. L. No.
112 104-191, written assurance that the resident may choose to
113 receive services in another developmental disabilities
114 institution or in a community-based setting.

115 Section 2. The Agency for Persons with Disabilities shall
116 provide a monthly report to the Governor, the President of the

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

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