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CHAMBER ACTION

Senate

House

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Floor: WD/3R
4/29/2008 10:08 AM



1 Senator Rich moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (1) of section 287.155, Florida
7 Statutes, is amended to read:

8 287.155 Motor vehicles; purchase by Department of Children
9 and Family Services, Agency for Persons with Disabilities,
10 Department of Health, Department of Juvenile Justice, and
11 Department of Corrections.--

12 (1) The Department of Children and Family Services, the
13 Agency for Persons with Disabilities, the Department of Health,
14 the Department of Juvenile Justice, and the Department of
15 Corrections may, subject to the approval of the Department of
16 Management Services, purchase automobiles, trucks, tractors, and
17 other automotive equipment for the use of:



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18 (a) Institutions under the management of the Department of
19 Children and Family Services, ~~the Agency for Persons with~~
20 ~~Disabilities,~~ the Department of Health, and the Department of
21 Corrections;~~;~~

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

24 (c) Residential facilities managed or contracted by the
25 Department of Juvenile Justice.

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

28 393.063 Definitions.--For the purposes of this chapter, the
29 term:

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

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

39 (a) "Significantly subaverage general intellectual
40 functioning," ~~for the purpose of this definition,~~ means
41 performance which is two or more standard deviations from the
42 mean score on a standardized intelligence test specified in the
43 rules of the agency.

44 (b) "Adaptive behavior," ~~for the purpose of this~~
45 ~~definition,~~ means the effectiveness or degree with which an
46 individual meets the standards of personal independence and

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47 | social responsibility expected of his or her age, cultural group,
48 | and community.

49 | Section 3. Paragraph (e) of subsection (4) of section
50 | 393.064, Florida Statutes, is amended to read:

51 | 393.064 Prevention.--

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

56 | (e) Ensuring that health professionals at ~~in~~ the
57 | developmental disabilities center in ~~institution at~~ Gainesville
58 | have access to information systems that ~~will~~ allow them to remain
59 | updated on newer knowledge and maintain their postgraduate
60 | education standards.

61 | Section 4. Paragraph (f) of subsection (5) of section
62 | 393.0651, Florida Statutes, is amended to read:

63 | 393.0651 Family or individual support plan.--The agency
64 | shall provide directly or contract for the development of a
65 | family support plan for children ages 3 to 18 years of age and an
66 | individual support plan for each client. The client, if
67 | competent, the client's parent or guardian, or, when appropriate,
68 | the client advocate, shall be consulted in the development of the
69 | plan and shall receive a copy of the plan. Each plan must include
70 | the most appropriate, least restrictive, and most cost-beneficial
71 | environment for accomplishment of the objectives for client
72 | progress and a specification of all services authorized. The plan
73 | must include provisions for the most appropriate level of care
74 | for the client. Within the specification of needs and services
75 | for each client, when residential care is necessary, the agency
76 | shall move toward placement of clients in residential facilities



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77 based within the client's community. The ultimate goal of each
78 plan, whenever possible, shall be to enable the client to live a
79 dignified life in the least restrictive setting, be that in the
80 home or in the community. For children under 6 years of age, the
81 family support plan shall be developed within the 45-day
82 application period as specified in s. 393.065(1); for all
83 applicants 6 years of age or older, the family or individual
84 support plan shall be developed within the 60-day period as
85 specified in that subsection.

86 (5) The agency shall place a client in the most appropriate
87 and least restrictive, and cost-beneficial, residential facility
88 according to his or her individual support plan. The client, if
89 competent, the client's parent or guardian, or, when appropriate,
90 the client advocate, and the administrator of the facility to
91 which placement is proposed shall be consulted in determining the
92 appropriate placement for the client. Considerations for
93 placement shall be made in the following order:

94 (f) Developmental disabilities center ~~institution~~.

95 Section 5. Present subsections (2) through (4) of section
96 393.0655, Florida Statutes, are redesignated as subsections (3)
97 through (5), respectively, and a new subsection (2) is added to
98 that section, to read:

99 393.0655 Screening of direct service providers.--

100 (2) A person who has undergone any portion of the
101 employment screening required under this section within the last
102 12 months is not required to repeat the screening unless such
103 person has been unemployed for more than 90 consecutive days. The
104 person screened is responsible for providing documentation of the
105 screening and must undergo screening for any remaining background

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106 screening requirements that have never been conducted or have not
107 been completed within the last 12 months.

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

110 393.066 Community services and treatment.--

111 (5) In order to improve the potential for utilization of
112 more cost-effective, community-based residential facilities, the
113 agency shall promote the statewide development of day
114 habilitation services for clients who live with a direct service
115 provider in a community-based residential facility and who do not
116 require 24-hour-a-day care in a hospital or other health care
117 institution, but who may, in the absence of day habilitation
118 services, require admission to a developmental disabilities
119 center ~~institution~~. Each day service facility shall provide a
120 protective physical environment for clients, ensure that direct
121 service providers meet minimum screening standards as required in
122 s. 393.0655, make available to all day habilitation service
123 participants at least one meal on each day of operation, provide
124 facilities to enable participants to obtain needed rest while
125 attending the program, as appropriate, and provide social and
126 educational activities designed to stimulate interest and provide
127 socialization skills.

128 Section 7. Section 393.0673, Florida Statutes, is amended
129 to read:

130 393.0673 Denial, suspension, or revocation of license;
131 moratorium on admissions; administrative fines; procedures.--

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

135 (a) The ~~applicant or licensee~~ has:



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

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

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

142 (b) The Department of Children and Family Services has
143 verified that the licensee is responsible for the abuse, neglect,
144 or abandonment of a child or the abuse, neglect, or exploitation
145 of a vulnerable adult.

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

148 (a) The applicant has:

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

151 2. Had prior action taken against it under the Medicaid or
152 Medicare program;

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

155 4. Previously had a license to operate a residential
156 facility revoked by the agency, the Department of Children and
157 Family Services, or the Agency for Health Care Administration.

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

162 (3) ~~(2)~~ All hearings shall be held within the county in
163 which the licensee or applicant operates or applies for a license
164 to operate a facility as defined herein.



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165 ~~(4)(3)~~ The agency, as a part of any final order issued by
166 it under this chapter, may impose such fine as it deems proper,
167 except that such fine may not exceed \$1,000 for each violation.
168 Each day a violation of this chapter occurs constitutes a
169 separate violation and is subject to a separate fine, but in no
170 event may the aggregate amount of any fine exceed \$10,000. Fines
171 paid by any facility licensee under the provisions of this
172 subsection shall be deposited in the Resident Protection Trust
173 Fund and expended as provided in s. 400.063.

174 ~~(5)(4)~~ The agency may issue an order immediately suspending
175 or revoking a license when it determines that any condition in
176 the facility presents a danger to the health, safety, or welfare
177 of the residents in the facility.

178 ~~(6)(5)~~ The agency may impose an immediate moratorium on
179 admissions to any facility when the agency ~~department~~ determines
180 that any condition in the facility presents a threat to the
181 health, safety, or welfare of the residents in the facility.

182 ~~(7)(6)~~ The agency shall establish by rule criteria for
183 evaluating the severity of violations and for determining the
184 amount of fines imposed.

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

187 393.135 Sexual misconduct prohibited; reporting required;
188 penalties.--

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

191 (a) Resides in a residential facility, including a any
192 comprehensive transitional education program, developmental
193 disabilities center ~~institution~~, foster care facility, group home



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194 facility, intermediate care facility for the developmentally
195 disabled, or residential habilitation center; or

196 (b) Is eligible to receive services from the agency under
197 this chapter,

198

199 commits a felony of the second degree, punishable as provided in
200 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
201 found guilty of violating this subsection without having
202 committed the crime of sexual battery.

203 Section 9. Section 393.22, Florida Statutes, is amended to
204 read:

205 393.22 Financial commitment to community services
206 programs.--If the ~~In order To ensure that whenever a~~ number of
207 persons moving ~~move~~ from a developmental disabilities center ~~an~~
208 ~~institution serving persons with developmental disabilities which~~
209 is sufficient to allow an entire residential unit within that
210 institution to be closed, at least ~~no less than~~ 80 percent of the
211 direct costs of providing services to persons who ~~had~~ resided in
212 that unit shall be reallocated for community services.

213 Section 10. Section 393.23, Florida Statutes, is amended to
214 read:

215 393.23 Developmental disabilities centers ~~institutions~~;
216 trust accounts.--All receipts from the operation of canteens,
217 vending machines, hobby shops, sheltered workshops, activity
218 centers, farming projects, and other like activities operated in
219 a developmental disabilities center ~~institution~~, and moneys
220 donated to the center ~~institution~~, must be deposited in a trust
221 account in any bank, credit union, or savings and loan
222 association authorized by the State Treasury as a qualified



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223 depository to do business in this state, if the moneys are
224 available on demand.

225 (1) Moneys in the trust account must be expended for the
226 benefit, education, and welfare of clients. However, if
227 specified, moneys that are donated to the center ~~institution~~ must
228 be expended in accordance with the intentions of the donor. Trust
229 account money may not be used for the benefit of employees of the
230 agency or to pay the wages of such employees. The welfare of the
231 clients includes the expenditure of funds for the purchase of
232 items for resale at canteens or vending machines, and for the
233 establishment of, maintenance of, and operation of canteens,
234 hobby shops, recreational or entertainment facilities, sheltered
235 workshops, activity centers, farming projects, or other like
236 facilities or programs established at the centers ~~institutions~~
237 for the benefit of clients.

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

243 (3) The accounting system of a center ~~an institution~~ must
244 account separately for revenues and expenses for each activity.
245 The center ~~institution~~ shall reconcile the trust account to the
246 center's ~~institution's~~ accounting system and check registers and
247 to the accounting system of the Chief Financial Officer.

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

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

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

255 393.506 Administration of medication.--

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

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

263 402.181 State Institutions Claims Program.--

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

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

275 402.22 Education program for students who reside in
276 residential care facilities operated by the Department of
277 Children and Family Services or the Agency for Persons with
278 Disabilities.--

279 (4) Students age 18 and under who are under the residential
280 care of the Department of Children and Family Services or the
281 Agency for Persons with Disabilities and who receive an education
282 program shall be calculated as full-time equivalent student

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283 membership in the appropriate cost factor as provided for in s.
284 1011.62(1)(c). Residential care facilities shall include, but not
285 be limited to, developmental disabilities centers ~~institutions~~
286 and state mental health facilities. All students shall receive
287 their education program from the district school system, and
288 funding shall be allocated through the Florida Education Finance
289 Program for the district school system.

290 Section 14. Paragraph (a) of subsection (3) of section
291 435.03, Florida Statutes, is amended to read:

292 435.03 Level 1 screening standards.--

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

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

301 Section 15. Subsections (2) and (15) of section 916.106,
302 Florida Statutes, are amended to read:

303 916.106 Definitions.--For the purposes of this chapter, the
304 term:

305 (2) "Autism" means a pervasive, neurologically based
306 developmental disability of extended duration which causes severe
307 learning, communication, and behavior disorders, with age of
308 onset during infancy or childhood. Individuals who have autism
309 exhibit impairment in reciprocal social interaction, impairment
310 in verbal and nonverbal communication and imaginative ability,
311 and a markedly restricted repertoire of activities and interests
312 ~~has the same meaning as in s. 393.063.~~



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313 (15) "Retardation" means significantly subaverage general
314 intellectual functioning existing concurrently with deficits in
315 adaptive behavior which manifests before the age of 18, and which
316 can reasonably be expected to continue indefinitely. For the
317 purpose of this definition:

318 (a) "Significantly subaverage general intellectual
319 functioning" means performance that is two or more standard
320 deviations from the mean score on a standardized intelligence
321 test specified in rules of the agency.

322 (b) "Adaptive behavior" means the effectiveness or degree
323 with which an individual meets the standards of personal
324 independence and social responsibility expected of his or her
325 age, cultural group, and community ~~has the same meaning as in s.~~
326 ~~393.063.~~

327 Section 16. Subsection (2) of section 916.301, Florida
328 Statutes, is amended to read:

329 916.301 Appointment of experts.--

330 (2) If a defendant's suspected mental condition is
331 retardation or autism, the court shall appoint the following:

332 (a) At least one, or at the request of any party, two
333 experts to evaluate whether the defendant meets the definition of
334 retardation or autism and, if so, whether the defendant is
335 competent to proceed; and—

336 (b) A psychologist selected by the agency who is licensed
337 or authorized by law to practice in this state, with experience
338 in evaluating persons suspected of having retardation or autism,
339 and a social service professional, with experience in working
340 with persons with retardation or autism.

341 1. The psychologist shall evaluate whether the defendant
342 meets the definition of retardation or autism and, if so, whether



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343 the defendant is incompetent to proceed due to retardation or
344 autism.

345 2. The social service professional shall provide a social
346 and developmental history of the defendant.

347 Section 17. Section 393.0657, Florida Statutes, is
348 repealed.

349 Section 18. This act shall take effect July 1, 2008.

350

351

352 ===== T I T L E A M E N D M E N T =====

353 And the title is amended as follows:

354 Delete everything before the enacting clause
355 and insert:

356 A bill to be entitled
357 An act relating to developmental disabilities; amending s.
358 393.063, F.S.; revising definitions; revising the term
359 "developmental disabilities institution" to be known as a
360 "developmental disabilities center"; redefining the term
361 "retardation"; amending s. 393.0655, F.S.; requiring
362 certain persons to undergo background screening if they
363 have been unemployed for more than 90 days; amending s.
364 393.0673, F.S.; providing additional grounds for denying,
365 suspending, or revoking a license or imposing a fine
366 against a provider serving clients of the Agency for
367 Persons with Disabilities; amending s. 393.506, F.S.;
368 expanding the types of medications that an unlicensed
369 direct service provider may administer; amending ss.
370 287.155, 393.064, 393.0651, 393.066, 393.135, 393.22,
371 393.23, 402.181, 402.22, 435.03, F.S.; conforming
372 provisions to changes made by the act; amending s.



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373 | 916.106, F.S.; revising definitions; redefining the terms
374 | "autism" and "retardation"; amending s. 916.301, F.S.;
375 | revising requirements regarding the appointment of experts
376 | if a defendant's suspected mental condition is retardation
377 | or autism; repealing s. 393.0657, F.S., relating to
378 | background screening; providing an effective date.