

By Senator Storms

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1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 39.201, F.S.; adding the
4 agency to the list of governmental entities that have
5 access to information in the Department of Children
6 and Family Service's central abuse hotline; amending
7 s. 393.063, F.S.; redefining the term "adult day
8 training"; amending s. 393.066, F.S.; providing for
9 adult day training services and deleting reference to
10 day habilitation services; amending s. 393.067, F.S.;
11 requiring the staff of licensed facilities to receive
12 training on abuse, neglect, and exploitation; amending
13 s. 393.0673, F.S.; revising provisions relating to
14 grounds for license suspension, denial, or revocation;
15 amending s. 393.13, F.S.; specifying that persons who
16 have developmental disabilities have a right to be
17 free from abuse, neglect, and exploitation; amending
18 s. 415.103, F.S.; requiring the central abuse hotline
19 to immediately transfer certain calls relating to
20 vulnerable adults to a local law enforcement agency;
21 amending s. 435.04, F.S.; providing additional
22 criminal offenses for screening certain developmental
23 disability personnel; providing an effective date.

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

26
27 Section 1. Subsection (6) of section 39.201, Florida
28 Statutes, is amended to read:

29 39.201 Mandatory reports of child abuse, abandonment, or

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30 neglect; mandatory reports of death; central abuse hotline.-

31 (6) Information in the central abuse hotline may not be
32 used for employment screening, except as provided in s.
33 39.202(2)(a) and (h). Information in the central abuse hotline
34 and the department's automated abuse information system may be
35 used by the department, its authorized agents or contract
36 providers, the Department of Health, the Agency for Persons with
37 Disabilities as part of the licensure process under ss. 393.067
38 and 393.0673, or county agencies as part of the licensure or
39 registration process pursuant to ss. 402.301-402.319 and ss.
40 409.175-409.176.

41 Section 2. Subsection (2) of section 393.063, Florida
42 Statutes, is amended to read:

43 393.063 Definitions.-For the purposes of this chapter, the
44 term:

45 (2) "Adult day training" means training services that ~~which~~
46 take place in a nonresidential setting, which is offsite and
47 separate from the home or facility in which the client resides;
48 are intended to support the participation of clients in daily,
49 meaningful, and valued routines of the community; and may
50 include work-like settings that do not meet the definition of
51 supported employment.

52 Section 3. Subsection (5) of section 393.066, Florida
53 Statutes, is amended to read:

54 393.066 Community services and treatment.-

55 (5) In order to improve the potential for using ~~utilization~~
56 ~~of~~ more cost-effective, community-based programs ~~residential~~
57 ~~facilities,~~ the agency shall promote the statewide development
58 of adult day training ~~day habilitation~~ services for clients ~~who~~

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59 ~~live with a direct service provider in a community-based~~
60 ~~residential facility and who do not require 24-hour-a-day care~~
61 ~~in a hospital or other health care institution, but who may, in~~
62 ~~the absence of day habilitation services, require admission to a~~
63 ~~developmental disabilities center. Each adult day training~~
64 ~~service facility shall provide a protective physical environment~~
65 ~~for clients and, ensure that direct service providers meet~~
66 ~~minimum screening standards as required in s. 393.0655, make~~
67 ~~available to all day habilitation service participants at least~~
68 ~~one meal on each day of operation, provide facilities to enable~~
69 ~~participants to obtain needed rest while attending the program,~~
70 ~~as appropriate, and provide social and educational activities~~
71 ~~designed to stimulate interest and provide socialization skills.~~

72 Section 4. Paragraph (h) of subsection (4) and subsections
73 (7) and (9) of section 393.067, Florida Statutes, are amended to
74 read:

75 393.067 Facility licensure.—

76 (4) The application shall be under oath and shall contain
77 the following:

78 (h) Certification that the staff of the facility or program
79 will receive training to detect, report, and prevent ~~sexual~~
80 abuse, neglect, and exploitation of residents and clients.

81 (7) The agency shall adopt rules establishing minimum
82 standards for facilities and programs licensed under this
83 section, including rules requiring facilities and programs to
84 train staff to detect, report, and prevent ~~sexual~~ abuse,
85 neglect, and exploitation of residents and clients, minimum
86 standards of quality and adequacy of client care, incident
87 reporting requirements, and uniform firesafety standards

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88 established by the State Fire Marshal which are appropriate to
89 the size of the facility or of the component centers or units of
90 the program.

91 (9) The agency may conduct unannounced inspections to
92 determine compliance by foster care facilities, group home
93 facilities, residential habilitation centers, and comprehensive
94 transitional education programs with the applicable provisions
95 of this chapter and the rules adopted pursuant hereto, including
96 the rules adopted for training staff of a facility or a program
97 to detect, report, and prevent ~~sexual~~ abuse, neglect, and
98 exploitation of residents and clients. The facility or program
99 shall make copies of inspection reports available to the public
100 upon request.

101 Section 5. Paragraph (b) of subsection (1) and paragraph
102 (b) of (2) of section 393.0673, Florida Statutes, are amended to
103 read:

104 393.0673 Denial, suspension, or revocation of license;
105 moratorium on admissions; administrative fines; procedures.—

106 (1) The agency may revoke or suspend a license or impose an
107 administrative fine, not to exceed \$1,000 per violation per day,
108 if:

109 (b) ~~The Department of Children and Family Services has~~
110 ~~verified that~~ The licensee is responsible for the abuse,
111 neglect, or abandonment of a child as those terms are defined in
112 s. 39.01, or the abuse, sexual abuse, neglect, or exploitation
113 of a vulnerable adult as those terms are defined in s. 415.102.

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

116 (b) ~~The Department of Children and Family Services has~~

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117 ~~verified that~~ The applicant is responsible for the abuse,
118 neglect, or abandonment of a child as those terms are defined in
119 s. 39.01, or the abuse, sexual abuse, neglect, or exploitation
120 of a vulnerable adult as those terms are defined in s. 415.102.

121 Section 6. Paragraph (a) of subsection (3) of section
122 393.13, Florida Statutes, is amended to read:

123 393.13 Treatment of persons with developmental
124 disabilities.—

125 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL DISABILITIES.—
126 The rights described in this subsection shall apply to all
127 persons with developmental disabilities, whether or not such
128 persons are clients of the agency.

129 (a) Persons who have ~~with~~ developmental disabilities ~~shall~~
130 have a right to dignity, privacy, and humane care, including the
131 right to be free from ~~sexual~~ abuse, neglect, and exploitation in
132 residential facilities.

133 Section 7. Present paragraphs (c), (d), (e), (f), and (g)
134 of subsection (1) of section 415.103, Florida Statutes, are
135 redesignated as paragraphs (d), (e), (f), (g), and (h),
136 respectively, and a new paragraph (c) is added to that
137 subsection, to read:

138 415.103 Central abuse hotline.—

139 (1) The department shall establish and maintain a central
140 abuse hotline that receives all reports made pursuant to s.
141 415.1034 in writing or through a single statewide toll-free
142 telephone number. Any person may use the statewide toll-free
143 telephone number to report known or suspected abuse, neglect, or
144 exploitation of a vulnerable adult at any hour of the day or
145 night, any day of the week. The central abuse hotline must be

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146 operated in such a manner as to enable the department to:

147 (c) Immediately transfer calls to the appropriate law
148 enforcement agency if the report is of known or suspected abuse
149 by someone other than the vulnerable adult's relative,
150 caregiver, or household member.

151 Section 8. Paragraph (c) is added to subsection (4) of
152 section 435.04, Florida Statutes, to read:

153 435.04 Level 2 screening standards.—

154 (4) Standards must also ensure that the person:

155 (c) For employees or employers of residential facilities
156 licensed under chapter 393, or developmental disabilities
157 centers as defined in s. 393.063, who are required to undergo
158 employment screening pursuant to s. 393.0655 or s. 400.964, has
159 not been convicted of, or entered a plea of guilty or nolo
160 contendere to, regardless of adjudication, offenses prohibited
161 under any of the following statutes or under similar statutes of
162 another jurisdiction:

163 1. Sections 409.920 and 409.9201, relating to Medicaid
164 fraud.

165 2. Chapter 784, relating to assault, battery, and culpable
166 negligence, if the offense is a felony.

167 3. Section 810.02, relating to burglary, if the offense is
168 a felony.

169 4. Section 817.034, relating to communications fraud.

170 5. Section 817.234, relating to fraudulent insurance
171 claims.

172 6. Section 817.505, relating to patient brokering.

173 7. Section 817.568, relating to criminal use of
174 identification information.

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175 8. Sections 817.60 and 817.61, relating to theft and
176 fraudulent use of credit cards, if the offense is a felony.

177 9. Sections 831.01, 831.02, 831.07, 831.09, and 831.30,
178 relating to forgery, uttering, and counterfeiting.

179 Section 9. This act shall take effect July 1, 2009.