

By Senator Wise

5-01657-09

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1                   A bill to be entitled  
2           An act relating to services for persons with  
3           disabilities; amending s. 393.0661, F.S.; revising  
4           elements required to be included in the plan developed  
5           and implemented by the agency to redesign the home and  
6           community-based services delivery system; authorizing  
7           the Agency for Persons with Disabilities and the  
8           Agency for Health Care Administration to implement  
9           pilot programs and to seek federal approval therefor;  
10          requiring a report to the Governor and Legislature;  
11          authorizing the agencies to adopt rules; amending s.  
12          409.906, F.S.; requiring the Agency for Health Care  
13          Administration, in consultation with the Agency for  
14          Persons with Disabilities, to develop and implement a  
15          revised procurement process for durable medical  
16          equipment and supplies for clients served by  
17          developmental disabilities and family and supported  
18          living waivers; authorizing development of a plan to  
19          use electronic debit cards for the purchase of such  
20          equipment and supplies; authorizing a pilot program;  
21          requiring a report to the Governor and Legislature;  
22          authorizing the agencies to seek federal approval and  
23          adopt rules; amending s. 39.201, F.S.; authorizing the  
24          Agency for Persons with Disabilities to use  
25          information in the central abuse hotline as part of  
26          the licensure process; amending s. 393.063, F.S.;  
27          revising the definition of "adult day training";  
28          amending s. 393.066, F.S.; requiring the agency to  
29          promote adult day training services; deleting

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30 provisions relating to habilitation services provided  
31 for certain clients in community-based residential  
32 facilities; amending s. 393.067, F.S.; revising  
33 facility licensure requirements for staff training;  
34 amending s. 393.0673, F.S.; providing additional  
35 grounds for imposition of a fine or denial,  
36 suspension, or revocation of a license; amending s.  
37 393.13, F.S.; establishing the right of persons with  
38 developmental disabilities to be free from abuse,  
39 neglect, and exploitation in residential facilities;  
40 amending s. 415.103, F.S.; providing for certain  
41 reports to the central abuse hotline relating to  
42 vulnerable adults to be immediately transferred to the  
43 county sheriff's office; amending s. 435.04, F.S.;  
44 requiring certain residential facility and  
45 developmental disabilities center personnel to be  
46 screened for certain criminal offenses; correcting a  
47 cross-reference; providing an effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:

50  
51 Section 1. Subsection (1) of section 393.0661, Florida  
52 Statutes, is amended, and subsection (9) is added to that  
53 section, to read:

54 393.0661 Home and community-based services delivery system;  
55 comprehensive redesign.—The Legislature finds that the home and  
56 community-based services delivery system for persons with  
57 developmental disabilities and the availability of appropriated  
58 funds are two of the critical elements in making services

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59 available. Therefore, it is the intent of the Legislature that  
60 the Agency for Persons with Disabilities shall develop and  
61 implement a comprehensive redesign of the system.

62 (1) The redesign of the home and community-based services  
63 system shall include, at a minimum, all actions necessary to  
64 achieve an appropriate rate structure; ensure, client choice  
65 within a specified service package; provide, appropriate  
66 assessment strategies; enhance cost control and system  
67 sustainability; predict costs; provide for equitable  
68 distribution of available resources based on individual needs  
69 assessments, client characteristics, and other assessment  
70 methods; provide for increased choice among, and control over,  
71 services by clients; develop an efficient billing process that  
72 contains reconciliation and monitoring components, ~~a redefined;~~  
73 redefine the role of for support coordinators to avoid that  
74 ~~avoids~~ potential conflicts of interest; ~~and ensure ensures~~ that  
75 family/client budgets are linked to levels of need.

76 (a) The agency shall use an assessment instrument that is  
77 reliable and valid. The agency may contract with an external  
78 vendor or may use support coordinators to complete client  
79 assessments if it develops sufficient safeguards and training to  
80 ensure ongoing inter-rater reliability.

81 (b) The agency, with the concurrence of the Agency for  
82 Health Care Administration, may contract for the determination  
83 of medical necessity and establishment of individual budgets.

84 (c) The agency may implement one or more pilot programs to  
85 test elements of the plan. The Agency for Health Care  
86 Administration, in consultation with the agency, may seek  
87 federal approval as necessary to implement any pilot program

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88 authorized under this paragraph.

89 (d) The agency and the Agency for Health Care  
90 Administration may adopt any rules necessary to administer this  
91 subsection.

92 (9) No later than February 1, 2010, the agency shall submit  
93 a report to the Governor, the President of the Senate, and the  
94 Speaker of the House of Representatives regarding the agency's  
95 plan for redesigning the home and community-based services  
96 delivery system and the status of any pilot projects being  
97 implemented by the agency. The report shall describe alternative  
98 methods for determining the equitable distribution of resources,  
99 provisions to increase consumer direction and flexibility, and  
100 any estimated fiscal impact.

101 Section 2. Subsection (10) of section 409.906, Florida  
102 Statutes, is amended to read:

103 409.906 Optional Medicaid services.—Subject to specific  
104 appropriations, the agency may make payments for services which  
105 are optional to the state under Title XIX of the Social Security  
106 Act and are furnished by Medicaid providers to recipients who  
107 are determined to be eligible on the dates on which the services  
108 were provided. Any optional service that is provided shall be  
109 provided only when medically necessary and in accordance with  
110 state and federal law. Optional services rendered by providers  
111 in mobile units to Medicaid recipients may be restricted or  
112 prohibited by the agency. Nothing in this section shall be  
113 construed to prevent or limit the agency from adjusting fees,  
114 reimbursement rates, lengths of stay, number of visits, or  
115 number of services, or making any other adjustments necessary to  
116 comply with the availability of moneys and any limitations or

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117 directions provided for in the General Appropriations Act or  
118 chapter 216. If necessary to safeguard the state's systems of  
119 providing services to elderly and disabled persons and subject  
120 to the notice and review provisions of s. 216.177, the Governor  
121 may direct the Agency for Health Care Administration to amend  
122 the Medicaid state plan to delete the optional Medicaid service  
123 known as "Intermediate Care Facilities for the Developmentally  
124 Disabled." Optional services may include:

125 (10) DURABLE MEDICAL EQUIPMENT.—The agency may authorize  
126 and pay for certain durable medical equipment and supplies  
127 provided to a Medicaid recipient as medically necessary.

128 (a) In order to reduce costs for durable medical equipment  
129 and supplies while ensuring adequate provision of services, the  
130 agency, in consultation with the Agency for Persons with  
131 Disabilities, shall develop and implement a revised procurement  
132 process for durable medical equipment and supplies for clients  
133 receiving services through the developmental disabilities and  
134 family and supported living waivers. The revised procurement  
135 process may include a schedule of standard prices for selected  
136 products or competitive procurement on a regional or statewide  
137 basis for selected products.

138 (b) The agency, in consultation with the Agency for Persons  
139 with Disabilities, may develop a plan to use electronic debit  
140 cards for payments for authorized purchases of durable and  
141 consumable medical equipment and supplies and other goods and  
142 services as determined appropriate for clients receiving  
143 services through the developmental disabilities and family and  
144 supported living waivers. The agency and the Agency for Persons  
145 with Disabilities may implement a pilot program for the use of

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146 electronic debit cards. If implemented, the pilot program shall  
147 assess the technical requirements for and costs of administering  
148 an electronic debit card system, analyze potential cost savings  
149 to the state, and evaluate the impact on consumers, providers,  
150 and the service delivery system. The Agency for Persons with  
151 Disabilities shall submit a report on the status of any pilot  
152 program to the Governor, the President of the Senate, and the  
153 Speaker of the House of Representatives no later than December  
154 15, 2010.

155 (c) The agency, in consultation with the Agency for Persons  
156 with Disabilities, may seek federal approval, as necessary, and  
157 may adopt rules pursuant to ss. 120.536(1) and 120.54, to  
158 implement this subsection.

159 Section 3. Subsection (6) of section 39.201, Florida  
160 Statutes, is amended to read:

161 39.201 Mandatory reports of child abuse, abandonment, or  
162 neglect; mandatory reports of death; central abuse hotline.—

163 (6) Information in the central abuse hotline may not be  
164 used for employment screening, except as provided in s.  
165 39.202(2)(a) and (h). Information in the central abuse hotline  
166 and the department's automated abuse information system may be  
167 used by the department, its authorized agents or contract  
168 providers, the Department of Health, or county agencies as part  
169 of the licensure or registration process pursuant to ss.  
170 402.301-402.319 and ss. 409.175-409.176 and by the Agency for  
171 Persons with Disabilities as part of the licensure process  
172 pursuant to ss. 393.067 and 393.0673.

173 Section 4. Subsection (2) of section 393.063, Florida  
174 Statutes, is amended to read:

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175 393.063 Definitions.—For the purposes of this chapter, the  
176 term:

177 (2) "Adult day training" means training services that ~~which~~  
178 take place in a nonresidential setting offsite and, separate  
179 from the home or facility in which the client resides; are  
180 intended to support the participation of clients in daily,  
181 meaningful, and valued routines of the community; and may  
182 include work-like settings that do not meet the definition of  
183 supported employment.

184 Section 5. Subsection (5) of section 393.066, Florida  
185 Statutes, is amended to read:

186 393.066 Community services and treatment.—

187 (5) In order to improve the potential for utilization of  
188 more cost-effective, community-based programs ~~residential~~  
189 ~~facilities~~, the agency shall promote the statewide development  
190 of adult day training ~~habilitation~~ services for clients ~~who live~~  
191 ~~with a direct service provider in a community-based residential~~  
192 ~~facility and who do not require 24-hour-a-day care in a hospital~~  
193 ~~or other health care institution, but who may, in the absence of~~  
194 ~~day habilitation services, require admission to a developmental~~  
195 ~~disabilities center~~. Each adult day training ~~service~~ facility  
196 shall provide a protective physical environment for clients and,  
197 ensure that direct service providers meet minimum screening  
198 standards as required in s. 393.0655, ~~make available to all day~~  
199 ~~habilitation service participants at least one meal on each day~~  
200 ~~of operation, provide facilities to enable participants to~~  
201 ~~obtain needed rest while attending the program, as appropriate,~~  
202 ~~and provide social and educational activities designed to~~  
203 ~~stimulate interest and provide socialization skills.~~

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204 Section 6. Subsections (4), (7), and (9) of section  
205 393.067, Florida Statutes, are amended to read:

206 393.067 Facility licensure.—

207 (4) The application shall be signed under oath and shall  
208 contain the following:

209 (a) The name and address of the applicant, if an applicant  
210 is an individual; if the applicant is a firm, partnership, or  
211 association, the name and address of each member thereof; if the  
212 applicant is a corporation, its name and address and the name  
213 and address of each director and each officer thereof; and the  
214 name by which the facility or program is to be known.

215 (b) The location of the facility or program for which a  
216 license is sought.

217 (c) The name of the person or persons under whose  
218 management or supervision the facility or program will be  
219 conducted.

220 (d) The number and type of residents or clients for which  
221 maintenance, care, education, or treatment is to be provided by  
222 the facility or program.

223 (e) The number and location of the component centers or  
224 units which will compose the comprehensive transitional  
225 education program.

226 (f) A description of the types of services and treatment to  
227 be provided by the facility or program.

228 (g) Information relating to the number, experience, and  
229 training of the employees of the facility or program.

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



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233 (i) Such other information as the agency determines is  
234 necessary to carry out the provisions of this chapter.

235 (7) The agency shall adopt rules establishing minimum  
236 standards for facilities and programs licensed under this  
237 section, including rules requiring facilities and programs to  
238 train staff to detect, report, and prevent ~~sexual~~ abuse,  
239 neglect, and exploitation of residents and clients, minimum  
240 standards of quality and adequacy of client care, incident  
241 reporting requirements, and uniform firesafety standards  
242 established by the State Fire Marshal which are appropriate to  
243 the size of the facility or of the component centers or units of  
244 the program.

245 (9) The agency may conduct unannounced inspections to  
246 determine compliance by foster care facilities, group home  
247 facilities, residential habilitation centers, and comprehensive  
248 transitional education programs with the applicable provisions  
249 of this chapter and the rules adopted pursuant hereto, including  
250 the rules adopted for training staff of a facility or a program  
251 to detect, report, and prevent ~~sexual~~ abuse, neglect, and  
252 exploitation of residents and clients. The facility or program  
253 shall make copies of inspection reports available to the public  
254 upon request.

255 Section 7. Paragraph (b) of subsection (1) and paragraph  
256 (b) of subsection (2) of section 393.0673, Florida Statutes, are  
257 amended to read:

258 393.0673 Denial, suspension, or revocation of license;  
259 moratorium on admissions; administrative fines; procedures.—

260 (1) The agency may revoke or suspend a license or impose an  
261 administrative fine, not to exceed \$1,000 per violation per day,

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262 if:

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

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

270 (b) The ~~Department of Children and Family Services~~ has  
271 ~~verified that the~~ applicant is responsible for the abuse,  
272 neglect, or abandonment of a child as those terms are defined in  
273 s. 39.01 or the abuse, sexual abuse, neglect, or exploitation of  
274 a vulnerable adult as those terms are defined in s. 415.102.

275 Section 8. Paragraph (a) of subsection (3) of section  
276 393.13, Florida Statutes, is amended to read:

277 393.13 Treatment of persons with developmental  
278 disabilities.—

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

283 (a) Persons with developmental disabilities shall have a  
284 right to dignity, privacy, and humane care, including the right  
285 to be free from ~~sexual~~ abuse, neglect, and exploitation in  
286 residential facilities.

287 Section 9. Paragraph (c) of subsection (1) of section  
288 415.103, Florida Statutes, is amended to read:

289 415.103 Central abuse hotline.—

290 (1) The department shall establish and maintain a central

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291 abuse hotline that receives all reports made pursuant to s.  
292 415.1034 in writing or through a single statewide toll-free  
293 telephone number. Any person may use the statewide toll-free  
294 telephone number to report known or suspected abuse, neglect, or  
295 exploitation of a vulnerable adult at any hour of the day or  
296 night, any day of the week. The central abuse hotline must be  
297 operated in such a manner as to enable the department to:

298 (c) Immediately transfer calls to the appropriate county  
299 sheriff's office if the report is of known or suspected abuse,  
300 neglect, or exploitation of a vulnerable adult by someone other  
301 than a relative, caregiver, or household member and, when  
302 appropriate, refer calls that do not allege the abuse, neglect,  
303 or exploitation of a vulnerable adult to other organizations  
304 that might better resolve the reporter's concerns.

305 Section 10. Subsection (4) of section 435.04, Florida  
306 Statutes, is amended to read:

307 435.04 Level 2 screening standards.—

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

309 (a) For employees or employers licensed or registered  
310 pursuant to chapter 400 or chapter 429, and for employees and  
311 employers at a residential facility licensed under chapter 393  
312 or a developmental disabilities center as defined in s. 393.063  
313 who are required to undergo employment screening pursuant to s.  
314 393.0655 or s. 400.964, has not been convicted of, regardless of  
315 adjudication, or entered a plea of guilty or nolo contendere to,  
316 any offense prohibited under any of the following provisions of  
317 the Florida Statutes or under any similar statute of another  
318 jurisdiction: ~~does not have a confirmed report of abuse,~~  
319 ~~neglect, or exploitation as defined in s. 415.102(6), which has~~

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320 ~~been uncontested or upheld under s. 415.103.~~

321 1. Sections 409.920 and 409.9201, relating to Medicaid  
322 fraud.

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

325 3. Section 810.02, relating to burglary, if the offense is  
326 a felony.

327 4. Section 817.034, relating to communications fraud.

328 5. Section 817.234, relating to false and fraudulent  
329 insurance claims.

330 6. Section 817.505, relating to patient brokering.

331 7. Section 817.568, relating to criminal use of personal  
332 identification information.

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

335 9. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
336 831.31, relating to forgery, uttering, and counterfeiting.

337 (b) Has not committed an act that constitutes domestic  
338 violence as defined in s. 741.28 ~~741.30~~.

339 Section 11. This act shall take effect July 1, 2009.