

1 A bill to be entitled
2 An act relating to persons with disabilities; amending s.
3 393.067, F.S.; revising provisions relating to licensure
4 and standards for facilities and programs for persons with
5 developmental disabilities; amending s. 393.13, F.S.;
6 revising rights for persons with developmental
7 disabilities; amending s. 402.305, F.S.; requiring minimum
8 training for child care personnel to include the
9 identification and care of children with developmental
10 disabilities; creating s. 1003.573, F.S.; requiring that
11 each school prepare an incident report within a specified
12 period after each occasion of student restraint or
13 seclusion; specifying the contents of such report;
14 requiring that each school notify a student's parent or
15 guardian if manual physical restraint or seclusion is
16 used; requiring certain reporting and monitoring;
17 requiring that each school district develop and revise
18 policies and procedures governing the incident reports,
19 data collection, and the monitoring and reporting of such
20 data; prohibiting school personnel from using a mechanical
21 restraint or a manual physical restraint that restricts a
22 student's breathing; prohibiting school personnel from
23 closing, locking, or physically blocking a student in a
24 room that is unlit and does not meet the rules of the
25 State Fire Marshal for seclusion time-out rooms; amending
26 s. 1004.55, F.S.; requiring regional autism centers to
27 provide certain support for serving children with
28 developmental disabilities; creating s. 1012.582, F.S.;

29 requiring the Commissioner of Education to develop
30 recommendations to incorporate instruction relating to
31 developmental disabilities into continuing education or
32 inservice training requirements for instructional
33 personnel; requiring the Department of Education to
34 incorporate the course curricula into existing
35 requirements for such education or training; authorizing
36 the State Board of Education to adopt rules; requiring the
37 Division of Vocational Rehabilitation within the
38 Department of Education to develop an implementation plan
39 for the establishment of a state vocational college for
40 persons with developmental disabilities subject to
41 legislative authorization and appropriation of funding;
42 providing an effective date.

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44 Be It Enacted by the Legislature of the State of Florida:

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46 Section 1. Paragraph (h) of subsection (4) and subsections
47 (7) and (9) of section 393.067, Florida Statutes, are amended to
48 read:

49 393.067 Facility licensure.—

50 (4) The application shall be under oath and shall contain
51 the following:

52 (h) Certification that the staff of the facility or
53 program will receive training to detect, report, and prevent
54 sexual abuse, abuse, neglect, exploitation, and abandonment, as
55 defined in ss. 39.01 and 415.102, of residents and clients.

56 (7) The agency shall adopt rules establishing minimum
 57 standards for facilities and programs licensed under this
 58 section, including rules requiring facilities and programs to
 59 train staff to detect, report, and prevent sexual abuse, abuse,
 60 neglect, exploitation, and abandonment, as defined in ss. 39.01
 61 and 415.102, of residents and clients, minimum standards of
 62 quality and adequacy of client care, incident reporting
 63 requirements, and uniform firesafety standards established by
 64 the State Fire Marshal which are appropriate to the size of the
 65 facility or of the component centers or units of the program.

66 (9) The agency may conduct unannounced inspections to
 67 determine compliance by foster care facilities, group home
 68 facilities, residential habilitation centers, and comprehensive
 69 transitional education programs with the applicable provisions
 70 of this chapter and the rules adopted pursuant hereto, including
 71 the rules adopted for training staff of a facility or a program
 72 to detect, report, and prevent sexual abuse, abuse, neglect,
 73 exploitation, and abandonment, as defined in ss. 39.01 and
 74 415.102, of residents and clients. The facility or program shall
 75 make copies of inspection reports available to the public upon
 76 request.

77 Section 2. Paragraph (a) of subsection (3) of section
 78 393.13, Florida Statutes, is amended to read:

79 393.13 Treatment of persons with developmental
 80 disabilities.—

81 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
 82 DISABILITIES.—The rights described in this subsection shall
 83 apply to all persons with developmental disabilities, whether or

84 not such persons are clients of the agency.

85 (a) Persons with developmental disabilities shall have a
 86 right to dignity, privacy, and humane care, including the right
 87 to be free from abuse, including sexual abuse, neglect, and
 88 exploitation in residential facilities.

89 Section 3. Paragraph (d) of subsection (2) of section
 90 402.305, Florida Statutes, is amended to read:

91 402.305 Licensing standards; child care facilities.-

92 (2) PERSONNEL.—Minimum standards for child care personnel
 93 shall include minimum requirements as to:

94 (d) Minimum training requirements for child care
 95 personnel.

96 1. Such minimum standards for training shall ensure that
 97 all child care personnel take an approved 40-clock-hour
 98 introductory course in child care, which course covers at least
 99 the following topic areas:

100 a. State and local rules and regulations which govern
 101 child care.

102 b. Health, safety, and nutrition.

103 c. Identifying and reporting child abuse and neglect.

104 d. Child development, including typical and atypical
 105 language, cognitive, motor, social, and self-help skills
 106 development.

107 e. Observation of developmental behaviors, including using
 108 a checklist or other similar observation tools and techniques to
 109 determine the child's developmental age level.

110 f. Specialized areas, including computer technology for
 111 professional and classroom use and early literacy and language

112 development of children from birth to 5 years of age, as
113 determined by the department, for owner-operators and child care
114 personnel of a child care facility.

115 g. Developmental disabilities, including autism spectrum
116 disorder and Down syndrome, and early identification, use of
117 available state and local resources, classroom integration, and
118 positive behavioral supports for children with developmental
119 disabilities.

120
121 Within 90 days after employment, child care personnel shall
122 begin training to meet the training requirements. Child care
123 personnel shall successfully complete such training within 1
124 year after the date on which the training began, as evidenced by
125 passage of a competency examination. Successful completion of
126 the 40-clock-hour introductory course shall articulate into
127 community college credit in early childhood education, pursuant
128 to ss. 1007.24 and 1007.25. Exemption from all or a portion of
129 the required training shall be granted to child care personnel
130 based upon educational credentials or passage of competency
131 examinations. Child care personnel possessing a 2-year degree or
132 higher that includes 6 college credit hours in early childhood
133 development or child growth and development, or a child
134 development associate credential or an equivalent state-approved
135 child development associate credential, or a child development
136 associate waiver certificate shall be automatically exempted
137 from the training requirements in sub-subparagraphs b., d., and
138 e.

139 2. The introductory course in child care shall stress, to

140 | the extent possible, an interdisciplinary approach to the study
 141 | of children.

142 | 3. The introductory course shall cover recognition and
 143 | prevention of shaken baby syndrome, prevention of sudden infant
 144 | death syndrome, recognition and care of infants and toddlers
 145 | with developmental disabilities, including autism spectrum
 146 | disorder and Down syndrome, and early childhood brain
 147 | development within the topic areas identified in this paragraph.

148 | 4. On an annual basis in order to further their child care
 149 | skills and, if appropriate, administrative skills, child care
 150 | personnel who have fulfilled the requirements for the child care
 151 | training shall be required to take an additional 1 continuing
 152 | education unit of approved inservice training, or 10 clock hours
 153 | of equivalent training, as determined by the department.

154 | 5. Child care personnel shall be required to complete 0.5
 155 | continuing education unit of approved training or 5 clock hours
 156 | of equivalent training, as determined by the department, in
 157 | early literacy and language development of children from birth
 158 | to 5 years of age one time. The year that this training is
 159 | completed, it shall fulfill the 0.5 continuing education unit or
 160 | 5 clock hours of the annual training required in subparagraph 4.

161 | 6. Procedures for ensuring the training of qualified child
 162 | care professionals to provide training of child care personnel,
 163 | including onsite training, shall be included in the minimum
 164 | standards. It is recommended that the state community child care
 165 | coordination agencies (central agencies) be contracted by the
 166 | department to coordinate such training when possible. Other
 167 | district educational resources, such as community colleges and

168 career programs, can be designated in such areas where central
 169 agencies may not exist or are determined not to have the
 170 capability to meet the coordination requirements set forth by
 171 the department.

172 7. Training requirements shall not apply to certain
 173 occasional or part-time support staff, including, but not
 174 limited to, swimming instructors, piano teachers, dance
 175 instructors, and gymnastics instructors.

176 8. The department shall evaluate or contract for an
 177 evaluation for the general purpose of determining the status of
 178 and means to improve staff training requirements and testing
 179 procedures. The evaluation shall be conducted every 2 years. The
 180 evaluation shall include, but not be limited to, determining the
 181 availability, quality, scope, and sources of current staff
 182 training; determining the need for specialty training; and
 183 determining ways to increase inservice training and ways to
 184 increase the accessibility, quality, and cost-effectiveness of
 185 current and proposed staff training. The evaluation methodology
 186 shall include a reliable and valid survey of child care
 187 personnel.

188 9. The child care operator shall be required to take basic
 189 training in serving children with disabilities within 5 years
 190 after employment, either as a part of the introductory training
 191 or the annual 8 hours of inservice training.

192 Section 4. Section 1003.573, Florida Statutes, is created
 193 to read:

194 1003.573 Use of seclusion and restraint on students with
 195 disabilities.-

196 (1) DOCUMENTATION AND REPORTING.—
 197 (a) A school shall prepare an incident report within 24
 198 hours after a student is released from restraint or seclusion.
 199 If the student's release occurs on a day before the school
 200 closes for the weekend, a holiday, or another reason, the
 201 incident report must be completed by the end of the school day
 202 on the day the school reopens.
 203 (b) The following must be included in the incident report:
 204 1. The name of the student restrained or secluded.
 205 2. The date and time of the event and the duration of the
 206 restraint or seclusion.
 207 3. The location at which the restraint or seclusion
 208 occurred.
 209 4. The type of restraint used.
 210 5. The name of the person using or assisting in the
 211 restraint or seclusion of the student.
 212 6. The name of any nonstudent who was present to witness
 213 the restraint or seclusion.
 214 7. A description of the incident, including:
 215 a. The context in which the restraint or seclusion
 216 occurred.
 217 b. The student's behavior leading up to and precipitating
 218 the decision to use manual physical restraint or seclusion,
 219 including an indication as to why there was an imminent risk of
 220 serious injury or death to the student or others.
 221 c. The specific positive behavioral strategies used to
 222 prevent and deescalate the behavior.
 223 d. What occurred with the student immediately after the

224 termination of the restraint or seclusion.

225 e. Any injuries, visible marks, or possible medical
226 emergencies that may have occurred during the restraint or
227 seclusion, documented according to district policies.

228 f. Evidence of steps taken to notify the student's parent
229 or guardian.

230 (c) A school shall notify the parent or guardian of a
231 student each time manual physical restraint or seclusion is
232 used. Such notification must be in writing and provided before
233 the end of the school day on which the restraint or seclusion
234 occurs. Reasonable efforts must also be taken to notify the
235 parent or guardian by telephone or computer e-mail, or both, and
236 these efforts must be documented. The school shall obtain, and
237 keep in its records, the parent's or guardian's signed
238 acknowledgement that he or she was notified of his or her
239 child's restraint or seclusion.

240 (d) A school shall also provide the parent or guardian
241 with the completed incident report in writing by mail within 3
242 school days after a student was manually physically restrained
243 or secluded. The school shall obtain, and keep in its records,
244 the parent's or guardian's signed acknowledgement that he or she
245 received a copy of the incident report.

246 (2) MONITORING.—

247 (a) Monitoring of the use of manual physical restraint or
248 seclusion on students shall occur at the classroom, building,
249 district, and state levels.

250 (b) Beginning July 1, 2010, documentation prepared as
251 required in subsection (1) shall be provided to the school

252 principal, the district director of Exceptional Student
253 Education, and the bureau chief of the Bureau of Exceptional
254 Education and Student Services electronically each month that
255 the school is in session.

256 (c) The department shall maintain aggregate data of
257 incidents of manual physical restraint and seclusion and
258 disaggregate the data for analysis by county, school, student
259 exceptionality, and other variables. This information shall be
260 updated monthly.

261 (3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

262 (a) Each school district shall develop policies and
263 procedures that are consistent with this section and that govern
264 the following:

265 1. Incident-reporting procedures.

266 2. Data collection.

267 3. Monitoring and reporting of data collected.

268 (b) Any revisions to such policies and procedures, which
269 must be prepared as part of the school district's special
270 policies and procedures, must be filed with the bureau chief of
271 the Bureau of Exceptional Education and Student Services no
272 later than January 31, 2011.

273 (4) PROHIBITED RESTRAINT.—School personnel may not use a
274 mechanical restraint or a manual physical restraint that
275 restricts a student's breathing.

276 (5) SECLUSION.—School personnel may not close, lock, or
277 physically block a student in a room that is unlit and does not
278 meet the rules of the State Fire Marshal for seclusion time-out
279 rooms.

280 Section 5. Paragraphs (f) and (g) are added to subsection
 281 (4) of section 1004.55, Florida Statutes, to read:

282 1004.55 Regional autism centers.—

283 (4) Each center shall provide:

284 (f) Coordination and dissemination of local and regional
 285 information regarding available resources for services for
 286 children with the developmental disabilities described in
 287 subsection (1).

288 (g) Support to state agencies in the development of
 289 training for early child care providers and educators with
 290 respect to the developmental disabilities described in
 291 subsection (1).

292 Section 6. Section 1012.582, Florida Statutes, is created
 293 to read:

294 1012.582 Continuing education and inservice training for
 295 teaching students with developmental disabilities.—

296 (1) The Commissioner of Education shall develop
 297 recommendations to incorporate instruction regarding autism
 298 spectrum disorder, Down syndrome, and other developmental
 299 disabilities into continuing education or inservice training
 300 requirements for instructional personnel. These recommendations
 301 shall address:

302 (a) Early identification of, and intervention for,
 303 students who have autism spectrum disorder, Down syndrome, or
 304 other developmental disabilities.

305 (b) Curriculum planning and curricular and instructional
 306 modifications, adaptations, and specialized strategies and
 307 techniques.

308 (c) The use of available state and local resources.

309 (d) The use of positive behavioral supports to deescalate
 310 problem behaviors.

311 (e) Appropriate use of manual physical restraint and
 312 seclusion techniques.

313 (2) In developing the recommendations, the commissioner
 314 shall consult with the State Surgeon General, the Director of
 315 the Agency for Persons with Disabilities, representatives from
 316 the education community in the state, and representatives from
 317 entities that promote awareness about autism spectrum disorder,
 318 Down syndrome, and other developmental disabilities and provide
 319 programs and services to persons with developmental
 320 disabilities, including, but not limited to, regional autism
 321 centers pursuant to s. 1004.55.

322 (3) Beginning with the 2010-2011 school year, the
 323 Department of Education shall incorporate the course curricula
 324 recommended by the Commissioner of Education, pursuant to
 325 subsection (1), into existing requirements for the continuing
 326 education or inservice training of instructional personnel. The
 327 requirements of this section may not add to the total hours
 328 required for continuing education or inservice training as
 329 currently established by the department.

330 (4) The State Board of Education may adopt rules pursuant
 331 to ss. 120.536(1) and 120.54 to implement this section.

332 Section 7. Subject to legislative authorization and
 333 appropriation of funding, the Division of Vocational
 334 Rehabilitation within the Department of Education shall develop

CS/CS for HB 1073 & HB 81, Engrossed 1

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335 | an implementation plan for the establishment of a state
336 | vocational college for persons with developmental disabilities.

337 | Section 8. This act shall take effect July 1, 2010.