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CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

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.;

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

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; providing an
37 effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Paragraph (h) of subsection (4) and subsections
42 (7) and (9) of section 393.067, Florida Statutes, are amended to
43 read:

44 393.067 Facility licensure.—

45 (4) The application shall be under oath and shall contain
46 the following:

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

51 (7) The agency shall adopt rules establishing minimum
52 standards for facilities and programs licensed under this
53 section, including rules requiring facilities and programs to
54 train staff to detect, report, and prevent sexual abuse, abuse,
55 neglect, exploitation, and abandonment, as defined in ss. 39.01
56 and 415.102, of residents and clients, minimum standards of

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

57 | quality and adequacy of client care, incident reporting
 58 | requirements, and uniform firesafety standards established by
 59 | the State Fire Marshal which are appropriate to the size of the
 60 | facility or of the component centers or units of the program.

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

72 | Section 2. Paragraph (a) of subsection (3) of section
 73 | 393.13, Florida Statutes, is amended to read:

74 | 393.13 Treatment of persons with developmental
 75 | disabilities.—

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

80 | (a) Persons with developmental disabilities shall have a
 81 | right to dignity, privacy, and humane care, including the right
 82 | to be free from abuse, including sexual abuse, neglect, and
 83 | exploitation ~~in residential facilities.~~

84 | Section 3. Paragraph (d) of subsection (2) of section

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

85 402.305, Florida Statutes, is amended to read:

86 402.305 Licensing standards; child care facilities.—

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

89 (d) Minimum training requirements for child care
90 personnel.

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

95 a. State and local rules and regulations which govern
96 child care.

97 b. Health, safety, and nutrition.

98 c. Identifying and reporting child abuse and neglect.

99 d. Child development, including typical and atypical
100 language, cognitive, motor, social, and self-help skills
101 development.

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

105 f. Specialized areas, including computer technology for
106 professional and classroom use and early literacy and language
107 development of children from birth to 5 years of age, as
108 determined by the department, for owner-operators and child care
109 personnel of a child care facility.

110 g. Developmental disabilities, including autism spectrum
111 disorder and Down syndrome, and early identification, use of
112 available state and local resources, classroom integration, and

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

113 positive behavioral supports for children with developmental
 114 disabilities.

115
 116 Within 90 days after employment, child care personnel shall
 117 begin training to meet the training requirements. Child care
 118 personnel shall successfully complete such training within 1
 119 year after the date on which the training began, as evidenced by
 120 passage of a competency examination. Successful completion of
 121 the 40-clock-hour introductory course shall articulate into
 122 community college credit in early childhood education, pursuant
 123 to ss. 1007.24 and 1007.25. Exemption from all or a portion of
 124 the required training shall be granted to child care personnel
 125 based upon educational credentials or passage of competency
 126 examinations. Child care personnel possessing a 2-year degree or
 127 higher that includes 6 college credit hours in early childhood
 128 development or child growth and development, or a child
 129 development associate credential or an equivalent state-approved
 130 child development associate credential, or a child development
 131 associate waiver certificate shall be automatically exempted
 132 from the training requirements in sub-subparagraphs b., d., and
 133 e.

134 2. The introductory course in child care shall stress, to
 135 the extent possible, an interdisciplinary approach to the study
 136 of children.

137 3. The introductory course shall cover recognition and
 138 prevention of shaken baby syndrome, prevention of sudden infant
 139 death syndrome, recognition and care of infants and toddlers
 140 with developmental disabilities, including autism spectrum

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

141 disorder and Down syndrome, and early childhood brain
142 development within the topic areas identified in this paragraph.

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

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

156 6. Procedures for ensuring the training of qualified child
157 care professionals to provide training of child care personnel,
158 including onsite training, shall be included in the minimum
159 standards. It is recommended that the state community child care
160 coordination agencies (central agencies) be contracted by the
161 department to coordinate such training when possible. Other
162 district educational resources, such as community colleges and
163 career programs, can be designated in such areas where central
164 agencies may not exist or are determined not to have the
165 capability to meet the coordination requirements set forth by
166 the department.

167 7. Training requirements shall not apply to certain
168 occasional or part-time support staff, including, but not

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

169 limited to, swimming instructors, piano teachers, dance
 170 instructors, and gymnastics instructors.

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

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

187 Section 4. Section 1003.573, Florida Statutes, is created
 188 to read:

189 1003.573 Use of seclusion and restraint on students with
 190 disabilities.—

191 (1) DOCUMENTATION AND REPORTING.—

192 (a) A school shall prepare an incident report within 24
 193 hours after a student is released from restraint or seclusion.
 194 If the student's release occurs on a day before the school
 195 closes for the weekend, a holiday, or another reason, the
 196 incident report must be completed by the end of the school day

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

197 on the day the school reopens.

198 (b) The following must be included in the incident report:

199 1. The name of the student restrained or secluded.

200 2. The date and time of the event and the duration of the

201 restraint or seclusion.

202 3. The location at which the restraint or seclusion

203 occurred.

204 4. The type of restraint used.

205 5. The name of the person using or assisting in the

206 restraint or seclusion of the student.

207 6. The name of any nonstudent who was present to witness

208 the restraint or seclusion.

209 7. A description of the incident, including:

210 a. The context in which the restraint or seclusion

211 occurred.

212 b. The student's behavior leading up to and precipitating

213 the decision to use manual physical restraint or seclusion,

214 including an indication as to why there was an imminent risk of

215 serious injury or death to the student or others.

216 c. The specific positive behavioral strategies used to

217 prevent and deescalate the behavior.

218 d. What occurred with the student immediately after the

219 termination of the restraint or seclusion.

220 e. Any injuries, visible marks, or possible medical

221 emergencies that may have occurred during the restraint or

222 seclusion, documented according to district policies.

223 f. Evidence of steps taken to notify the student's parent

224 or guardian.

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

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

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

241 (2) MONITORING.—

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

245 (b) Beginning July 1, 2010, documentation prepared as
 246 required in subsection (1) shall be provided to the school
 247 principal, the district director of Exceptional Student
 248 Education, and the bureau chief of the Bureau of Exceptional
 249 Education and Student Services electronically each month that
 250 the school is in session.

251 (c) The department shall maintain aggregate data of
 252 incidents of manual physical restraint and seclusion and

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

253 disaggregate the data for analysis by county, school, student
 254 exceptionality, and other variables. This information shall be
 255 updated monthly.

256 (3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

257 (a) Each school district shall develop policies and
 258 procedures that are consistent with this section and that govern
 259 the following:

260 1. Incident-reporting procedures.

261 2. Data collection.

262 3. Monitoring and reporting of data collected.

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

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

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

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

277 1004.55 Regional autism centers.—

278 (4) Each center shall provide:

279 (f) Coordination and dissemination of local and regional
 280 information regarding available resources for services for

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

281 children with the developmental disabilities described in
 282 subsection (1).

283 (g) Support to state agencies in the development of
 284 training for early child care providers and educators with
 285 respect to the developmental disabilities described in
 286 subsection (1).

287 Section 6. Section 1012.582, Florida Statutes, is created
 288 to read:

289 1012.582 Continuing education and inservice training for
 290 teaching students with developmental disabilities.—

291 (1) The Commissioner of Education shall develop
 292 recommendations to incorporate instruction regarding autism
 293 spectrum disorder, Down syndrome, and other developmental
 294 disabilities into continuing education or inservice training
 295 requirements for instructional personnel. These recommendations
 296 shall address:

297 (a) Early identification of, and intervention for,
 298 students who have autism spectrum disorder, Down syndrome, or
 299 other developmental disabilities.

300 (b) Curriculum planning and curricular and instructional
 301 modifications, adaptations, and specialized strategies and
 302 techniques.

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

304 (d) The use of positive behavioral supports to deescalate
 305 problem behaviors.

306 (e) Appropriate use of manual physical restraint and
 307 seclusion techniques.

ENROLLED

CS/CS for HB 1073 & HB 81, Engrossed 2

2010 Legislature

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

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

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

327 Section 7. This act shall take effect July 1, 2010.