

By the Committees on Children, Families, and Elder Affairs; and Education Pre-K - 12; and Senators Gardiner, Fasano, Dean, Storms, and Sobel

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1 A bill to be entitled
2 An act relating to individuals with developmental
3 disabilities; amending s. 393.067, F.S.; revising the
4 application procedures for the licensing of certain
5 facilities that serve individuals with developmental
6 disabilities; amending s. 393.13, F.S.; providing that
7 persons with developmental disabilities have the right
8 to be free from abuse, including sexual abuse,
9 neglect, and exploitation; amending s. 402.305, F.S.;
10 requiring minimum training for child care personnel to
11 include the identification and care of children with
12 developmental disabilities; creating s. 1003.573,
13 F.S.; requiring that each school prepare an incident
14 report within a specified period after each occasion
15 of student restraint or seclusion; specifying the
16 contents of such report; requiring that each school
17 notify a student's parent or guardian if manual
18 physical restraint or seclusion is used; requiring
19 certain reporting and monitoring; requiring that each
20 school district develop and revise policies and
21 procedures governing the incident reports, data
22 collection, and the monitoring and reporting of such
23 data; prohibiting certain restraints and seclusion;
24 amending s. 1004.55, F.S.; requiring regional autism
25 centers to provide certain support for serving
26 children with developmental disabilities; creating s.
27 1012.582, F.S.; requiring the Department of Education
28 to incorporate course curricula relating to
29 developmental disabilities into existing requirements

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30 for the continuing education or inservice training of
31 instructional personnel; requiring the Commissioner of
32 Education to make recommendations to the department
33 relating to developmental disabilities awareness
34 instruction and methods for teaching students with
35 developmental disabilities; authorizing the State
36 Board of Education to adopt rules; providing an
37 effective date.

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

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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 program
48 will receive training to detect, report, and prevent sexual
49 abuse, abuse, neglect, exploitation, and abandonment, as defined
50 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
57 quality and adequacy of client care, incident reporting
58 requirements, and uniform firesafety standards established by

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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 DISABILITIES.—
77 The rights described in this subsection shall apply to all
78 persons with developmental disabilities, whether or not such
79 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
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

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88 shall include minimum requirements as to:

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

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

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

96 b. Health, safety, and nutrition.

97 c. Identifying and reporting child abuse and neglect.

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

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

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

109 g. Developmental disabilities, including autism spectrum
110 disorder and Down syndrome, and the early identification, use of
111 available state and local resources, classroom integration, and
112 positive behavioral supports for children with developmental
113 disabilities.

114

115 Within 90 days after employment, child care personnel shall
116 begin training to meet the training requirements. Child care

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

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

136 3. The introductory course shall cover recognition and
137 prevention of shaken baby syndrome, prevention of sudden infant
138 death syndrome, recognition and care of infants and toddlers
139 with developmental disabilities, including autism spectrum
140 disorder and Down syndrome, and early childhood brain
141 development within the topic areas identified in this paragraph.

142 4. On an annual basis in order to further their child care
143 skills and, if appropriate, administrative skills, child care
144 personnel who have fulfilled the requirements for the child care
145 training shall be required to take an additional 1 continuing

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146 education unit of approved inservice training, or 10 clock hours
147 of equivalent training, as determined by the department.

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

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

166 7. Training requirements shall not apply to certain
167 occasional or part-time support staff, including, but not
168 limited to, swimming instructors, piano teachers, dance
169 instructors, and gymnastics instructors.

170 8. The department shall evaluate or contract for an
171 evaluation for the general purpose of determining the status of
172 and means to improve staff training requirements and testing
173 procedures. The evaluation shall be conducted every 2 years. The
174 evaluation shall include, but not be limited to, determining the

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175 availability, quality, scope, and sources of current staff
176 training; determining the need for specialty training; and
177 determining ways to increase inservice training and ways to
178 increase the accessibility, quality, and cost-effectiveness of
179 current and proposed staff training. The evaluation methodology
180 shall include a reliable and valid survey of child care
181 personnel.

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

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

188 1003.573 Use of seclusion and restraint on students with
189 disabilities.-

190 (1) DOCUMENTATION AND REPORTING.-

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

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

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

199 2. The date and time of the event and the duration of the
200 restraint or seclusion.

201 3. The location at which the restraint or seclusion
202 occurred.

203 4. The type of restraint used.

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204 5. The name of the person using or assisting in the
205 restraint or seclusion of the student.

206 6. The name of any nonstudent who was present to witness
207 the restraint or seclusion.

208 7. A description of the incident, including:

209 a. The context in which the restraint or seclusion
210 occurred.

211 b. The student's behavior leading up to and precipitating
212 the decision to use manual physical restraint or seclusion,
213 including an indication as to why there was an imminent risk of
214 serious injury or death to the student or others.

215 c. The specific positive behavioral strategies used to
216 prevent and deescalate the behavior.

217 d. What occurred with the student immediately after the
218 termination of the restraint or seclusion.

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

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

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

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233 child's restraint or seclusion.

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

240 (2) MONITORING.—

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

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

249 (c) The department shall maintain aggregate data of
250 incidents of manual physical restraint and seclusion and
251 disaggregate the data for analysis by county, school, student
252 exceptionality, and other variables. This information shall be
253 updated monthly.

254 (3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

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

258 1. Incident-reporting procedures.

259 2. Data collection.

260 3. Monitoring and reporting of data collected.

261 (b) Any revisions to such policies and procedures, which

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262 must be prepared as part of the school district's special
263 policies and procedures, must be filed with the bureau chief of
264 the Bureau of Exceptional Education and Student Services no
265 later than January 31, 2011.

266 (4) PROHIBITED RESTRAINTS AND SECLUSION.-

267 (a) School personnel may not use a mechanical restraint or
268 a manual physical restraint that restricts a student's
269 breathing.

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

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

275 1004.55 Regional autism centers.-

276 (4) Each center shall provide:

277 (f) Coordination and dissemination of local and regional
278 information regarding available resources for services for
279 children with the developmental disabilities described in
280 subsection (1).

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

285 Section 6. Section 1012.582, Florida Statutes, is created
286 to read:

287 1012.582 Continuing education and inservice training for
288 teaching students with developmental disabilities.-

289 (1) The Commissioner of Education shall develop
290 recommendations to incorporate instruction regarding autism

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291 spectrum disorder, Down syndrome, and other developmental
292 disabilities into continuing education or inservice training
293 requirements for instructional personnel. These recommendations
294 shall address:

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

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

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

302 (d) The use of positive behavioral supports to deescalate
303 problem behaviors.

304 (e) Appropriate use of manual physical restraint and
305 seclusion techniques.

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

315 (3) Beginning with the 2010-2011 school year, the
316 Department of Education shall incorporate the course curricula
317 recommended by the Commissioner of Education, pursuant to
318 subsection (1), into existing requirements for the continuing
319 education or inservice training of instructional personnel. The

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320 requirements of this section may not add to the total hours
321 required for continuing education or inservice training as
322 currently established by the department.

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

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