

By the Committees on Judiciary; and Children, Families, and Elder Affairs

590-04460-11

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1 A bill to be entitled
2 An act relating to persons with developmental
3 disabilities; amending s. 393.063, F.S.; redefining
4 the term "developmental disability" as used within ch.
5 393, F.S., to include Down syndrome; defining the term
6 "Down syndrome" as it relates to developmental
7 disabilities; amending s. 393.067, F.S.; prohibiting
8 monitoring requirements that mandate pornographic
9 materials be available in residential facilities that
10 serve clients of the Agency for Persons with
11 Disabilities; amending s. 393.11, F.S.; requiring the
12 court to order a person involuntarily admitted to
13 residential services to be released to the agency for
14 appropriate residential services; forbidding the court
15 from ordering that such person be released directly to
16 a residential service provider; authorizing the agency
17 to transfer a person from one residential setting to
18 another; requiring the agency to notify the committing
19 court of a person's transfer within a specified time;
20 amending s. 916.1093, F.S.; requiring the agency to
21 ensure that there are sufficient community-based
22 placements for defendants charged with sex offenses;
23 amending s. 916.3025, F.S.; requiring that the court
24 order a person involuntarily admitted to residential
25 services after criminal charges have been dismissed be
26 released to the agency for appropriate residential
27 services; amending s. 1004.55, F.S.; requiring each
28 regional autism center in this state to provide
29 coordination and dissemination of local and regional

590-04460-11

20112062c1

30 information regarding available resources for services
31 for children who have developmental disabilities, not
32 just autism or autistic-like disabilities; revising
33 the requirements for the centers with respect to
34 supporting state agencies in developing training;
35 creating a task force to develop input for the
36 creation of certain guidelines and procedures for
37 providers of residential services; providing for
38 membership of the task force; requiring the task force
39 to seek input from certain pertinent entities;
40 requiring the Agency for Persons with Disabilities to
41 provide administrative support to the task force;
42 requiring the task force to submit its findings to the
43 Legislature; providing an effective date.

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

46
47 Section 1. Subsection (9) of section 393.063, Florida
48 Statutes, is amended, present subsections (13) through (40) of
49 that section are redesignated as subsections (14) through (41),
50 respectively, and a new subsection (13) is added to that
51 section, to read:

52 393.063 Definitions.—For the purposes of this chapter, the
53 term:

54 (9) "Developmental disability" means a disorder or syndrome
55 that is attributable to retardation, cerebral palsy, autism,
56 spina bifida, Down syndrome, or Prader-Willi syndrome; that
57 manifests before the age of 18; and that constitutes a
58 substantial handicap that can reasonably be expected to continue

590-04460-11

20112062c1

59 indefinitely.

60 (13) "Down syndrome" means a disorder caused by the
61 presence of an extra chromosome 21.

62 Section 2. Subsection (1) of section 393.067, Florida
63 Statutes, is amended to read:

64 393.067 Facility licensure.—

65 (1) The agency shall provide through its licensing
66 authority and by rule license application procedures, provider
67 qualifications, facility and client care standards, requirements
68 for client records, requirements for staff qualifications and
69 training, and requirements for monitoring foster care
70 facilities, group home facilities, residential habilitation
71 centers, and comprehensive transitional education programs that
72 serve agency clients. However, monitoring requirements for
73 foster care facilities, group home facilities, residential
74 habilitation centers, and comprehensive transitional education
75 programs may not mandate that pornographic materials be
76 available in residential facilities that serve the clients of
77 the agency.

78 Section 3. Present paragraph (e) of subsection (8) of
79 section 393.11, Florida Statutes, is redesignated as paragraph
80 (f) and amended, and a new paragraph (e) is added to that
81 subsection, to read:

82 393.11 Involuntary admission to residential services.—

83 (8) ORDER.—

84 (e) If an order of involuntary admission to residential
85 services provided by the agency is entered by the court, the
86 court shall order that the person be released to the agency for
87 receipt of appropriate residential services and may not order

590-04460-11

20112062c1

88 the person to be released directly to a residential service
89 provider.

90 (f) ~~(e)~~ Upon receiving the order, the agency shall, within
91 45 days, provide the court with a copy of the person's family or
92 individual support plan and copies of all examinations and
93 evaluations, outlining the treatment and rehabilitative
94 programs. The agency shall document that the person has been
95 placed in the most appropriate, least restrictive and cost-
96 beneficial residential setting. A copy of the family or
97 individual support plan and other examinations and evaluations
98 shall be served upon the person and the person's counsel at the
99 same time the documents are filed with the court. The agency may
100 transfer a person from one residential setting to another
101 residential setting and must notify the court and the person's
102 counsel of the transfer within 30 days after the transfer is
103 completed.

104 Section 4. Section 916.1093, Florida Statutes, is amended
105 to read:

106 916.1093 Operation and administration; rules.—

107 (1) The department or agency may enter into contracts and
108 do such things as may be necessary and incidental to assure
109 compliance with and to carry out the provisions of this chapter
110 in accordance with the stated legislative intent.

111 (2) The agency shall ensure that there are a sufficient
112 number of civil facilities providing community-based training
113 for defendants charged with sex offenses so that alternative
114 placement options are available. If the agency determines that
115 there are two or fewer facilities available to provide
116 community-based training for defendants charged with sex

590-04460-11

20112062c1

117 offenses, the agency shall immediately procure additional
118 facilities.

119 ~~(3)(2)~~ The department and agency are authorized to adopt
120 rules pursuant to ss. 120.536(1) and 120.54 to implement the
121 provisions of this chapter. Such rules must address the use of
122 restraint and seclusion in forensic facilities and must be
123 consistent with recognized best practices; prohibit inherently
124 dangerous restraint or seclusion procedures; establish
125 limitations on the use and duration of restraint and seclusion;
126 establish measures to ensure the safety of clients and staff
127 during an incident of restraint or seclusion; establish
128 procedures for staff to follow before, during, and after
129 incidents of restraint or seclusion; establish professional
130 qualifications of and training for staff who may order or be
131 engaged in the use of restraint or seclusion; provide data
132 reporting and data collection procedures relating to the use of
133 restraint and seclusion; and provide for the documentation of
134 the use of restraint or seclusion in the client's facility
135 record.

136 Section 5. Subsection (3) of section 916.3025, Florida
137 Statutes, is amended to read:

138 916.3025 Jurisdiction of committing court.-

139 (3) The committing court shall consider a petition to
140 involuntarily admit a defendant whose charges have been
141 dismissed to residential services provided by the agency and,
142 when applicable, to continue secure placement of such person as
143 provided in s. 916.303. If a defendant whose criminal charges
144 have been dismissed is involuntarily committed to residential
145 services provided by the agency, the committing court shall

590-04460-11

20112062c1

146 order that the defendant be released to the agency for receipt
147 of appropriate residential services and may not order that the
148 defendant be released directly to a residential service
149 provider. The committing court shall retain jurisdiction over
150 such person so long as he or she remains in secure placement or
151 is on conditional release as provided in s. 916.304. However,
152 upon request, the court may transfer continuing jurisdiction to
153 the court in the circuit where the defendant resides. The
154 defendant may not be released from an order for secure placement
155 except by order of the court.

156 Section 6. Paragraphs (f) and (g) of subsection (4) of
157 section 1004.55, Florida Statutes, are amended to read:

158 1004.55 Regional autism centers.—

159 (4) Each center shall provide:

160 (f) Coordination and dissemination of local and regional
161 information regarding available resources for services for
162 children who have ~~with the~~ developmental disabilities ~~described~~
163 ~~in subsection (1).~~

164 (g) Support to state agencies in the development of
165 training for early child care providers and educators with
166 respect to ~~the~~ developmental disabilities ~~described in~~
167 ~~subsection (1).~~

168 Section 7. The Legislature recognizes the rights of
169 individuals who are developmentally disabled to lead full and
170 rewarding lives. The Legislature also recognizes the state's
171 obligation to protect vulnerable adults from sexual abuse.

172 (1) In recognition of the social, legal, and environmental
173 complexities associated with this issue, the Agency for Persons
174 with Disabilities shall establish a task force to gather input

590-04460-11

20112062c1

175 for the creation of guidelines and procedures for providers of
176 residential services relating to sexual activity among the
177 residents of its facilities.

178 (2) The task force shall consist of the following members:

179 (a) The director of the Agency for Persons with
180 Disabilities or his or her designee.

181 (b) The director of Adult Protective Services in the
182 Department of Children and Family Services.

183 (c) The executive director of The Arc of Florida.

184 (d) A family board member of The Arc of Florida appointed
185 by the executive director of The Arc of Florida.

186 (e) The chair of the Family Care Council Florida.

187 (f) A parent representative from the Family Care Council
188 Florida appointed by the chair of the Family Care Council
189 Florida.

190 (g) A representative from the Developmental Disabilities
191 Council.

192 (h) A representative from Disability Rights Florida.

193 (i) A representative from the Florida courts.

194 (j) A representative from the Florida Prosecuting Attorneys
195 Association.

196 (k) A representative from the Florida Public Defender
197 Association.

198 (l) A staff member of the University Center for Excellence
199 in Developmental Disabilities at the University of South
200 Florida/Center for Inclusive Communities.

201 (m) A self-advocate.

202 (n) A representative from an intensive behavior residential
203 habilitation provider.

590-04460-11

20112062c1

204 (o) A member of the Association of Support Coordination
205 Agencies.

206 (3) The task force shall seek input from self-advocates,
207 family members, universities and colleges, and other pertinent
208 entities.

209 (4) The agency shall provide administrative support to the
210 task force.

211 (5) Members of the task force shall serve without
212 compensation, but are entitled to reimbursement for per diem and
213 travel expenses as provided in s. 112.061, Florida Statutes.

214 (6) The task force shall submit a report of its findings to
215 the President of the Senate and the Speaker of the House of
216 Representatives by November 1, 2011.

217 Section 8. This act shall take effect July 1, 2011.