

**FOR CONSIDERATION By** the Committee on Children, Families, and Elder Affairs

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1                                   A bill to be entitled  
2           An act relating to persons with developmental  
3           disabilities; amending s. 393.067, F.S.; prohibiting  
4           monitoring requirements that mandate pornographic  
5           materials be available in residential facilities that  
6           serve clients of the Agency for Persons with  
7           Disabilities; amending s. 393.11, F.S.; requiring the  
8           court to order a person involuntarily admitted to  
9           residential services to be released to the agency for  
10          appropriate residential services; forbidding the court  
11          from ordering that such person be released directly to  
12          a residential service provider; authorizing the agency  
13          to transfer a person from one residential setting to  
14          another; requiring the agency to notify the committing  
15          court of a person's transfer within a specified time;  
16          amending s. 916.1093, F.S.; requiring the agency to  
17          ensure that there are sufficient community-based  
18          placements for defendants charged with sex offenses;  
19          amending s. 916.3025, F.S.; requiring that the court  
20          order a person involuntarily admitted to residential  
21          services after criminal charges have been dismissed be  
22          released to the agency for appropriate residential  
23          services; amending s. 916.304, F.S.; prohibiting the  
24          court from ordering a conditional release of any  
25          defendant to a civil facility in lieu of an  
26          involuntary commitment to a forensic facility;  
27          requiring the court to order instead that certain  
28          inmates be released to the agency under conditional  
29          release and placed in a civil facility; authorizing

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30 the agency to transfer a person from one residential  
31 setting to another; requiring the agency to notify the  
32 committing court of a person's transfer within a  
33 specified time; creating a task force to develop input  
34 for the creation of certain guidelines and procedures  
35 for providers of residential services; providing for  
36 membership of the task force; requiring the task force  
37 to seek input from certain pertinent entities;  
38 requiring the Agency for Persons with Disabilities to  
39 provide administrative support to the task force;  
40 requiring the task force to submit its findings to the  
41 Legislature; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Subsection (1) of section 393.067, Florida  
46 Statutes, is amended to read:

47 393.067 Facility licensure.—

48 (1) The agency shall provide through its licensing  
49 authority and by rule license application procedures, provider  
50 qualifications, facility and client care standards, requirements  
51 for client records, requirements for staff qualifications and  
52 training, and requirements for monitoring foster care  
53 facilities, group home facilities, residential habilitation  
54 centers, and comprehensive transitional education programs that  
55 serve agency clients. However, monitoring requirements for  
56 foster care facilities, group home facilities, residential  
57 habilitation centers, and comprehensive transitional education  
58 programs may not mandate that pornographic materials be

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59 available in residential facilities that serve the clients of  
60 the agency.

61 Section 2. Present paragraph (e) of subsection (8) of  
62 section 393.11, Florida Statutes, is redesignated as paragraph  
63 (f) and amended, and a new paragraph (e) is added to that  
64 subsection, to read:

65 393.11 Involuntary admission to residential services.—

66 (8) ORDER.—

67 (e) If an order of involuntary admission to residential  
68 services provided by the agency is entered by the court, the  
69 court shall order that the person be released to the agency for  
70 receipt of appropriate residential services and may not order  
71 the person to be released directly to a residential service  
72 provider.

73 (f) ~~(e)~~ Upon receiving the order, the agency shall, within  
74 45 days, provide the court with a copy of the person's family or  
75 individual support plan and copies of all examinations and  
76 evaluations, outlining the treatment and rehabilitative  
77 programs. The agency shall document that the person has been  
78 placed in the most appropriate, least restrictive and cost-  
79 beneficial residential setting. A copy of the family or  
80 individual support plan and other examinations and evaluations  
81 shall be served upon the person and the person's counsel at the  
82 same time the documents are filed with the court. The agency may  
83 transfer a person from one residential setting to another  
84 residential setting and must notify the court and the person's  
85 counsel of the transfer within 30 days after the transfer is  
86 completed.

87 Section 3. Section 916.1093, Florida Statutes, is amended

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88 to read:

89 916.1093 Operation and administration; rules.—

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

94 (2) The agency shall ensure that there are a sufficient  
95 number of civil facilities providing community-based training  
96 for defendants charged with sex offenses so that alternative  
97 placement options are available. If the agency determines that  
98 there are two or fewer facilities available to provide  
99 community-based training for defendants charged with sex  
100 offenses, the agency shall immediately procure additional  
101 facilities.

102 (3)~~(2)~~ The department and agency are authorized to adopt  
103 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
104 provisions of this chapter. Such rules must address the use of  
105 restraint and seclusion in forensic facilities and must be  
106 consistent with recognized best practices; prohibit inherently  
107 dangerous restraint or seclusion procedures; establish  
108 limitations on the use and duration of restraint and seclusion;  
109 establish measures to ensure the safety of clients and staff  
110 during an incident of restraint or seclusion; establish  
111 procedures for staff to follow before, during, and after  
112 incidents of restraint or seclusion; establish professional  
113 qualifications of and training for staff who may order or be  
114 engaged in the use of restraint or seclusion; provide data  
115 reporting and data collection procedures relating to the use of  
116 restraint and seclusion; and provide for the documentation of

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117 the use of restraint or seclusion in the client's facility  
118 record.

119 Section 4. Subsection (3) of section 916.3025, Florida  
120 Statutes, is amended to read:

121 916.3025 Jurisdiction of committing court.—

122 (3) The committing court shall consider a petition to  
123 involuntarily admit a defendant whose charges have been  
124 dismissed to residential services provided by the agency and,  
125 when applicable, to continue secure placement of such person as  
126 provided in s. 916.303. If a defendant whose criminal charges  
127 have been dismissed is involuntarily committed to residential  
128 services provided by the agency, the committing court shall  
129 order that the defendant be released to the agency for receipt  
130 of appropriate residential services and may not order that the  
131 defendant be released directly to a residential service  
132 provider. The committing court shall retain jurisdiction over  
133 such person so long as he or she remains in secure placement or  
134 is on conditional release as provided in s. 916.304. However,  
135 upon request, the court may transfer continuing jurisdiction to  
136 the court in the circuit where the defendant resides. The  
137 defendant may not be released from an order for secure placement  
138 except by order of the court.

139 Section 5. Subsection (1) of section 916.304, Florida  
140 Statutes, is amended to read:

141 916.304 Conditional release.—

142 (1) Except for an inmate currently serving a prison  
143 sentence, the committing court may order a conditional release  
144 of any defendant who has been found to be incompetent to proceed  
145 due to retardation or autism, based on an approved plan for

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146 providing community-based training. The committing criminal  
147 court may not order a conditional release of any defendant to a  
148 civil facility in lieu of an involuntary commitment to a  
149 forensic facility pursuant to s. 916.302 but shall order the  
150 conditional release to the agency for placement in a civil  
151 facility. Upon a recommendation that community-based training  
152 for the defendant is appropriate, a written plan for community-  
153 based training, including recommendations from qualified  
154 professionals, may be filed with the court, with copies to all  
155 parties. Such a plan may also be submitted by the defendant and  
156 filed with the court, with copies to all parties. The plan must  
157 include:

158 (a) Special provisions for residential care and adequate  
159 supervision of the defendant, including recommended location of  
160 placement.

161 (b) Recommendations for auxiliary services such as  
162 vocational training, psychological training, educational  
163 services, leisure services, and special medical care.

164  
165 In its order of conditional release, the court shall specify the  
166 conditions of release based upon the release plan and shall  
167 direct the appropriate agencies or persons to submit periodic  
168 reports to the courts regarding the defendant's compliance with  
169 the conditions of the release and progress in training, with  
170 copies to all parties. The agency may transfer a defendant from  
171 one civil facility to another civil facility. The agency shall  
172 notify the court of the transfer within 30 days after the  
173 transfer is completed.

174 Section 6. The Legislature recognizes the rights of

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175 individuals who are developmentally disabled to lead full and  
176 rewarding lives. The Legislature also recognizes the state's  
177 obligation to protect vulnerable adults from sexual abuse.

178 (1) In recognition of the social, legal, and environmental  
179 complexities associated with this issue, the Agency for Persons  
180 with Disabilities shall establish a task force to gather input  
181 for the creation of guidelines and procedures for providers of  
182 residential services relating to sexual activity among the  
183 residents of its facilities.

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

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

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

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

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

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

193 (f) A parent representative from the Family Care Council  
194 Florida appointed by the chair of the Family Care Council  
195 Florida.

196 (g) A representative from the Developmental Disabilities  
197 Council.

198 (h) A representative from Disability Rights Florida.

199 (i) A representative from the Florida courts.

200 (j) A representative from the Florida Prosecuting Attorneys  
201 Association.

202 (k) A representative from the Florida Public Defender  
203 Association.

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

207       (4) The agency shall provide administrative support to the  
208 task force.

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

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

215       Section 7. This act shall take effect July 1, 2011.