

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
 2 Committee

3 Representative Renner offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7

8 Section 1. Section 393.063, Florida Statutes, is amended
 9 to read:

10 393.063 Definitions.—For the purposes of this chapter, the
 11 term:

12 (2)~~(1)~~ "Agency" means the Agency for Persons with
 13 Disabilities.

14 (1)~~(2)~~ "Adult day training" means training services that
 15 ~~which~~ take place in a nonresidential setting, separate from the
 16 home or facility in which the client resides, and~~+~~ are intended
 17 to support the participation of clients in daily, meaningful,

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18 and valued routines of the community. Such training, and may be
19 provided in include work-like settings that do not meet the
20 definition of supported employment.

21 (3) "Algorithm" means the mathematical formula used by the
22 agency to calculate amounts for clients which uses variables
23 that have statistically validated relationships to clients'
24 needs for services provided by the home and community based
25 Medicaid Waiver program.

26 (4) "Allocation methodology" is the process used to
27 determine a client's iBudget by summing the amount generated by
28 the algorithm, and, if applicable, any funding authorized by the
29 agency for the client pursuant to s. 393.0662(1)(b).

30 (5)-(3) "Autism" means a pervasive, neurologically based
31 developmental disability of extended duration which causes
32 severe learning, communication, and behavior disorders with age
33 of onset during infancy or childhood. Individuals with autism
34 exhibit impairment in reciprocal social interaction, impairment
35 in verbal and nonverbal communication and imaginative ability,
36 and a markedly restricted repertoire of activities and
37 interests.

38 (6)-(4) "Cerebral palsy" means a group of disabling
39 symptoms of extended duration which results from damage to the
40 developing brain that may occur before, during, or after birth
41 and that results in the loss or impairment of control over
42 voluntary muscles. For the purposes of this definition, cerebral

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43 palsy does not include those symptoms or impairments resulting
44 solely from a stroke.

45 ~~(7)-(5)~~ "Client" means any person determined eligible by
46 the agency for services under this chapter.

47 ~~(8)-(6)~~ "Client advocate" means a friend or relative of the
48 client, or of the client's immediate family, who advocates for
49 the best interests of the client in any proceedings under this
50 chapter in which the client or his or her family has the right
51 or duty to participate.

52 ~~(9)-(7)~~ "Comprehensive assessment" means the process used
53 to determine eligibility for services under this chapter.

54 ~~(10)-(8)~~ "Comprehensive transitional education program"
55 means the program established in s. 393.18.

56 ~~(12)-(9)~~ "Developmental disability" means a disorder or
57 syndrome that is attributable to intellectual disability,
58 cerebral palsy, autism, spina bifida, Down syndrome, or Prader-
59 Willi syndrome; that manifests before the age of 18; and that
60 constitutes a substantial handicap that can reasonably be
61 expected to continue indefinitely.

62 ~~(11)-(10)~~ "Developmental disabilities center" means a
63 state-owned and state-operated facility, formerly known as a
64 "Sunland Center," providing for the care, habilitation, and
65 rehabilitation of clients with developmental disabilities.

66 ~~(13)-(11)~~ "Direct service provider" means a person 18 years
67 of age or older who has direct face-to-face contact with a
68 client while providing services to the client or has access to a

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69 client's living areas or to a client's funds or personal
70 property.

71 ~~(14)~~~~(12)~~ "Domicile" means the place where a client legally
72 resides and, which ~~place~~ is his or her permanent home. Domicile
73 may be established as provided in s. 222.17. Domicile may not be
74 established in Florida by a minor who has no parent domiciled in
75 Florida, or by a minor who has no legal guardian domiciled in
76 Florida, or by any alien not classified as a resident alien.

77 ~~(15)~~~~(13)~~ "Down syndrome" means a disorder caused by the
78 presence of an extra chromosome 21.

79 ~~(16)~~~~(14)~~ "Express and informed consent" means consent
80 voluntarily given in writing with sufficient knowledge and
81 comprehension of the subject matter to enable the person giving
82 consent to make a knowing decision without any element of force,
83 fraud, deceit, duress, or other form of constraint or coercion.

84 ~~(17)~~~~(15)~~ "Family care program" means the program
85 established in s. 393.068.

86 ~~(18)~~~~(16)~~ "Foster care facility" means a residential
87 facility licensed under this chapter which provides a family
88 living environment including supervision and care necessary to
89 meet the physical, emotional, and social needs of its residents.
90 The capacity of such a facility may not be more than three
91 residents.

92 ~~(19)~~~~(17)~~ "Group home facility" means a residential
93 facility licensed under this chapter which provides a family
94 living environment including supervision and care necessary to

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95 meet the physical, emotional, and social needs of its residents.
96 The capacity of such a facility shall be at least 4 but not more
97 than 15 residents.

98 (20) "Guardian" has the same meaning as in s. 744.102.

99 (21)~~(18)~~ "Guardian advocate" means a person appointed by a
100 written order of the court to represent a person with
101 developmental disabilities under s. 393.12.

102 (22)~~(19)~~ "Habilitation" means the process by which a
103 client is assisted in acquiring and maintaining ~~to acquire and~~
104 ~~maintain~~ those life skills that ~~which~~ enable the client to cope
105 more effectively with the demands of his or her condition and
106 environment and to raise the level of his or her physical,
107 mental, and social efficiency. It includes, but is not limited
108 to, programs of formal structured education and treatment.

109 (23)~~(20)~~ "High-risk child" means, for the purposes of this
110 chapter, a child from 3 to 5 years of age with one or more of
111 the following characteristics:

112 (a) A developmental delay in cognition, language, or
113 physical development.

114 (b) A child surviving a catastrophic infectious or
115 traumatic illness known to be associated with developmental
116 delay, when funds are specifically appropriated.

117 (c) A child with a parent or guardian with developmental
118 disabilities who requires assistance in meeting the child's
119 developmental needs.

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120 (d) A child who has a physical or genetic anomaly
121 associated with developmental disability.

122 ~~(24)~~⁽²¹⁾ "Intellectual disability" means significantly
123 subaverage general intellectual functioning existing
124 concurrently with deficits in adaptive behavior which manifests
125 before the age of 18 and can reasonably be expected to continue
126 indefinitely. For the purposes of this definition, the term:

127 (a) "Adaptive behavior" means the effectiveness or degree
128 with which an individual meets the standards of personal
129 independence and social responsibility expected of his or her
130 age, cultural group, and community.

131 (b) "Significantly subaverage general intellectual
132 functioning" means performance that is two or more standard
133 deviations from the mean score on a standardized intelligence
134 test specified in the rules of the agency.

135
136 For purposes of the application of the criminal laws and
137 procedural rules of this state to matters relating to pretrial,
138 trial, sentencing, and any matters relating to the imposition
139 and execution of the death penalty, the terms "intellectual
140 disability" or "intellectually disabled" are interchangeable
141 with and have the same meaning as the terms "mental retardation"
142 or "retardation" and "mentally retarded" as defined in this
143 section before July 1, 2013.

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144 ~~(25)-(22)~~ "Intermediate care facility for the
145 developmentally disabled" ~~or "ICF/DD"~~ means a residential
146 facility licensed and certified under part VIII of chapter 400.

147 ~~(26)-(23)~~ "Medical/dental services" means medically
148 necessary services that are provided or ordered for a client by
149 a person licensed under chapter 458, chapter 459, or chapter
150 466. Such services may include, but are not limited to,
151 prescription drugs, specialized therapies, nursing supervision,
152 hospitalization, dietary services, prosthetic devices, surgery,
153 specialized equipment and supplies, adaptive equipment, and
154 other services as required to prevent or alleviate a medical or
155 dental condition.

156 ~~(27)-(24)~~ "Personal care services" means individual
157 assistance with or supervision of essential activities of daily
158 living for self-care, including ambulation, bathing, dressing,
159 eating, grooming, and toileting, and other similar services that
160 are incidental to the care furnished and essential to the
161 health, safety, and welfare of the client if no one else is
162 available to perform those services.

163 ~~(28)-(25)~~ "Prader-Willi syndrome" means an inherited
164 condition typified by neonatal hypotonia with failure to thrive,
165 hyperphagia or an excessive drive to eat which leads to obesity
166 usually at 18 to 36 months of age, mild to moderate intellectual
167 disability, hypogonadism, short stature, mild facial
168 dysmorphism, and a characteristic neurobehavior.

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169 ~~(29)-(26)~~ "Relative" means an individual who is connected
170 by affinity or consanguinity to the client and who is 18 years
171 of age or older.

172 ~~(30)-(27)~~ "Resident" means a person who has a developmental
173 disability and resides at a residential facility, whether or not
174 such person is a client of the agency.

175 ~~(31)-(28)~~ "Residential facility" means a facility providing
176 room and board and personal care for persons who have
177 developmental disabilities.

178 ~~(32)-(29)~~ "Residential habilitation" means supervision and
179 training with the acquisition, retention, or improvement in
180 skills related to activities of daily living, such as personal
181 hygiene skills, homemaking skills, and the social and adaptive
182 skills necessary to enable the individual to reside in the
183 community.

184 ~~(33)-(30)~~ "Residential habilitation center" means a
185 community residential facility licensed under this chapter which
186 provides habilitation services. The capacity of such a facility
187 may not be fewer than nine residents. After October 1, 1989, new
188 residential habilitation centers may not be licensed and the
189 licensed capacity for any existing residential habilitation
190 center may not be increased.

191 ~~(34)-(31)~~ "Respite service" means appropriate, short-term,
192 temporary care that is provided to a person who has a
193 developmental disability in order to meet the planned or

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194 emergency needs of the person or the family or other direct
195 service provider.

196 ~~(35)~~⁽³²⁾ "Restraint" means a physical device, method, or
197 drug used to control dangerous behavior.

198 (a) A physical restraint is any manual method or physical
199 or mechanical device, material, or equipment attached or
200 adjacent to an individual's body so that he or she cannot easily
201 remove the restraint and which restricts freedom of movement or
202 normal access to one's body.

203 (b) A drug used as a restraint is a medication used to
204 control the person's behavior or to restrict his or her freedom
205 of movement and is not a standard treatment for the person's
206 medical or psychiatric condition. Physically holding a person
207 during a procedure to forcibly administer psychotropic
208 medication is a physical restraint.

209 (c) Restraint does not include physical devices, such as
210 orthopedically prescribed appliances, surgical dressings and
211 bandages, supportive body bands, or other physical holding
212 necessary for routine physical examinations and tests; for
213 purposes of orthopedic, surgical, or other similar medical
214 treatment; to provide support for the achievement of functional
215 body position or proper balance; or to protect a person from
216 falling out of bed.

217 ~~(36)~~⁽³³⁾ "Seclusion" means the involuntary isolation of a
218 person in a room or area from which the person is prevented from
219 leaving. The prevention may be by physical barrier or by a staff

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220 member who is acting in a manner, or who is physically situated,
221 so as to prevent the person from leaving the room or area. For
222 the purposes of this chapter, the term does not mean isolation
223 due to the medical condition or symptoms of the person.

224 ~~(37)-(34)~~ "Self-determination" means an individual's
225 freedom to exercise the same rights as all other citizens,
226 authority to exercise control over funds needed for one's own
227 support, including prioritizing these funds when necessary,
228 responsibility for the wise use of public funds, and self-
229 advocacy to speak and advocate for oneself in order to gain
230 independence and ensure that individuals with a developmental
231 disability are treated equally.

232 ~~(38)-(35)~~ "Specialized therapies" means those treatments or
233 activities prescribed by and provided by an appropriately
234 trained, licensed, or certified professional or staff person and
235 may include, but are not limited to, physical therapy, speech
236 therapy, respiratory therapy, occupational therapy, behavior
237 therapy, physical management services, and related specialized
238 equipment and supplies.

239 ~~(39)-(36)~~ "Spina bifida" means, ~~for purposes of this~~
240 ~~chapter,~~ a person with a medical diagnosis of spina bifida
241 cystica or myelomeningocele.

242 ~~(40)-(37)~~ "Support coordinator" means a person who is
243 designated by the agency to assist individuals and families in
244 identifying their capacities, needs, and resources, as well as
245 finding and gaining access to necessary supports and services;

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246 coordinating the delivery of supports and services; advocating
247 on behalf of the individual and family; maintaining relevant
248 records; and monitoring and evaluating the delivery of supports
249 and services to determine the extent to which they meet the
250 needs and expectations identified by the individual, family, and
251 others who participated in the development of the support plan.

252 ~~(41)-(38)~~ "Supported employment" means employment located
253 or provided in an integrated work setting, with earnings paid on
254 a commensurate wage basis, and for which continued support is
255 needed for job maintenance.

256 ~~(42)-(39)~~ "Supported living" means a category of
257 individually determined services designed and coordinated in
258 such a manner as to provide assistance to adult clients who
259 require ongoing supports to live as independently as possible in
260 their own homes, to be integrated into the community, and to
261 participate in community life to the fullest extent possible.

262 ~~(43)-(40)~~ "Training" means a planned approach to assisting
263 a client to attain or maintain his or her maximum potential and
264 includes services ranging from sensory stimulation to
265 instruction in skills for independent living and employment.

266 ~~(44)-(41)~~ "Treatment" means the prevention, amelioration,
267 or cure of a client's physical and mental disabilities or
268 illnesses.

269 Section 2. Section 393.0641, Florida Statutes, is
270 repealed.

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271 Section 3. Subsections (3) and (5) of section 393.065,
272 Florida Statutes, are amended, present subsections (6) and (7)
273 of that section are amended and redesignated as subsections (7)
274 and (9), respectively, and new subsections (6) and (8) are added
275 to that section, to read:

276 393.065 Application and eligibility determination.—

277 (3) The agency shall notify each applicant, in writing, of
278 its eligibility decision. Any applicant determined by the agency
279 to be ineligible for ~~developmental~~ services has the right to
280 appeal this decision pursuant to ss. 120.569 and 120.57.

281 (5) ~~Except as otherwise directed by law, beginning July 1,~~
282 ~~2010,~~ The agency shall assign and provide priority to clients
283 waiting for waiver services in the following order:

284 (a) Category 1, which includes clients deemed to be in
285 crisis as described in rule, shall be given first priority in
286 moving from the waiting list to the waiver.

287 (b) Category 2, which includes individuals on the waiting
288 ~~children on the wait~~ list who are:

289 1. From the child welfare system with an open case in the
290 Department of Children and Families' statewide automated child
291 welfare information system and who are either:

292 a. Transitioning out of the child welfare system at the
293 finalization of an adoption, a reunification with family
294 members, a permanent placement with a relative, or a
295 guardianship with a nonrelative; or

296 b. At least 18 years old but not yet 22 years old and who

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297 need both waiver services and extended foster care services.

298 2. At least 18 years old but not yet 22 years old and who
299 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
300 extended foster care system.

301
302 For individuals who are at least 18 years old but not yet 22
303 years old and who are eligible under sub-subparagraph 1.b., the
304 agency shall provide waiver services, including residential
305 habilitation, and the community-based care lead agency shall
306 fund room and board at the rate established in s. 409.145(4) and
307 provide case management and related services as defined in s.
308 409.986(3)(e). Individuals may receive both waiver services and
309 services under s. 39.6251. Services may not duplicate services
310 available through the Medicaid state plan.

311 (c) Category 3, which includes, but is not required to be
312 limited to, clients:

313 1. Whose caregiver has a documented condition that is
314 expected to render the caregiver unable to provide care within
315 the next 12 months and for whom a caregiver is required but no
316 alternate caregiver is available;

317 2. At substantial risk of incarceration or court
318 commitment without supports;

319 3. Whose documented behaviors or physical needs place them
320 or their caregiver at risk of serious harm and other supports
321 are not currently available to alleviate the situation; or

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322 4. Who are identified as ready for discharge within the
323 next year from a state mental health hospital or skilled nursing
324 facility and who require a caregiver but for whom no caregiver
325 is available or whose caregiver is unable to provide the care
326 needed.

327 (d) Category 4, which includes, but is not required to be
328 limited to, clients whose caregivers are 70 years of age or
329 older and for whom a caregiver is required but no alternate
330 caregiver is available.

331 (e) Category 5, which includes, but is not required to be
332 limited to, clients who are expected to graduate within the next
333 12 months from secondary school and need support to obtain a
334 meaningful day activity, ~~or~~ maintain competitive employment, or
335 to pursue an accredited program of postsecondary education to
336 which they have been accepted.

337 (f) Category 6, which includes clients 21 years of age or
338 older who do not meet the criteria for category 1, category 2,
339 category 3, category 4, or category 5.

340 (g) Category 7, which includes clients younger than 21
341 years of age who do not meet the criteria for category 1,
342 category 2, category 3, or category 4.

343
344 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
345 waiting ~~wait~~ list of clients placed in the order of the date
346 that the client is determined eligible for waiver services.

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347 (6) The agency shall allow an individual who meets the
348 eligibility requirements under subsection (1) to receive home
349 and community-based services in this state if the individual's
350 parent or legal guardian is an active-duty military service
351 member and if at the time of the service member's transfer to
352 this state, the individual was receiving home and community-
353 based services in another state.

354 (7)~~(6)~~ The client, the client's guardian, or the client's
355 family must ensure that accurate, up-to-date contact information
356 is provided to the agency at all times. Notwithstanding s.
357 393.0651, the agency shall send an annual letter requesting
358 updated information from the client, the client's guardian, or
359 the client's family. The agency shall remove from the waiting
360 ~~wait~~ list any individual who cannot be located using the contact
361 information provided to the agency, fails to meet eligibility
362 requirements, or becomes domiciled outside the state.

363 (8) Agency action that selects individuals to receive
364 waiver services pursuant to this section does not establish a
365 right to a hearing or an administrative proceeding under chapter
366 120 for individuals remaining on the waiting list.

367 (9)~~(7)~~ The agency and the Agency for Health Care
368 Administration may adopt rules specifying application
369 procedures, criteria associated with the waiting list ~~wait-list~~
370 categories, procedures for administering the waiting ~~wait~~ list,
371 including tools for prioritizing waiver enrollment within

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372 categories, and eligibility criteria as needed to administer
373 this section.

374 Section 4. Subsection (2) of section 393.066, Florida
375 Statutes, is amended to read:

376 393.066 Community services and treatment.—

377 (2) Necessary ~~All~~ services ~~needed~~ shall be purchased,
378 rather than instead of provided directly by the agency, when the
379 purchase of services such arrangement is more cost-efficient
380 than providing them ~~having those services provided~~ directly. All
381 purchased services must be approved by the agency. Persons or
382 entities under contract with the agency to provide services
383 shall use agency data management systems to document service
384 provision to clients. Contracted persons and entities shall meet
385 the minimum hardware and software technical requirements
386 established by the agency for the use of such systems. Such
387 persons or entities shall also meet any requirements established
388 by the agency for training and professional development of staff
389 providing direct services to clients.

390 Section 5. Section 393.0662, Florida Statutes, is amended
391 to read:

392 393.0662 Individual budgets for delivery of home and
393 community-based services; iBudget system established.—The
394 Legislature finds that improved financial management of the
395 existing home and community-based Medicaid waiver program is
396 necessary to avoid deficits that impede the provision of
397 services to individuals who are on the waiting list for

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398 enrollment in the program. The Legislature further finds that
399 clients and their families should have greater flexibility to
400 choose the services that best allow them to live in their
401 community within the limits of an established budget. Therefore,
402 the Legislature intends that the agency, in consultation with
403 the Agency for Health Care Administration, shall manage ~~develop~~
404 ~~and implement a comprehensive redesign of~~ the service delivery
405 system using individual budgets as the basis for allocating the
406 funds appropriated for the home and community-based services
407 Medicaid waiver program among eligible enrolled clients. The
408 service delivery system that uses individual budgets shall be
409 called the iBudget system.

410 (1) The agency shall administer ~~establish~~ an individual
411 budget, referred to as an iBudget, for each individual served by
412 the home and community-based services Medicaid waiver program.
413 The funds appropriated to the agency shall be allocated through
414 the iBudget system to eligible, Medicaid-enrolled clients. For
415 the iBudget system, eligible clients shall include individuals
416 with ~~a diagnosis of Down syndrome or~~ a developmental disability
417 as defined in s. 393.063. The iBudget system shall ~~be designed~~
418 ~~to~~ provide for: enhanced client choice within a specified
419 service package; appropriate assessment strategies; an efficient
420 consumer budgeting and billing process that includes
421 reconciliation and monitoring components; a ~~redefined~~ role for
422 support coordinators that avoids potential conflicts of
423 interest; a flexible and streamlined service review process; and

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424 ~~a methodology and process that ensures~~ the equitable allocation
425 of available funds ~~to each client~~ based on the client's level of
426 need, as determined by the ~~variables in the~~ allocation
427 methodology algorithm.

428 (a) In developing each client's iBudget, the agency shall
429 use the allocation ~~an allocation algorithm and methodology as~~
430 defined in s. 393.063(4). ~~The algorithm shall use variables that~~
431 ~~have been determined by the agency to have a statistically~~
432 ~~validated relationship to the client's level of need for~~
433 ~~services provided through the home and community based services~~
434 ~~Medicaid waiver program. The algorithm and methodology may~~
435 ~~consider individual characteristics, including, but not limited~~
436 ~~to, a client's age and living situation, information from a~~
437 ~~formal assessment instrument that the agency determines is valid~~
438 ~~and reliable, and information from other assessment processes.~~

439 ~~(b)~~ The allocation methodology shall determine ~~provide the~~
440 ~~algorithm that determines~~ the amount of funds allocated to a
441 client's iBudget.

442 (b) The agency may authorize funding ~~approve an increase~~
443 ~~in the amount of funds allocated, as determined by the~~
444 ~~algorithm,~~ based on a ~~the~~ client having one or more of the
445 following needs that cannot be accommodated within the funding
446 as determined by the algorithm and having no other resources,
447 supports, or services available to meet the need:

448 1. An extraordinary need that would place the health and
449 safety of the client, the client's caregiver, or the public in

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450 immediate, serious jeopardy unless the increase is approved.
451 However, the presence of an extraordinary need in and of itself
452 does not warrant authorized funding by the agency. An
453 extraordinary need may include, but is not limited to:
454 a. A documented history of significant, potentially life-
455 threatening behaviors, such as recent attempts at suicide,
456 arson, nonconsensual sexual behavior, or self-injurious behavior
457 requiring medical attention;
458 b. A complex medical condition that requires active
459 intervention by a licensed nurse on an ongoing basis that cannot
460 be taught or delegated to a nonlicensed person;
461 c. A chronic comorbid condition. As used in this
462 subparagraph, the term "comorbid condition" means a medical
463 condition existing simultaneously but independently with another
464 medical condition in a patient; or
465 d. A need for total physical assistance with activities
466 such as eating, bathing, toileting, grooming, and personal
467 hygiene.

468
469 ~~However, the presence of an extraordinary need alone does not~~
470 ~~warrant an increase in the amount of funds allocated to a~~
471 ~~client's iBudget as determined by the algorithm.~~

472 2. A significant need for one-time or temporary support or
473 services that, if not provided, would place the health and
474 safety of the client, the client's caregiver, or the public in
475 serious jeopardy, ~~unless the increase is approved.~~ A significant

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476 need may include, but is not limited to, the provision of
477 environmental modifications, durable medical equipment, services
478 to address the temporary loss of support from a caregiver, or
479 special services or treatment for a serious temporary condition
480 when the service or treatment is expected to ameliorate the
481 underlying condition. As used in this subparagraph, the term
482 "temporary" means a period of fewer than 12 continuous months.
483 However, the presence of such significant need for one-time or
484 temporary supports or services alone does not warrant authorized
485 funding by the agency ~~an increase in the amount of funds~~
486 ~~allocated to a client's iBudget as determined by the algorithm.~~

487 3. A significant increase in the need for services after
488 the beginning of the service plan year that would place the
489 health and safety of the client, the client's caregiver, or the
490 public in serious jeopardy because of substantial changes in the
491 client's circumstances, including, but not limited to, permanent
492 or long-term loss or incapacity of a caregiver, loss of services
493 authorized under the state Medicaid plan due to a change in age,
494 or a significant change in medical or functional status which
495 requires the provision of additional services on a permanent or
496 long-term basis that cannot be accommodated within the client's
497 current iBudget. As used in this subparagraph, the term "long-
498 term" means a period of 12 or more continuous months. However,
499 such significant increase in need for services of a permanent or
500 long-term nature ~~alone~~ does not in and of itself warrant
501 authorized funding by the agency ~~an increase in the amount of~~

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502 ~~funds allocated to a client's iBudget as determined by the~~
503 ~~algorithm.~~

504 4. A significant need for transportation services to a
505 waiver-funded adult day training program or to waiver-funded
506 employment services when such need cannot be accommodated within
507 a client's iBudget as determined by the algorithm without
508 affecting the health and safety of the client, if public
509 transportation is not an option due to the unique needs of the
510 client or other transportation resources are not reasonably
511 available.

512

513 The agency shall reserve portions of the appropriation for the
514 home and community-based services Medicaid waiver program for
515 adjustments required pursuant to this paragraph and may use the
516 services of an independent actuary in determining the amount ~~of~~
517 ~~the portions~~ to be reserved.

518 ~~(c) A client's iBudget shall be the total of the amount~~
519 ~~determined by the algorithm and any additional funding provided~~
520 ~~pursuant to paragraph (b).~~ A client's annual expenditures for
521 home and community-based ~~services~~ Medicaid waiver services may
522 not exceed the limits of his or her iBudget. The total of all
523 clients' projected annual iBudget expenditures may not exceed
524 the agency's appropriation for waiver services.

525 (2) The Agency for Health Care Administration, in
526 consultation with the agency, shall seek federal approval to
527 amend current waivers, request a new waiver, and amend contracts

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528 as necessary to manage the iBudget system, to improve services
529 for eligible and enrolled clients, and to improve the delivery
530 of services ~~implement the iBudget system to serve eligible,~~
531 ~~enrolled clients~~ through the home and community-based services
532 Medicaid waiver program and the Consumer-Directed Care Plus
533 Program including but not limited to enrollees with a dual
534 diagnosis of a developmental disability and a mental health
535 diagnosis.

536 ~~(3) The agency shall transition all eligible, enrolled~~
537 ~~clients to the iBudget system. The agency may gradually phase in~~
538 ~~the iBudget system.~~

539 ~~(a) While the agency phases in the iBudget system, the~~
540 ~~agency may continue to serve eligible, enrolled clients under~~
541 ~~the four-tiered waiver system established under s. 393.065 while~~
542 ~~those clients await transitioning to the iBudget system.~~

543 ~~(b) The agency shall design the phase-in process to ensure~~
544 ~~that a client does not experience more than one-half of any~~
545 ~~expected overall increase or decrease to his or her existing~~
546 ~~annualized cost plan during the first year that the client is~~
547 ~~provided an iBudget due solely to the transition to the iBudget~~
548 ~~system.~~

549 (3)~~(4)~~ A client must use all available services authorized
550 under the state Medicaid plan, school-based services, private
551 insurance and other benefits, and any other resources that may
552 be available to the client before using funds from his or her
553 iBudget to pay for support and services.

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554 ~~(5) The service limitations in s. 393.0661(3)(f)1., 2.,~~
555 ~~and 3. do not apply to the iBudget system.~~

556 (4)~~(6)~~ Rates for any or all services established under
557 rules of the Agency for Health Care Administration must ~~shall~~ be
558 designated as the maximum rather than a fixed amount for
559 individuals who receive an iBudget, except for services
560 specifically identified in those rules that the agency
561 determines are not appropriate for negotiation, which may
562 include, but are not limited to, residential habilitation
563 services.

564 (5)~~(7)~~ The agency shall ensure that clients and caregivers
565 have access to training and education that ~~to~~ inform them about
566 the iBudget system and enhance their ability for self-direction.
567 Such training and education must ~~shall~~ be offered in a variety
568 of formats and, at a minimum, must ~~shall~~ address the policies
569 and processes of the iBudget system and~~;~~ the roles and
570 responsibilities of consumers, caregivers, waiver support
571 coordinators, providers, and the agency, and must provide~~;~~
572 information ~~available~~ to help the client make decisions
573 regarding the iBudget system~~;~~ and examples of support and
574 resources available in the community.

575 (6)~~(8)~~ The agency shall collect data to evaluate the
576 implementation and outcomes of the iBudget system.

577 (7)~~(9)~~ The agency and the Agency for Health Care
578 Administration may adopt rules specifying the allocation
579 algorithm and methodology; criteria and processes for clients to

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580 access reserved funds for extraordinary needs, temporarily or
581 permanently changed needs, and one-time needs; and processes and
582 requirements for selection and review of services, development
583 of support and cost plans, and management of the iBudget system
584 as needed to administer this section.

585 Section 6. Section 393.0679, Florida Statutes, is created
586 to read:

587 393.0679 Utilization review.—The agency shall conduct
588 utilization review activities in intermediate care facilities
589 for individuals with developmental disabilities, both public and
590 private, as necessary to meet the requirements of the approved
591 Medicaid state plan and federal law, and such facilities shall
592 comply with any requests for information and documentation made
593 by the agency and permit any agency inspections in connection
594 with such activities.

595 Section 7. Subsection (1), paragraphs (a) and (b) of
596 subsection (4), paragraphs (b), (e), (f), (g), and (h) of
597 subsection (5), subsection (6), paragraph (d) of subsection (7),
598 subsection (10), and paragraph (b) of subsection (12) of section
599 393.11, Florida Statutes, are amended, and subsection (14) is
600 added to that section, to read:

601 393.11 Involuntary admission to residential services.—

602 (1) JURISDICTION.—If a person has an intellectual
603 disability or autism and requires involuntary admission to
604 residential services provided by the agency, the circuit court
605 of the county in which the person resides has jurisdiction to

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606 conduct a hearing and enter an order involuntarily admitting the
607 person in order for the person to receive the care, treatment,
608 habilitation, and rehabilitation that the person needs. For the
609 purpose of identifying intellectual disability or autism,
610 diagnostic capability shall be established by the agency. Except
611 as otherwise specified, the proceedings under this section are
612 governed by the Florida Rules of Civil Procedure.

613 (4) AGENCY PARTICIPATION.—

614 (a) Upon receiving the petition, the court shall
615 immediately order the ~~developmental services program of the~~
616 agency to examine the person being considered for involuntary
617 admission to residential services.

618 (b) Following examination, the agency shall file a written
619 report with the court at least 10 working days before the date
620 of the hearing. The report must be served on the petitioner, the
621 person who has the intellectual disability or autism, and the
622 person's attorney at the time the report is filed with the
623 court.

624 (5) EXAMINING COMMITTEE.—

625 (b) The court shall appoint at least three disinterested
626 experts who have demonstrated to the court an expertise in the
627 diagnosis, evaluation, and treatment of persons who have
628 intellectual disabilities or autism. The committee must include
629 at least one licensed and qualified physician, one licensed and
630 qualified psychologist, and one qualified professional who, at a
631 minimum, has a master's degree in social work, special

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632 education, or vocational rehabilitation counseling, to examine
633 the person and to testify at the hearing on the involuntary
634 admission to residential services.

635 (e) The committee shall prepare a written report for the
636 court. The report must explicitly document the extent that the
637 person meets the criteria for involuntary admission. The report,
638 and expert testimony, must include, but not be limited to:

639 1. The degree of the person's intellectual disability or
640 autism and whether, using diagnostic capabilities established by
641 the agency, the person is eligible for agency services;

642 2. Whether, because of the person's degree of intellectual
643 disability or autism, the person:

644 a. Lacks sufficient capacity to give express and informed
645 consent to a voluntary application for services pursuant to s.
646 393.065 and lacks basic survival and self-care skills to such a
647 degree that close supervision and habilitation in a residential
648 setting is necessary and, if not provided, would result in a
649 threat of substantial harm to the person's well-being; or

650 ~~b. Lacks basic survival and self-care skills to such a~~
651 ~~degree that close supervision and habilitation in a residential~~
652 ~~setting is necessary and if not provided would result in a real~~
653 ~~and present threat of substantial harm to the person's well-~~
654 ~~being; or~~

655 b.e. Is likely to physically injure others if allowed to
656 remain at liberty.

657 3. The purpose to be served by residential care;

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658 4. A recommendation on the type of residential placement
659 which would be the most appropriate and least restrictive for
660 the person; and

661 5. The appropriate care, habilitation, and treatment.

662 (f) The committee shall file the report with the court at
663 least 10 working days before the date of the hearing. The report
664 must be served on the petitioner, the person who has the
665 intellectual disability or autism, the person's attorney at the
666 time the report is filed with the court, and the agency.

667 (g) Members of the examining committee shall receive a
668 reasonable fee to be determined by the court. The fees shall be
669 paid from the general revenue fund of the county in which the
670 person who has the intellectual disability or autism resided
671 when the petition was filed.

672 ~~(h) The agency shall develop and prescribe by rule one or~~
673 ~~more standard forms to be used as a guide for members of the~~
674 ~~examining committee.~~

675 (6) COUNSEL; GUARDIAN AD LITEM.—

676 (a) The person who has the intellectual disability or
677 autism must be represented by counsel at all stages of the
678 judicial proceeding. If the person is indigent and cannot afford
679 counsel, the court shall appoint a public defender at least 20
680 working days before the scheduled hearing. The person's counsel
681 shall have full access to the records of the service provider
682 and the agency. In all cases, the attorney shall represent the

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683 rights and legal interests of the person, regardless of who
684 initiates the proceedings or pays the attorney ~~attorney's~~ fee.

685 (b) If the attorney, during the course of his or her
686 representation, reasonably believes that the person who has the
687 intellectual disability or autism cannot adequately act in his
688 or her own interest, the attorney may seek the appointment of a
689 guardian ad litem. A prior finding of incompetency is not
690 required before a guardian ad litem is appointed pursuant to
691 this section.

692 (7) HEARING.—

693 (d) The person who has the intellectual disability or
694 autism must be physically present throughout the entire
695 proceeding. If the person's attorney believes that the person's
696 presence at the hearing is not in his or her best interest, the
697 person's presence may be waived once the court has seen the
698 person and the hearing has commenced.

699 (10) COMPETENCY.—

700 (a) The issue of competency is separate and distinct from
701 a determination of the appropriateness of involuntary admission
702 to residential services due to intellectual disability or
703 autism.

704 (b) The issue of the competency of a person who has an
705 intellectual disability or autism for purposes of assigning
706 guardianship shall be determined in a separate proceeding
707 according to the procedures and requirements of chapter 744. The
708 issue of the competency of a person who has an intellectual

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709 disability or autism for purposes of determining whether the
710 person is competent to proceed in a criminal trial shall be
711 determined in accordance with chapter 916.

712 (12) APPEAL.—

713 (b) The filing of an appeal by the person who has an
714 intellectual disability or autism stays admission of the person
715 into residential care. The stay remains in effect during the
716 pendency of all review proceedings in Florida courts until a
717 mandate issues.

718 (14) REVIEW OF CONTINUED INVOLUNTARY ADMISSION TO
719 RESIDENTIAL SERVICES.—

720 (a) If a person is involuntarily admitted to residential
721 services provided by the agency, the agency shall employ or, if
722 necessary, contract with a qualified evaluator to conduct a
723 review annually, unless otherwise ordered, to determine the
724 propriety of the person's continued involuntary admission to
725 residential services based on the criteria in paragraph (8) (b).
726 The review shall include an assessment of the most appropriate
727 and least restrictive type of residential placement for the
728 person.

729 (b) A placement resulting from an involuntary admission to
730 residential services must be reviewed by the court at a hearing
731 annually, unless a shorter review period is ordered at a
732 previous hearing. The agency shall provide to the court the
733 completed reviews by the qualified evaluator. The review and
734 hearing must determine whether the person continues to meet the

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735 criteria in paragraph (8) (b) and, if so, whether the person
736 still requires involuntary placement in a residential setting
737 and whether the person is receiving adequate care, treatment,
738 habilitation, and rehabilitation in the residential setting.

739 (c) The agency shall provide a copy of the review and
740 reasonable notice of the hearing to the appropriate state
741 attorney, if applicable, the person's attorney, and the person's
742 guardian or guardian advocate, if appointed.

743 (d) For purposes of this section, the term "qualified
744 evaluator" means a psychiatrist licensed under chapter 458 or
745 chapter 459, or a psychologist licensed under chapter 490, who
746 has demonstrated to the court an expertise in the diagnosis,
747 evaluation, and treatment of persons who have intellectual
748 disabilities.

749 Section 8. Effective June 30, 2016, or if this act fails
750 to become law until after that date, operating retroactively to
751 June 30, 2016, sections 24 and 26 of ch. 2015-222, Laws of
752 Florida, are repealed.

753 Section 9. Subsection (15) of section 393.067, Florida
754 Statutes, is reenacted to read:

755 393.067 Facility licensure.—

756 (15) The agency is not required to contract with
757 facilities licensed pursuant to this chapter.

758 Section 10. Subsection (4) of section 393.18, Florida
759 Statutes, is reenacted to read:

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760 393.18 Comprehensive transitional education program.—A
761 comprehensive transitional education program is a group of
762 jointly operating centers or units, the collective purpose of
763 which is to provide a sequential series of educational care,
764 training, treatment, habilitation, and rehabilitation services
765 to persons who have developmental disabilities and who have
766 severe or moderate maladaptive behaviors. However, this section
767 does not require such programs to provide services only to
768 persons with developmental disabilities. All such services shall
769 be temporary in nature and delivered in a structured residential
770 setting, having the primary goal of incorporating the principle
771 of self-determination in establishing permanent residence for
772 persons with maladaptive behaviors in facilities that are not
773 associated with the comprehensive transitional education
774 program. The staff shall include behavior analysts and teachers,
775 as appropriate, who shall be available to provide services in
776 each component center or unit of the program. A behavior analyst
777 must be certified pursuant to s. 393.17.

778 (4) For comprehensive transitional education programs, the
779 total number of residents who are being provided with services
780 may not in any instance exceed the licensed capacity of 120
781 residents and each residential unit within the component centers
782 of the program authorized under this section may not in any
783 instance exceed 15 residents. However, a program that was
784 authorized to operate residential units with more than 15

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785 residents before July 1, 2015, may continue to operate such
786 units.

787 Section 11. Paragraph (b) of subsection (1) of section
788 383.141, Florida Statutes, is amended to read:

789 383.141 Prenatally diagnosed conditions; patient to be
790 provided information; definitions; information clearinghouse;
791 advisory council.-

792 (1) As used in this section, the term:

793 (b) "Developmental disability" includes Down syndrome and
794 other developmental disabilities defined by s. 393.063(12) ~~s.~~
795 ~~393.063(9)~~.

796 Section 12. Paragraph (d) of subsection (2) of section
797 1002.385, Florida Statutes, is amended to read:

798 1002.385 Florida personal learning scholarship accounts.-

799 (2) DEFINITIONS.-As used in this section, the term:

800 (d) "Disability" means, for a 3- or 4-year-old child or
801 for a student in kindergarten to grade 12, autism spectrum
802 disorder, as defined in the Diagnostic and Statistical Manual of
803 Mental Disorders, Fifth Edition, published by the American
804 Psychiatric Association; cerebral palsy, as defined in s.
805 393.063(6) ~~s. 393.063(4)~~; Down syndrome, as defined in s.
806 393.063(15) ~~s. 393.063(13)~~; an intellectual disability, as
807 defined in s. 393.063(24) ~~s. 393.063(21)~~; Prader-Willi syndrome,
808 as defined in s. 393.063(28) ~~s. 393.063(25)~~; or spina bifida, as
809 defined in s. 393.063(39) ~~s. 393.063(36)~~; for a student in
810 kindergarten, being a high-risk child, as defined in s.

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811 393.063(23)(a) ~~s. 393.063(20)(a)~~; muscular dystrophy; and
812 Williams syndrome.

813 Section 13. For the 2016-2017 fiscal year, the sum of
814 \$623,200 in nonrecurring funds from the General Revenue Fund is
815 appropriated to the Agency for Persons with Disabilities for the
816 purpose of implementing this act.

817 Section 14. Except as otherwise provided herein, this act
818 shall take effect July 1, 2016.

819

820

T I T L E A M E N D M E N T

821
822 Remove everything before the enacting clause and insert:
823 An act relating to the Agency for Persons with Disabilities;
824 amending s. 393.063, F.S.; revising and defining terms;
825 repealing s. 393.0641, F.S., relating to a program for the
826 prevention and treatment of severe self-injurious behavior;
827 amending s. 393.065, F.S.; providing for the assignment of
828 priority to clients waiting for waiver services; requiring an
829 agency to allow a certain individual to receive such services if
830 the individual's parent or legal guardian is an active-duty
831 military service member; requiring the agency to send an annual
832 letter to clients and their guardians or families; providing
833 that certain agency action does not establish a right to a
834 hearing or an administrative proceeding; amending s. 393.066,
835 F.S.; providing for the use of an agency data management system;
836 providing requirements for persons or entities under contract

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1083 (2016)

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837 with the agency; amending s. 393.0662, F.S.; adding client needs
838 that qualify as extraordinary needs, which may result in the
839 approval of an increase in a client's allocated funds; revising
840 duties of the Agency for Health Care Administration relating to
841 the iBudget system; creating s. 393.0679, F.S.; requiring the
842 Agency for Persons with Disabilities to conduct a certain
843 utilization review; requiring certain intermediate care
844 facilities to comply with certain requests and inspections by
845 the agency; amending s. 393.11, F.S.; providing for annual
846 reviews for persons involuntarily admitted to residential
847 services provided by the agency; requiring the agency to
848 contract with a qualified evaluator; providing requirements for
849 annual reviews; requiring a hearing to be held to consider the
850 results of an annual review; requiring the agency to provide a
851 copy of the review to certain persons; defining a term;
852 repealing ss. 24 and 26 of chapter 2015-222, Laws of Florida;
853 abrogating the scheduled expiration and reversion of amendments
854 to ss. 393.067(15) and 393.18, F.S., relating to requirement to
855 contract with licensed facilities and capacity of comprehensive
856 transitional education programs and the residential units of
857 their component centers; amending ss. 383.141 and 1002.385,
858 F.S.; conforming cross-references to changes made by the act;
859 providing an appropriation; providing effective dates.
860

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