

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 670

INTRODUCER: Senator Rader

SUBJECT: Assisted and Independent Living Facility Task Force

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 670 establishes the Assisted and Independent Living Facility Task Force (the task force) within the Agency for Persons with Disabilities (APD). The objective of the task force is studying and evaluating proposals to construct assisted living facilities (ALFs, currently licensed by the Agency for Health Care Administration) or independent living facilities (which are not a licensed entity under current law) for individuals with an intellectual disability, autism, or a mental illness. The bill requires APD to use existing resources to administer and support the task force. The bill identifies the members of the task force and directs that a report containing the findings, conclusions, and recommendations of the task force be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2020.

The bill is effective upon becoming law and will likely have an insignificant fiscal impact.

II. Present Situation:

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities in the state. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹ APD's overarching goal is to prevent or reduce the severity of the developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.²

¹ Section 393.063(9), F.S.

² Section 393.062, F.S.

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.³ Pursuant to s. 393.067, F.S., APD licenses and regulates community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, and residential habilitation centers.⁴

Individuals who meet Medicaid eligibility requirements may choose to receive services in the community through the state's Medicaid Home and Community-Based Services (HCBS) waiver for individuals with developmental disabilities administered by APD or in an intermediate care facility for the developmentally disabled (ICF/DD).⁵ While the majority of APD clients live in the community, a small number live in ICF/DDs. ICF/DDs are considered institutional placements and are licensed and certified by the Agency for Health Care Administration pursuant to part VIII of ch. 400, F.S.⁶

Section 393.063, F.S., identifies the various types of congregate living facilities available to APD clients based on individual needs and choices.⁷ Pursuant to s. 393.067, F.S., APD licenses foster care facilities, group home facilities, residential habilitation center facilities, and comprehensive transitional education programs.⁸

Assisted Living Facilities

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.¹⁰ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹¹

An ALF must have a standard license issued by the AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S.¹² In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include

³ A "residential facility" is a facility providing room and board and personal care for persons who have developmental disabilities, s. 393.063(28), F.S.

⁴ Agency for Persons with Disabilities, *Planning Resources*, <http://apd.myflorida.com/planning-resources/> (last visited Feb. 25, 2019).

⁵ Section 393.0662, F.S.

⁶ Section 393.063(25), F.S.

⁷ Agency for Persons with Disabilities, *Senate Bill 670 Agency Analysis* (February 7, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).

⁸ *Id.*

⁹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

¹⁰ Section 429.02(17), F.S.

¹¹ Section 429.02(1), F.S.

¹² Section 429.07(2), F.S.

limited nursing services,¹³ limited mental health services,¹⁴ and extended congregate care services.¹⁵

Currently, there are 3,083 licensed ALF's in Florida.¹⁶

Independent Living Communities

Independent living communities are communities in which healthy individuals can live on their own but that do not offer assisted living or nursing services. Independent living communities can offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.¹⁷ Currently, there are over 200 independent living communities in Florida.¹⁸

III. Effect of Proposed Changes:

Section 1 establishes the Assisted and Independent Living Task Force within APD for administrative purposes only. APD is to use existing and available resources to support the activities of the task force. The bill directs the task force to evaluate policy proposals that incentivize building contractors and developers to create space for ALFs or independent living facilities within mixed-use developments for individuals who have an intellectual disability, autism, or a mental illness.

The bill also provides that the task force consists of 16 members from various stakeholder groups. Members of the task force shall serve without compensation or reimbursement for per diem or travel expenses, and the first meeting of the task force shall take place by August 1, 2019. The task force must meet as often as necessary to fulfill its responsibilities under the bill, and meetings may be conducted in person, by teleconference, or by other electronic means.

The task force must work in consultation with local and state government to identify potential barriers and opportunities in current law, recommend modifications to existing laws, rules, or policies, recommend financial and regulatory incentives, and propose funding mechanisms to incentivize building contractors and developers to create space for ALFs and independent living facilities within mixed-use developments. The task force must also propose an overall governing structure for managing spaces for ALFs and independent living facilities within mixed-use developments.

The task force must submit a report containing its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by

¹³ Section 429.07(3)(c), F.S.

¹⁴ Section 429.075, F.S.

¹⁵ Section 429.07(3)(b), F.S.

¹⁶ Agency for Health Care Administration, Florida Health Finder Search, *facility/provider type: Assisted Living Facility*, (search conducted Feb. 26, 2019), available at <http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (last visited Feb. 26, 2019).

¹⁷ Senior Living.org, *Selecting an Independent Living Community* (Feb. 14, 2011), available at <http://www.seniorliving.org/lifestyles/independent-living-communities/> (last visited Feb. 26, 2019).

¹⁸ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aplaceformom.com/independent-living/florida> (last visited Feb. 26, 2019).

February 1, 2020. The task force will terminate on the earlier of the date the report is submitted, and this section expires February 1, 2021.

Section 2 provides that the bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will likely be an insignificant fiscal impact to the state as APD is directed to use existing resources to facilitate housing the task force within the agency, and members are to serve without compensation or travel reimbursement. Moreover, APD does not anticipate a fiscal impact to the state or the private sector.¹⁹

VI. Technical Deficiencies:

None.

¹⁹ *Supra* note 7.

VII. Related Issues:

SB 670 refers to both assisted living facilities and independent living facilities. Because assisted living facilities are licensed by the state, using the term “independent living facility” may cause some confusion as independent living facilities are not licensed entities and the term is not defined. Additionally, the term independent living services has a separate meaning in ch. 413, F.S., related to services provided for disabled individuals.²⁰ It may be advisable to use a more specific term, such as independent living community or facility for independent living, to describe the living arrangements intended to be covered in the bill in order to avoid any confusion.

VIII. Statutes Affected:

This bill creates section 393.25 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁰ Section 413.20(12), F.S.