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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2022	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 31 - 184
and insert:
394.875 or a hospital licensed under chapter 395 for residential
mental health treatment only pursuant to this section or may be
placed by the court in accordance with an order of involuntary
examination or involuntary placement entered pursuant to s.
394.463 or s. 394.467. All children placed in a residential
treatment program under this subsection must have a guardian ad



426412

11 litem appointed.

12 (a) As used in this subsection, the term:

13 ~~2.1-~~ "Residential treatment" or "residential treatment
14 program" means a placement for observation, diagnosis, or
15 treatment of an emotional disturbance in a residential treatment
16 center licensed under s. 394.875 or a hospital licensed under
17 chapter 395.

18 ~~1.2-~~ "Least restrictive alternative" means the treatment
19 and conditions of treatment that, separately and in combination,
20 are no more intrusive or restrictive of freedom than reasonably
21 necessary to achieve a substantial therapeutic benefit or to
22 protect the child or adolescent or others from physical injury.

23 3. "Suitable for residential treatment" or "suitability"
24 means a determination concerning a child or adolescent with an
25 emotional disturbance as defined in s. 394.492(5) or a serious
26 emotional disturbance as defined in s. 394.492(6) that each of
27 the following criteria is met:

28 a. The child requires residential treatment.

29 b. The child is in need of a residential treatment program
30 and is expected to benefit from mental or behavioral health
31 treatment.

32 c. An appropriate, less restrictive alternative to
33 residential treatment is unavailable.

34 4. "Therapeutic group home" means a residential treatment
35 center that offers a 24-hour residential program providing
36 community-based mental health treatment and mental health
37 support services to children who meet the criteria in s.
38 394.492(5) or (6) in a nonsecure, homelike setting.

39 (b) Whenever the department believes that a child in its



426412

40 legal custody is emotionally disturbed and may need residential
41 treatment, an examination and suitability assessment must be
42 conducted by a qualified evaluator ~~who is~~ appointed by the
43 department ~~Agency for Health Care Administration~~. This
44 suitability assessment must be completed before the placement of
45 the child in a residential treatment program ~~center for~~
46 ~~emotionally disturbed children and adolescents or a hospital~~.

47 1. The qualified evaluator for placement in a residential
48 treatment center, other than a therapeutic group home, or a
49 hospital must be a psychiatrist or a psychologist licensed in
50 this state ~~Florida~~ who has at least 3 years of experience in the
51 diagnosis and treatment of serious emotional disturbances in
52 children and adolescents and who has no actual or perceived
53 conflict of interest with any inpatient facility or residential
54 treatment center or program.

55 2. The qualified evaluator for placement in a therapeutic
56 group home must be a psychiatrist licensed under chapter 458 or
57 chapter 459, a psychologist licensed under chapter 490, or a
58 mental health counselor licensed under chapter 491 who has at
59 least 2 years of experience in the diagnosis and treatment of
60 serious emotional or behavioral disturbance in children and
61 adolescents and who has no actual or perceived conflict of
62 interest with any residential treatment center or program.

63 (c) Consistent with the requirements of this section ~~Before~~
64 ~~a child is admitted under this subsection~~, the child shall be
65 assessed for suitability for ~~residential~~ treatment by a
66 qualified evaluator who has conducted an ~~a personal~~ examination
67 and assessment of the child and has made written findings that:

68 1. The child appears to have an emotional disturbance



426412

69 serious enough to require treatment in a residential treatment
70 program and is reasonably likely to benefit from the treatment.

71 2. The child has been provided with a clinically
72 appropriate explanation of the nature and purpose of the
73 treatment.

74 3. All available modalities of treatment less restrictive
75 than residential treatment have been considered, and a less
76 restrictive alternative that would offer comparable benefits to
77 the child is unavailable.

78
79 A copy of the written findings of the evaluation and suitability
80 assessment must be provided to the department, to the guardian
81 ad litem, and, if the child is a member of a Medicaid managed
82 care plan, to the plan that is financially responsible for the
83 child's care in residential treatment, all of whom must be
84 provided with the opportunity to discuss the findings with the
85 evaluator.

86 (d) Immediately upon placing a child in a residential
87 treatment program under this section, the department must notify
88 the guardian ad litem and the court having jurisdiction over the
89 child. Within 5 days after the department's receipt of the
90 assessment, the department shall ~~and must~~ provide the guardian
91 ad litem and the court with a copy of the assessment by the
92 qualified evaluator.

93 (e) Within 10 days after the admission of a child to a
94 residential treatment program, the director of the residential
95 treatment program or the director's designee must ensure that an
96 individualized plan of treatment has been prepared by the
97 program and has been explained to the child, to the department,



426412

98 and to the guardian ad litem, and submitted to the department.
99 The child must be involved in the preparation of the plan to the
100 maximum feasible extent consistent with his or her ability to
101 understand and participate, and the guardian ad litem and the
102 child's foster parents must be involved to the maximum extent
103 consistent with the child's treatment needs. The plan must
104 include a preliminary plan for residential treatment and
105 aftercare upon completion of residential treatment. The plan
106 must include specific behavioral and emotional goals against
107 which the success of the residential treatment may be measured.
108 A copy of the plan must be provided to the child, to the
109 guardian ad litem, and to the department.

110 (f) Within 30 days after admission, the residential
111 treatment program must review the appropriateness and
112 suitability of the child's placement in the program. The
113 residential treatment program must determine whether the child
114 is receiving benefit toward the treatment goals and whether the
115 child could be treated in a less restrictive treatment program.
116 The residential treatment program shall prepare a written report
117 of its findings and submit the report to the guardian ad litem
118 and to the department. The department must submit the report to
119 the court. The report must include a discharge plan for the
120 child. The residential treatment program must continue to
121 evaluate the child's treatment progress every 30 days thereafter
122 and must include its findings in a written report submitted to
123 the department. The department may not reimburse a facility
124 until the facility has submitted every written report that is
125 due.

126 (g)1. The department must submit, at the beginning of each



426412

127 month, to the court having jurisdiction over the child, a
128 written report regarding the child's progress toward achieving
129 the goals specified in the individualized plan of treatment.

130 2. The court must conduct a hearing to review the status of
131 the child's residential treatment plan no later than 60 days
132 after the child's admission to the residential treatment
133 program. An independent review of the child's progress toward
134 achieving the goals and objectives of the treatment plan must be
135 completed by a qualified evaluator and submitted to the court
136 before its 60-day review.

137 3. For any child in residential treatment at the time a
138 judicial review is held pursuant to s. 39.701, the child's
139 continued placement in residential treatment must be a subject
140 of the judicial review.

141 4. If at any time the court determines that the child is
142 not suitable for continued residential treatment, the court
143 shall order the department to place the child in the least
144 restrictive setting that is best suited to meet his or her
145 needs.

146 (h) After the initial 60-day review, the court must conduct
147 a review of the child's residential treatment plan every 90
148 days.

149 ~~(i) The department must adopt rules for implementing~~
150 ~~timeframes for the completion of suitability assessments by~~
151 ~~qualified evaluators and a procedure that includes timeframes~~
152 ~~for completing the 60-day independent review by the qualified~~
153 ~~evaluators of the child's progress toward achieving the goals~~
154 ~~and objectives of the treatment plan which review must be~~
155 ~~submitted to the court. The Agency for Health Care~~



426412

156 ~~Administration must adopt rules for the registration of~~
157 ~~qualified evaluators, the procedure for selecting the evaluators~~
158 ~~to conduct the reviews required under this section, and a~~
159 ~~reasonable, cost-efficient fee schedule for qualified~~
160 ~~evaluators.~~

161 Section 2. Subsection (1) of section 63.207, Florida
162 Statutes, is amended to read:

163 63.207 Out-of-state placement.—

164 (1) Unless the parent placing a minor for adoption files an
165 affidavit that the parent chooses to place the minor outside the
166 state, giving the reason for that placement, or the minor is to
167 be placed with a relative or with a stepparent, or the minor is
168 a difficult to place ~~special-needs~~ child, as defined in s.
169 409.166, or for other good cause shown, an adoption entity may
170 not:

171 (a) Take or send a minor out of the state for the purpose
172 of placement for adoption; or

173 (b) Place or attempt to place a minor for the purpose of
174 adoption with a family who primarily lives and works outside
175 Florida in another state. If an adoption entity is acting under
176 this subsection, the adoption entity must file a petition for
177 declaratory statement pursuant to s. 63.102 for prior approval
178 of fees and costs. The court shall review the costs pursuant to
179 s. 63.097. The petition for declaratory statement must be
180 converted to a petition for an adoption upon placement of the
181 minor in the home. When a minor is placed for adoption with
182 prospective adoptive parents who primarily live and work outside
183 this state, the circuit court in this state may retain
184 jurisdiction over the matter until the adoption becomes final.



426412

185 The prospective adoptive parents may finalize the adoption in
186 this state.

187 Section 3. Subsection (1) of section 258.0142, Florida
188 Statutes, is amended to read:

189 258.0142 Foster and adoptive family state park fee
190 discounts.—

191 (1) To promote awareness of the contributions made by
192 foster families and adoptive families to the vitality of the
193 state, the Division of Recreation and Parks shall provide the
194 following discounts on state park fees to persons who present
195 written documentation satisfactory to the division which
196 evidences their eligibility for the discounts:

197 (a) Families operating a licensed family foster home under
198 s. 409.175 shall receive family annual entrance passes at no
199 charge and a 50 percent discount on base campsite fees at state
200 parks.

201 (b) Families who adopt a difficult to place ~~special-needs~~
202 child as described in s. 409.166(2)(a)2. from the Department of
203 Children and Families shall receive a one-time family annual
204 entrance pass at no charge at the time of the adoption.

205 Section 4. Paragraphs (a) and (c) of subsection (2) of
206 section 409.166, Florida Statutes, are amended to read:

207 409.166 Children within the child welfare system; adoption
208 assistance program.—

209 (2) DEFINITIONS.—As used in this section, the term:

210 (a) "Difficult to place ~~Special-needs~~ child" means:

211 1. A child whose permanent custody has been awarded to the
212 department or to a licensed child-placing agency;

213 2. A child who has established significant emotional ties



426412

214 with his or her foster parents or is not likely to be adopted
215 because he or she is:

216 a. Eight years of age or older;

217 b. Developmentally disabled;

218 c. Physically or emotionally handicapped;

219 d. A member of a racial group that is disproportionately
220 represented among children described in subparagraph 1. ~~Of black~~
221 ~~or racially mixed parentage;~~ or

222 e. A member of a sibling group of any age, provided two or
223 more members of a sibling group remain together for purposes of
224 adoption; and

225 3. Except when the child is being adopted by the child's
226 foster parents or relative caregivers, a child for whom a
227 reasonable but unsuccessful effort has been made to place the
228 child without providing a maintenance subsidy.

229 (c) "Child within the child welfare system" or "child"
230 means a difficult to place ~~special-needs~~ child and any other
231 child who was removed from the child's caregiver due to abuse or
232 neglect and whose permanent custody has been awarded to the
233 department or to a licensed child-placing agency.

234 Section 5. Subsection (2) of section 409.1664, Florida
235 Statutes, is amended to read:

236 409.1664 Adoption benefits for qualifying adoptive
237 employees of state agencies, veterans, and servicemembers.—

238 (2) A qualifying adoptive employee, veteran, or
239 servicemember who adopts a child within the child welfare system
240 who is difficult to place as ~~has special-needs~~ described in s.
241 409.166(2) (a)2. is eligible to receive a lump-sum monetary
242 benefit in the amount of \$10,000 per such child, subject to



426412

243 applicable taxes. A qualifying adoptive employee, veteran, or
244 servicemember who adopts a child within the child welfare system
245 who is not difficult to place as ~~does not have special needs~~
246 described in s. 409.166(2)(a)2. is eligible to receive a lump-
247 sum monetary benefit in the amount of \$5,000 per such child,
248 subject to applicable taxes. A qualifying adoptive employee of a
249 charter school or the Florida Virtual School may retroactively
250 apply for the monetary benefit provided in this subsection if
251 such employee was employed by a charter school or the Florida
252 Virtual School when he or she adopted a child within the child
253 welfare system pursuant to chapter 63 on or after July 1, 2015.
254 A veteran or servicemember may apply for the monetary benefit
255 provided in this subsection if he or she is domiciled in this
256 state and adopts a child within the child welfare system
257 pursuant to chapter 63 on or after July 1, 2020.

258 (a) Benefits paid to a qualifying adoptive employee who is
259 a part-time employee must be prorated based on the qualifying
260 adoptive employee's full-time equivalency at the time of
261 applying for the benefits.

262 (b) Monetary benefits awarded under this subsection are
263 limited to one award per adopted child within the child welfare
264 system.

265 (c) The payment of a lump-sum monetary benefit for adopting
266 a child within the child welfare system under this section is
267 subject to a specific appropriation to the department for such
268 purpose.

269 Section 6. Paragraph (b) of subsection (1) of section
270 414.045, Florida Statutes, is amended to read:

271 414.045 Cash assistance program.—Cash assistance families



426412

272 include any families receiving cash assistance payments from the
273 state program for temporary assistance for needy families as
274 defined in federal law, whether such funds are from federal
275 funds, state funds, or commingled federal and state funds. Cash
276 assistance families may also include families receiving cash
277 assistance through a program defined as a separate state
278 program.

279 (1) For reporting purposes, families receiving cash
280 assistance shall be grouped into the following categories. The
281 department may develop additional groupings in order to comply
282 with federal reporting requirements, to comply with the data-
283 reporting needs of the state board as defined in s. 445.002, or
284 to better inform the public of program progress.

285 (b) *Child-only cases.*—Child-only cases include cases that
286 do not have an adult or teen head of household as defined in
287 federal law. Such cases include:

288 1. Children in the care of caretaker relatives, if the
289 caretaker relatives choose to have their needs excluded in the
290 calculation of the amount of cash assistance.

291 2. Families in the Relative Caregiver Program as provided
292 in s. 39.5085.

293 3. Families in which the only parent in a single-parent
294 family or both parents in a two-parent family receive
295 supplemental security income (SSI) benefits under Title XVI of
296 the Social Security Act, as amended. To the extent permitted by
297 federal law, individuals receiving SSI shall be excluded as
298 household members in determining the amount of cash assistance,
299 and such cases shall not be considered families containing an
300 adult. Parents or caretaker relatives who are excluded from the



301 cash assistance group due to receipt of SSI may choose to
302 participate in work activities. An individual whose ability to
303 participate in work activities is limited who volunteers to
304 participate in work activities shall be assigned to work
305 activities consistent with such limitations. An individual who
306 volunteers to participate in a work activity may receive child
307 care or support services consistent with such participation.

308 4. Families in which the only parent in a single-parent
309 family or both parents in a two-parent family are not eligible
310 for cash assistance due to immigration status or other
311 limitation of federal law. To the extent required by federal
312 law, such cases shall not be considered families containing an
313 adult.

314 5. To the extent permitted by federal law and subject to
315 appropriations, difficult to place ~~special needs~~ children who
316 have been adopted pursuant to s. 409.166 and whose adopting
317 family qualifies as a needy family under the state program for
318 temporary assistance for needy families. Notwithstanding any
319 provision to the contrary in s. 414.075, s. 414.085, or s.
320 414.095, a family shall be considered a needy family if:

321 a. The family is determined by the department to have an
322 income below 200 percent of the federal poverty level;

323 b. The family meets the requirements of s. 414.095(2) and
324 (3) related to residence, citizenship, or eligible noncitizen
325 status; and

326 c. The family provides any information that may be
327 necessary to meet federal reporting requirements specified under
328 Part A of Title IV of the Social Security Act.

329 6. Families in the Guardianship Assistance Program as



426412

330 provided in s. 39.6225.

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332 Families described in subparagraph 1., subparagraph 2., or
333 subparagraph 3. may receive child care assistance or other
334 supports or services so that the children may continue to be
335 cared for in their own homes or in the homes of relatives. Such
336 assistance or services may be funded from the temporary
337 assistance for needy families block grant to the extent
338 permitted under federal law and to the extent funds have been
339 provided in the General Appropriations Act.

340

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

342 And the title is amended as follows:

343 Delete lines 2 - 19

344 and insert:

345 An act relating to child welfare; amending s. 39.407,
346 F.S.; authorizing the Department of Children and
347 Families, under certain circumstances, to place
348 children in its custody in therapeutic group homes for
349 residential mental health treatment without prior
350 court approval; revising definitions; defining the
351 term "therapeutic group home"; providing that the
352 department, rather than the Agency for Health Care
353 Administration, shall appoint qualified evaluators to
354 conduct suitability assessments of certain children in
355 the department's custody; specifying qualifications
356 for evaluators conducting suitability assessments for
357 placement in a therapeutic group home; revising
358 requirements for suitability assessments; specifying



426412

359 when the department must provide a copy of the
360 assessment to the guardian ad litem and the court;
361 deleting the authority of the department and the
362 agency to adopt certain rules; amending ss. 63.207 and
363 258.0142, F.S.; conforming provisions to changes made
364 by the act; amending s. 409.166, F.S.; replacing the
365 term "special needs child" with "difficult to place
366 child" and revising the definition; revising the
367 definition of the terms "child within the child
368 welfare system" and "child"; amending ss. 409.1664 and
369 414.045, F.S.; conforming provisions to changes made
370 by the act; providing an effective date.