

By the Committee on Children, Families, and Elder Affairs; and  
Senator Rodriguez

586-02285-22

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1                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.407,  
3       F.S.; authorizing the Department of Children and  
4       Families, under certain circumstances, to place  
5       children in its custody in therapeutic group homes for  
6       residential mental health treatment without prior  
7       court approval; revising definitions; defining the  
8       term "therapeutic group home"; providing that the  
9       department, rather than the Agency for Health Care  
10      Administration, shall appoint qualified evaluators to  
11      conduct suitability assessments of certain children in  
12      the department's custody; specifying qualifications  
13      for evaluators conducting suitability assessments for  
14      placement in a therapeutic group home; revising  
15      requirements for suitability assessments; specifying  
16      when the department must provide a copy of the  
17      assessment to the guardian ad litem and the court;  
18      revising the department's and the agency's rulemaking  
19      authority; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Subsection (6) of section 39.407, Florida  
24       Statutes, is amended to read:

25       39.407 Medical, psychiatric, and psychological examination  
26       and treatment of child; physical, mental, or substance abuse  
27       examination of person with or requesting child custody.—

28       (6) Children ~~who are~~ in the legal custody of the department  
29       may be placed by the department, without prior approval of the

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30 court, in a residential treatment center licensed under s.  
31 394.875, a therapeutic group home, or a hospital licensed under  
32 chapter 395 for residential mental health treatment only  
33 pursuant to this section or may be placed by the court in  
34 accordance with an order of involuntary examination or  
35 involuntary placement entered pursuant to s. 394.463 or s.  
36 394.467. All children placed in a residential treatment program  
37 under this subsection must have a guardian ad litem appointed.

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

39 2.1- "Residential treatment" or "residential treatment  
40 program" means a placement for observation, diagnosis, or  
41 treatment of an emotional disturbance in a residential treatment  
42 center licensed under s. 394.875, a therapeutic group home, or a  
43 hospital licensed under chapter 395.

44 1.2- "Least restrictive alternative" means the treatment  
45 and conditions of treatment that, separately and in combination,  
46 are no more intrusive or restrictive of freedom than reasonably  
47 necessary to achieve a substantial therapeutic benefit or to  
48 protect the child or adolescent or others from physical injury.

49 3. "Suitable for residential treatment" or "suitability"  
50 means a determination concerning a child or adolescent with an  
51 emotional disturbance as defined in s. 394.492(5) or a serious  
52 emotional disturbance as defined in s. 394.492(6) that each of  
53 the following criteria is met:

54 a. The child requires residential treatment.

55 b. The child is in need of a residential treatment program  
56 and is expected to benefit from mental, emotional, or behavioral  
57 health treatment.

58 c. An appropriate, less restrictive alternative to

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59 residential treatment is unavailable.

60 4. "Therapeutic group home" means a 24-hour residential  
61 program providing community-based mental health treatment and  
62 mental health support services to children who meet the criteria  
63 in s. 394.492(5) or (6) in a nonsecure, homelike setting.

64 (b) Whenever the department believes that a child in its  
65 legal custody is emotionally disturbed and may need residential  
66 treatment, an examination and suitability assessment must be  
67 conducted by a qualified evaluator ~~who is~~ appointed by the  
68 ~~department Agency for Health Care Administration~~. This  
69 suitability assessment must be completed before the placement of  
70 the child in a residential treatment program ~~center for~~  
71 ~~emotionally disturbed children and adolescents or a hospital.~~

72 1. The qualified evaluator for placement in a residential  
73 treatment center or a hospital must be a psychiatrist or a  
74 psychologist licensed in this state ~~Florida~~ who has at least 3  
75 years of experience in the diagnosis and treatment of serious  
76 emotional disturbances in children and adolescents and who has  
77 no actual or perceived conflict of interest with any inpatient  
78 facility or residential treatment center or program.

79 2. The qualified evaluator for placement in a therapeutic  
80 group home must be a psychiatrist licensed under chapter 458 or  
81 chapter 459, a psychologist licensed under chapter 490, or a  
82 mental health counselor licensed under chapter 491 who has at  
83 least 2 years of experience in the diagnosis and treatment of  
84 serious emotional or behavioral disturbance in children and  
85 adolescents and who has no actual or perceived conflict of  
86 interest with any residential treatment center or program.

87 (c) Consistent with the requirements of this section ~~Before~~

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88 ~~a child is admitted under this subsection,~~ the child shall be  
89 assessed for suitability for ~~residential~~ treatment by a  
90 qualified evaluator who has conducted an ~~a personal~~ examination  
91 and assessment of the child and has made written findings that:

92 1. The child appears to have an emotional disturbance  
93 serious enough to require treatment in a residential treatment  
94 program and is reasonably likely to benefit from the treatment.

95 2. The child has been provided with a clinically  
96 appropriate explanation of the nature and purpose of the  
97 treatment.

98 3. All available modalities of treatment less restrictive  
99 than residential treatment have been considered, and a less  
100 restrictive alternative that would offer comparable benefits to  
101 the child is unavailable.

102

103 A copy of the written findings of the evaluation and suitability  
104 assessment must be provided to the department, to the guardian  
105 ad litem, and, if the child is a member of a Medicaid managed  
106 care plan, to the plan that is financially responsible for the  
107 child's care in residential treatment, all of whom must be  
108 provided with the opportunity to discuss the findings with the  
109 evaluator.

110 (d) Immediately upon placing a child in a residential  
111 treatment program under this section, the department must notify  
112 the guardian ad litem and the court having jurisdiction over the  
113 child. Within 5 days after the department's receipt of the  
114 assessment, the department shall ~~and must~~ provide the guardian  
115 ad litem and the court with a copy of the assessment by the  
116 qualified evaluator.

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117 (e) Within 10 days after the admission of a child to a  
118 residential treatment program, the director of the residential  
119 treatment program or the director's designee must ensure that an  
120 individualized plan of treatment has been prepared by the  
121 program and has been explained to the child, to the department,  
122 and to the guardian ad litem, and submitted to the department.  
123 The child must be involved in the preparation of the plan to the  
124 maximum feasible extent consistent with his or her ability to  
125 understand and participate, and the guardian ad litem and the  
126 child's foster parents must be involved to the maximum extent  
127 consistent with the child's treatment needs. The plan must  
128 include a preliminary plan for residential treatment and  
129 aftercare upon completion of residential treatment. The plan  
130 must include specific behavioral and emotional goals against  
131 which the success of the residential treatment may be measured.  
132 A copy of the plan must be provided to the child, to the  
133 guardian ad litem, and to the department.

134 (f) Within 30 days after admission, the residential  
135 treatment program must review the appropriateness and  
136 suitability of the child's placement in the program. The  
137 residential treatment program must determine whether the child  
138 is receiving benefit toward the treatment goals and whether the  
139 child could be treated in a less restrictive treatment program.  
140 The residential treatment program shall prepare a written report  
141 of its findings and submit the report to the guardian ad litem  
142 and to the department. The department must submit the report to  
143 the court. The report must include a discharge plan for the  
144 child. The residential treatment program must continue to  
145 evaluate the child's treatment progress every 30 days thereafter

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146 and must include its findings in a written report submitted to  
147 the department. The department may not reimburse a facility  
148 until the facility has submitted every written report that is  
149 due.

150 (g)1. The department must submit, at the beginning of each  
151 month, to the court having jurisdiction over the child, a  
152 written report regarding the child's progress toward achieving  
153 the goals specified in the individualized plan of treatment.

154 2. The court must conduct a hearing to review the status of  
155 the child's residential treatment plan no later than 60 days  
156 after the child's admission to the residential treatment  
157 program. An independent review of the child's progress toward  
158 achieving the goals and objectives of the treatment plan must be  
159 completed by a qualified evaluator and submitted to the court  
160 before its 60-day review.

161 3. For any child in residential treatment at the time a  
162 judicial review is held pursuant to s. 39.701, the child's  
163 continued placement in residential treatment must be a subject  
164 of the judicial review.

165 4. If at any time the court determines that the child is  
166 not suitable for continued residential treatment, the court  
167 shall order the department to place the child in the least  
168 restrictive setting that is best suited to meet his or her  
169 needs.

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

173 (i) The department may adopt rules to administer this  
174 subsection ~~must adopt rules for implementing timeframes for the~~

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175 ~~completion of suitability assessments by qualified evaluators~~  
176 ~~and a procedure that includes timeframes for completing the 60-~~  
177 ~~day independent review by the qualified evaluators of the~~  
178 ~~child's progress toward achieving the goals and objectives of~~  
179 ~~the treatment plan which review must be submitted to the court.~~  
180 ~~The Agency for Health Care Administration must adopt rules for~~  
181 ~~the registration of qualified evaluators, the procedure for~~  
182 ~~selecting the evaluators to conduct the reviews required under~~  
183 ~~this section, and a reasonable, cost efficient fee schedule for~~  
184 ~~qualified evaluators.~~

185       Section 2. This act shall take effect upon becoming a law.