

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

576-03374-22

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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 deleting the authority of the department and the
19 agency to adopt certain rules; amending ss. 63.207 and
20 258.0142, F.S.; conforming provisions to changes made
21 by the act; amending s. 409.166, F.S.; replacing the
22 term "special needs child" with "difficult to place
23 child" and revising the definition; revising the
24 definition of the terms "child within the child
25 welfare system" and "child"; amending ss. 409.1664 and
26 414.045, F.S.; conforming provisions to changes made
27 by the act; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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

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

(6) Children ~~who are~~ in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 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 litem appointed.

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

~~2.1.~~ “Residential treatment” or “residential treatment program” means a placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

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

3. “Suitable for residential treatment” or “suitability” means a determination concerning a child or adolescent with an

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59 emotional disturbance as defined in s. 394.492(5) or a serious
60 emotional disturbance as defined in s. 394.492(6) that each of
61 the following criteria is met:

62 a. The child requires residential treatment.

63 b. The child is in need of a residential treatment program
64 and is expected to benefit from mental or behavioral health
65 treatment.

66 c. An appropriate, less restrictive alternative to
67 residential treatment is unavailable.

68 4. "Therapeutic group home" means a residential treatment
69 center that offers a 24-hour residential program providing
70 community-based mental health treatment and mental health
71 support services to children who meet the criteria in s.
72 394.492(5) or (6) in a nonsecure, homelike setting.

73 (b) Whenever the department believes that a child in its
74 legal custody is emotionally disturbed and may need residential
75 treatment, an examination and suitability assessment must be
76 conducted by a qualified evaluator ~~who is~~ appointed by the
77 ~~department Agency for Health Care Administration~~. This
78 suitability assessment must be completed before the placement of
79 the child in a residential treatment program ~~center for~~
80 ~~emotionally disturbed children and adolescents or a hospital.~~

81 1. The qualified evaluator for placement in a residential
82 treatment center, other than a therapeutic group home, or a
83 hospital must be a psychiatrist or a psychologist licensed in
84 this state ~~Florida~~ who has at least 3 years of experience in the
85 diagnosis and treatment of serious emotional disturbances in
86 children and adolescents and who has no actual or perceived
87 conflict of interest with any inpatient facility or residential

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88 treatment center or program.

89 2. The qualified evaluator for placement in a therapeutic
90 group home must be a psychiatrist licensed under chapter 458 or
91 chapter 459, a psychologist licensed under chapter 490, or a
92 mental health counselor licensed under chapter 491 who has at
93 least 2 years of experience in the diagnosis and treatment of
94 serious emotional or behavioral disturbance in children and
95 adolescents and who has no actual or perceived conflict of
96 interest with any residential treatment center or program.

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

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

105 2. The child has been provided with a clinically
106 appropriate explanation of the nature and purpose of the
107 treatment.

108 3. All available modalities of treatment less restrictive
109 than residential treatment have been considered, and a less
110 restrictive alternative that would offer comparable benefits to
111 the child is unavailable.

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113 A copy of the written findings of the evaluation and suitability
114 assessment must be provided to the department, to the guardian
115 ad litem, and, if the child is a member of a Medicaid managed
116 care plan, to the plan that is financially responsible for the

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117 child's care in residential treatment, all of whom must be
118 provided with the opportunity to discuss the findings with the
119 evaluator.

120 (d) Immediately upon placing a child in a residential
121 treatment program under this section, the department must notify
122 the guardian ad litem and the court having jurisdiction over the
123 child. Within 5 days after the department's receipt of the
124 assessment, the department shall ~~and must~~ provide the guardian
125 ad litem and the court with a copy of the assessment by the
126 qualified evaluator.

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

144 (f) Within 30 days after admission, the residential
145 treatment program must review the appropriateness and

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146 suitability of the child's placement in the program. The
147 residential treatment program must determine whether the child
148 is receiving benefit toward the treatment goals and whether the
149 child could be treated in a less restrictive treatment program.
150 The residential treatment program shall prepare a written report
151 of its findings and submit the report to the guardian ad litem
152 and to the department. The department must submit the report to
153 the court. The report must include a discharge plan for the
154 child. The residential treatment program must continue to
155 evaluate the child's treatment progress every 30 days thereafter
156 and must include its findings in a written report submitted to
157 the department. The department may not reimburse a facility
158 until the facility has submitted every written report that is
159 due.

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

164 2. The court must conduct a hearing to review the status of
165 the child's residential treatment plan no later than 60 days
166 after the child's admission to the residential treatment
167 program. An independent review of the child's progress toward
168 achieving the goals and objectives of the treatment plan must be
169 completed by a qualified evaluator and submitted to the court
170 before its 60-day review.

171 3. For any child in residential treatment at the time a
172 judicial review is held pursuant to s. 39.701, the child's
173 continued placement in residential treatment must be a subject
174 of the judicial review.

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175 4. If at any time the court determines that the child is
176 not suitable for continued residential treatment, the court
177 shall order the department to place the child in the least
178 restrictive setting that is best suited to meet his or her
179 needs.

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

183 ~~(i) The department must adopt rules for implementing~~
184 ~~timeframes for the completion of suitability assessments by~~
185 ~~qualified evaluators and a procedure that includes timeframes~~
186 ~~for completing the 60-day independent review by the qualified~~
187 ~~evaluators of the child's progress toward achieving the goals~~
188 ~~and objectives of the treatment plan which review must be~~
189 ~~submitted to the court. The Agency for Health Care~~
190 ~~Administration must adopt rules for the registration of~~
191 ~~qualified evaluators, the procedure for selecting the evaluators~~
192 ~~to conduct the reviews required under this section, and a~~
193 ~~reasonable, cost-efficient fee schedule for qualified~~
194 ~~evaluators.~~

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

197 63.207 Out-of-state placement.—

198 (1) Unless the parent placing a minor for adoption files an
199 affidavit that the parent chooses to place the minor outside the
200 state, giving the reason for that placement, or the minor is to
201 be placed with a relative or with a stepparent, or the minor is
202 a difficult to place ~~special-needs~~ child, as defined in s.
203 409.166, or for other good cause shown, an adoption entity may

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204 not:

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

207 (b) Place or attempt to place a minor for the purpose of
208 adoption with a family who primarily lives and works outside
209 Florida in another state. If an adoption entity is acting under
210 this subsection, the adoption entity must file a petition for
211 declaratory statement pursuant to s. 63.102 for prior approval
212 of fees and costs. The court shall review the costs pursuant to
213 s. 63.097. The petition for declaratory statement must be
214 converted to a petition for an adoption upon placement of the
215 minor in the home. When a minor is placed for adoption with
216 prospective adoptive parents who primarily live and work outside
217 this state, the circuit court in this state may retain
218 jurisdiction over the matter until the adoption becomes final.
219 The prospective adoptive parents may finalize the adoption in
220 this state.

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

223 258.0142 Foster and adoptive family state park fee
224 discounts.—

225 (1) To promote awareness of the contributions made by
226 foster families and adoptive families to the vitality of the
227 state, the Division of Recreation and Parks shall provide the
228 following discounts on state park fees to persons who present
229 written documentation satisfactory to the division which
230 evidences their eligibility for the discounts:

231 (a) Families operating a licensed family foster home under
232 s. 409.175 shall receive family annual entrance passes at no

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233 charge and a 50 percent discount on base campsite fees at state
234 parks.

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

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

241 409.166 Children within the child welfare system; adoption
242 assistance program.—

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

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

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

247 2. A child who has established significant emotional ties
248 with his or her foster parents or is not likely to be adopted
249 because he or she is:

250 a. Eight years of age or older;

251 b. Developmentally disabled;

252 c. Physically or emotionally handicapped;

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

256 e. A member of a sibling group of any age, provided two or
257 more members of a sibling group remain together for purposes of
258 adoption; and

259 3. Except when the child is being adopted by the child's
260 foster parents or relative caregivers, a child for whom a
261 reasonable but unsuccessful effort has been made to place the

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262 child without providing a maintenance subsidy.

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

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

270 409.1664 Adoption benefits for qualifying adoptive
271 employees of state agencies, veterans, and servicemembers.—

272 (2) A qualifying adoptive employee, veteran, or
273 servicemember who adopts a child within the child welfare system
274 who is difficult to place as ~~has special-needs~~ described in s.
275 409.166(2)(a)2. is eligible to receive a lump-sum monetary
276 benefit in the amount of \$10,000 per such child, subject to
277 applicable taxes. A qualifying adoptive employee, veteran, or
278 servicemember who adopts a child within the child welfare system
279 who is not difficult to place as ~~does not have special-needs~~
280 described in s. 409.166(2)(a)2. is eligible to receive a lump-
281 sum monetary benefit in the amount of \$5,000 per such child,
282 subject to applicable taxes. A qualifying adoptive employee of a
283 charter school or the Florida Virtual School may retroactively
284 apply for the monetary benefit provided in this subsection if
285 such employee was employed by a charter school or the Florida
286 Virtual School when he or she adopted a child within the child
287 welfare system pursuant to chapter 63 on or after July 1, 2015.
288 A veteran or servicemember may apply for the monetary benefit
289 provided in this subsection if he or she is domiciled in this
290 state and adopts a child within the child welfare system

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291 pursuant to chapter 63 on or after July 1, 2020.

292 (a) Benefits paid to a qualifying adoptive employee who is
293 a part-time employee must be prorated based on the qualifying
294 adoptive employee's full-time equivalency at the time of
295 applying for the benefits.

296 (b) Monetary benefits awarded under this subsection are
297 limited to one award per adopted child within the child welfare
298 system.

299 (c) The payment of a lump-sum monetary benefit for adopting
300 a child within the child welfare system under this section is
301 subject to a specific appropriation to the department for such
302 purpose.

303 Section 6. Paragraph (b) of subsection (1) of section
304 414.045, Florida Statutes, is amended to read:

305 414.045 Cash assistance program.—Cash assistance families
306 include any families receiving cash assistance payments from the
307 state program for temporary assistance for needy families as
308 defined in federal law, whether such funds are from federal
309 funds, state funds, or commingled federal and state funds. Cash
310 assistance families may also include families receiving cash
311 assistance through a program defined as a separate state
312 program.

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

319 (b) *Child-only cases.*—Child-only cases include cases that

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320 do not have an adult or teen head of household as defined in
321 federal law. Such cases include:

322 1. Children in the care of caretaker relatives, if the
323 caretaker relatives choose to have their needs excluded in the
324 calculation of the amount of cash assistance.

325 2. Families in the Relative Caregiver Program as provided
326 in s. 39.5085.

327 3. Families in which the only parent in a single-parent
328 family or both parents in a two-parent family receive
329 supplemental security income (SSI) benefits under Title XVI of
330 the Social Security Act, as amended. To the extent permitted by
331 federal law, individuals receiving SSI shall be excluded as
332 household members in determining the amount of cash assistance,
333 and such cases shall not be considered families containing an
334 adult. Parents or caretaker relatives who are excluded from the
335 cash assistance group due to receipt of SSI may choose to
336 participate in work activities. An individual whose ability to
337 participate in work activities is limited who volunteers to
338 participate in work activities shall be assigned to work
339 activities consistent with such limitations. An individual who
340 volunteers to participate in a work activity may receive child
341 care or support services consistent with such participation.

342 4. Families in which the only parent in a single-parent
343 family or both parents in a two-parent family are not eligible
344 for cash assistance due to immigration status or other
345 limitation of federal law. To the extent required by federal
346 law, such cases shall not be considered families containing an
347 adult.

348 5. To the extent permitted by federal law and subject to

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349 appropriations, difficult to place ~~special needs~~ children who
350 have been adopted pursuant to s. 409.166 and whose adopting
351 family qualifies as a needy family under the state program for
352 temporary assistance for needy families. Notwithstanding any
353 provision to the contrary in s. 414.075, s. 414.085, or s.
354 414.095, a family shall be considered a needy family if:

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

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

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

363 6. Families in the Guardianship Assistance Program as
364 provided in s. 39.6225.

365

366 Families described in subparagraph 1., subparagraph 2., or
367 subparagraph 3. may receive child care assistance or other
368 supports or services so that the children may continue to be
369 cared for in their own homes or in the homes of relatives. Such
370 assistance or services may be funded from the temporary
371 assistance for needy families block grant to the extent
372 permitted under federal law and to the extent funds have been
373 provided in the General Appropriations Act.

374 Section 7. This act shall take effect upon becoming a law.