

1 A bill to be entitled
 2 An act relating to residential treatment programs;
 3 amending s. 39.407, F.S.; authorizing the Department
 4 of Children and Families, under certain circumstances,
 5 to place children in its custody in therapeutic group
 6 homes for residential mental health treatment without
 7 prior court approval; revising definitions; defining
 8 the 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
 29 department may be placed by the department, without prior
 30 approval of the court, in a residential treatment center
 31 licensed under s. 394.875, a therapeutic group home, or a
 32 hospital licensed under chapter 395 for residential mental
 33 health treatment only pursuant to this section or may be placed
 34 by the court in accordance with an order of involuntary
 35 examination or involuntary placement entered pursuant to s.
 36 394.463 or s. 394.467. All children placed in a residential
 37 treatment program under this subsection must have a guardian ad
 38 litem appointed.

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

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

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

50 3. "Suitable for residential treatment" or "suitability"

51 means a determination concerning a child or adolescent with an
52 emotional disturbance as defined in s. 394.492(5) or a serious
53 emotional disturbance as defined in s. 394.492(6) that each of
54 the following criteria is met:

55 a. The child requires residential treatment.

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

59 c. An appropriate, less restrictive alternative to
60 residential treatment is unavailable.

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

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

73 1. The qualified evaluator for placement in a residential
74 treatment center or a hospital must be a psychiatrist or a
75 psychologist licensed in this state ~~Florida~~ who has at least 3

76 | years of experience in the diagnosis and treatment of serious
77 | emotional disturbances in children and adolescents and who has
78 | no actual or perceived conflict of interest with any inpatient
79 | facility or residential treatment center or program.

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

88 | (c) Consistent with the requirements of this section
89 | ~~Before a child is admitted under this subsection,~~ the child
90 | shall be assessed for suitability for ~~residential~~ treatment by a
91 | qualified evaluator who has conducted an ~~a personal~~ examination
92 | and assessment of the child and has made written findings that:

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

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

99 | 3. All available modalities of treatment less restrictive
100 | than residential treatment have been considered, and a less

101 restrictive alternative that would offer comparable benefits to
102 the child is unavailable.

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

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

118 (e) Within 10 days after the admission of a child to a
119 residential treatment program, the director of the residential
120 treatment program or the director's designee must ensure that an
121 individualized plan of treatment has been prepared by the
122 program and has been explained to the child, to the department,
123 and to the guardian ad litem, and submitted to the department.
124 The child must be involved in the preparation of the plan to the
125 maximum feasible extent consistent with his or her ability to

126 understand and participate, and the guardian ad litem and the
127 child's foster parents must be involved to the maximum extent
128 consistent with the child's treatment needs. The plan must
129 include a preliminary plan for residential treatment and
130 aftercare upon completion of residential treatment. The plan
131 must include specific behavioral and emotional goals against
132 which the success of the residential treatment may be measured.
133 A copy of the plan must be provided to the child, to the
134 guardian ad litem, and to the department.

135 (f) Within 30 days after admission, the residential
136 treatment program must review the appropriateness and
137 suitability of the child's placement in the program. The
138 residential treatment program must determine whether the child
139 is receiving benefit toward the treatment goals and whether the
140 child could be treated in a less restrictive treatment program.
141 The residential treatment program shall prepare a written report
142 of its findings and submit the report to the guardian ad litem
143 and to the department. The department must submit the report to
144 the court. The report must include a discharge plan for the
145 child. The residential treatment program must continue to
146 evaluate the child's treatment progress every 30 days thereafter
147 and must include its findings in a written report submitted to
148 the department. The department may not reimburse a facility
149 until the facility has submitted every written report that is
150 due.

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

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

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

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

171 (h) After the initial 60-day review, the court must
172 conduct a review of the child's residential treatment plan every
173 90 days.

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

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

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