

1                   A bill to be entitled  
2           An act relating to in-person visitation by essential  
3           caregivers; creating ss. 393.131, 400.026, and  
4           429.276, F.S.; defining the term "essential  
5           caregiver"; providing that a resident or client of a  
6           residential facility, a developmental disabilities  
7           center, a direct service provider, a nursing home  
8           facility, or an assisted living facility has the right  
9           to designate an essential caregiver; prohibiting such  
10          facilities, centers, and providers from prohibiting  
11          in-person visitation by a designated essential  
12          caregiver; requiring the Agency for Persons with  
13          Disabilities and the Agency for Health Care  
14          Administration, as applicable, to develop guidelines  
15          to assist facilities, centers, and providers in  
16          establishing certain visitation policies and  
17          procedures; providing requirements for such  
18          guidelines; authorizing facilities, centers, and  
19          providers to revoke an individual's designation as an  
20          essential caregiver under certain circumstances;  
21          prohibiting safety protocols adopted for essential  
22          caregivers from being more stringent than safety  
23          protocols established for staff of a facility, center,  
24          or provider; authorizing facilities, centers, and  
25          providers to suspend visits by essential caregivers

26 for a specified period under certain circumstances;  
 27 authorizing facilities, centers, and providers to  
 28 submit a request to the applicable agency for an  
 29 extension of such suspension; prohibiting an extension  
 30 from exceeding a specified number of days; requiring  
 31 facilities, centers, and providers to submit a  
 32 separate request for each extension; providing  
 33 construction; providing for preemption; providing for  
 34 rulemaking; providing an effective date.

35

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

37

38 Section 1. Section 393.131, Florida Statutes, is created  
 39 to read:

40 393.131 Essential caregivers; in-person visitation.-

41 (1) As used in this section, the term "essential  
 42 caregiver" means a family member, friend, guardian, or other  
 43 individual designated by a resident or client of a residential  
 44 facility, including, but not limited to, an intermediate care  
 45 facility for the developmentally disabled; a developmental  
 46 disabilities center; or a direct service provider for in-person  
 47 visits.

48 (2)(a) A resident or client of a residential facility, a  
 49 developmental disabilities center, or a direct service provider,  
 50 or his or her guardian or legal representative, has the right to

51 designate an essential caregiver. A facility, center, or  
52 provider may not prohibit in-person visitation by a resident's  
53 or client's designated essential caregiver.

54 (b) Notwithstanding paragraph (a), the agency shall, by  
55 rule, develop guidelines to assist residential facilities,  
56 developmental disabilities centers, and direct service providers  
57 in establishing essential caregiver visitation policies and  
58 procedures. The guidelines must require facilities, centers, and  
59 providers to do all of the following:

60 1. Allow a resident or client, or his or her guardian or  
61 legal representative, to designate an essential caregiver for  
62 in-person visitation in the same manner that a resident or  
63 client would designate a power of attorney.

64 2. Establish a visitation schedule allowing the essential  
65 caregiver to visit the resident or client for at least 2 hours  
66 each day.

67 3. Establish procedures to enable physical contact between  
68 the resident or client and essential caregiver.

69 4. Obtain the signature of the essential caregiver  
70 certifying that the caregiver agrees to follow the facility's,  
71 center's, or provider's safety protocols, as applicable, and any  
72 other rules adopted under this section.

73 5. Establish a visitor's log.

74 (c) A residential facility, developmental disabilities  
75 center, or direct service provider may revoke an individual's

76 designation as an essential caregiver if the caregiver violates  
77 the facility's, center's, or provider's safety protocols or  
78 rules adopted under this section. The safety protocols adopted  
79 by the facility, center, or provider for an essential caregiver  
80 may not be more stringent than the safety protocols established  
81 for the staff of the facility, center, or provider.

82 (d) A residential facility, developmental disabilities  
83 center, or direct service provider may suspend visits by  
84 essential caregivers for no more than 7 days if in-person  
85 visitation poses a serious health risk to the residents or  
86 clients of the facility, center, or provider. A facility,  
87 center, or provider may submit a request to the agency for an  
88 extension to suspend in-person visitation for more than 7 days.  
89 However, any extension approved by the agency may not exceed a  
90 period of 7 days. A facility, center, or provider must submit a  
91 separate request for each extension.

92 (3) This section does not require an essential caregiver  
93 to provide necessary care to a resident or client of a  
94 residential facility, developmental disabilities center, or  
95 direct service provider and such facility, center, or provider  
96 may not require an essential caregiver to provide necessary care  
97 to the resident or client.

98 (4) This section prevails over any conflicting or  
99 inconsistent provisions of law.

100 (5) The agency shall adopt rules to implement this

101 section.

102 Section 2. Section 400.026, Florida Statutes, is created  
 103 to read:

104 400.026 Essential caregivers; in-person visitation.-

105 (1) As used in this section, the term "essential  
 106 caregiver" means a family member, friend, guardian, or other  
 107 individual designated by a resident for in-person visits.

108 (2)(a) A resident of a nursing home facility, or his or  
 109 her guardian or legal representative, has the right to designate  
 110 an essential caregiver. A facility may not prohibit in-person  
 111 visitation by a resident's designated essential caregiver.

112 (b) Notwithstanding paragraph (a), the agency shall, by  
 113 rule, develop guidelines to assist nursing home facilities in  
 114 establishing essential caregiver visitation policies and  
 115 procedures. The guidelines must require the facilities to do all  
 116 of the following:

117 1. Allow a resident, or his or her guardian or legal  
 118 representative, to designate an essential caregiver for in-  
 119 person visitation in the same manner that a resident would  
 120 designate a power of attorney.

121 2. Establish a visitation schedule allowing the essential  
 122 caregiver to visit the resident for at least 2 hours each day.

123 3. Establish procedures to enable physical contact between  
 124 the resident and essential caregiver.

125 4. Obtain the signature of the essential caregiver

126 certifying that the caregiver agrees to follow the facility's  
127 safety protocols and any other rules adopted under this section.

128 5. Establish a visitor's log.

129 (c) A nursing home facility may revoke an individual's  
130 designation as an essential caregiver if the caregiver violates  
131 the facility's safety protocols or rules adopted under this  
132 section. The safety protocols adopted by a nursing home facility  
133 for an essential caregiver may not be more stringent than safety  
134 protocols established for the facility's staff.

135 (d) A nursing home facility may suspend visits by  
136 essential caregivers for no more than 7 days if in-person  
137 visitation poses a serious health risk to the facility's  
138 residents. A facility may submit a request to the agency for an  
139 extension to suspend in-person visitation for more than 7 days.  
140 However, any extension approved by the agency may not exceed a  
141 period of 7 days. A facility must submit a separate request for  
142 each extension.

143 (3) This section does not require an essential caregiver  
144 to provide necessary care to a resident and a nursing home  
145 facility may not require an essential caregiver to provide  
146 necessary care to the resident.

147 (4) This section prevails over any conflicting or  
148 inconsistent provisions of law.

149 (5) The agency shall adopt rules to implement this  
150 section.

151 Section 3. Section 429.276, Florida Statutes, is created  
152 to read:

153 429.276 Essential caregivers; in-person visitation.-

154 (1) As used in this section, the term "essential  
155 caregiver" means a family member, friend, guardian, or other  
156 individual designated by a resident for in-person visits.

157 (2)(a) A resident of an assisted living facility, or his  
158 or her guardian or legal representative, has the right to  
159 designate an essential caregiver. A facility may not prohibit  
160 in-person visitation by the resident's designated essential  
161 caregiver.

162 (b) Notwithstanding paragraph (a), the agency shall, by  
163 rule, develop guidelines to assist assisted living facilities in  
164 establishing essential caregiver visitation policies and  
165 procedures. The guidelines must require the facilities to do all  
166 of the following:

167 1. Allow a resident, or his or her guardian or legal  
168 representative, to designate an essential caregiver for in-  
169 person visitation in the same manner that a resident would  
170 designate a power of attorney.

171 2. Establish a visitation schedule allowing the essential  
172 caregiver to visit the resident for at least 2 hours each day.

173 3. Establish procedures to enable physical contact between  
174 the resident and essential caregiver.

175 4. Obtain the signature of the essential caregiver

176 certifying that the caregiver agrees to follow the facility's  
177 safety protocols and any other rules adopted under this section.

178 5. Establish a visitor's log.

179 (c) An assisted living facility may revoke an individual's  
180 designation as an essential caregiver if the caregiver violates  
181 the facility's safety protocols or rules adopted under this  
182 section. The safety protocols adopted by an assisted living  
183 facility for an essential caregiver may not be more stringent  
184 than safety protocols established for the facility's staff.

185 (d) An assisted living facility may suspend visits by  
186 essential caregivers for no more than 7 days if in-person  
187 visitation poses a serious health risk to the facility's  
188 residents. A facility may submit a request to the agency for an  
189 extension to suspend in-person visitation for more than 7 days.  
190 However, any extension approved by the agency may not exceed a  
191 period of 7 days. A facility must submit a separate request for  
192 each extension.

193 (3) This section does not require an essential caregiver  
194 to provide necessary care to a resident and an assisted living  
195 facility may not require an essential caregiver to provide  
196 necessary care the resident.

197 (4) This section prevails over any conflicting or  
198 inconsistent provisions of law.

199 (5) The agency shall adopt rules to implement this  
200 section.



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2022

201        Section 4.    This act shall take effect July 1, 2022.