

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 | once for a specified period under certain
 27 | circumstances; requiring visitation policies to allow
 28 | for in-person visitation by essential caregivers
 29 | during a suspension on a case-by-case basis under
 30 | certain circumstances; requiring the applicable agency
 31 | to dedicate a webpage containing specified information
 32 | on its website; providing for construction,
 33 | preemption, and rulemaking; providing an effective
 34 | 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 in-person visits
84 by essential caregivers once for no more than 7 days if in-
85 person visitation poses a serious health risk to the residents
86 or clients of the facility, center, or provider. In the event of
87 a suspension, the visitation policy required by this section
88 must allow for in-person visitation by an essential caregiver on
89 a case-by-case basis during the suspension in all of the
90 following circumstances:

91 1. End-of-life situations.

92 2. A resident or client who was living with his or her
93 family before recently being admitted to the facility or center
94 is struggling with the change in environment and lack of
95 physical family support.

96 3. A resident or client is grieving the loss of a friend
97 or family member who recently died.

98 4. A resident or client needs cueing or encouragement to
99 eat or drink which was previously provided by a family member or

100 caregiver, and the resident or client is experiencing weight
 101 loss or dehydration.

102 5. A resident or client who used to talk and interact with
 103 others is experiencing emotional distress, is seldom speaking,
 104 or is crying more frequently than he or she did previously.

105 6. Any other circumstance the agency deems appropriate.

106 (3) The agency must dedicate a webpage on its website to
 107 explain visitation rights authorized under this section.

108 (4) This section does not require an essential caregiver
 109 to provide necessary care to a resident or client of a
 110 residential facility, developmental disabilities center, or
 111 direct service provider and such facility, center, or provider
 112 may not require an essential caregiver to provide necessary care
 113 to the resident or client.

114 (5) This section prevails over any conflicting or
 115 inconsistent provisions of law.

116 (6) The agency shall adopt rules to implement this
 117 section.

118 Section 2. Section 400.026, Florida Statutes, is created
 119 to read:

120 400.026 Essential caregivers; in-person visitation.-

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

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

128 (b) Notwithstanding paragraph (a), the agency shall, by
129 rule, develop guidelines to assist nursing home facilities in
130 establishing essential caregiver visitation policies and
131 procedures. The guidelines must require the facilities to do all
132 of the following:

133 1. Allow a resident, or his or her guardian or legal
134 representative, to designate an essential caregiver for in-
135 person visitation in the same manner that a resident would
136 designate a power of attorney.

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

139 3. Establish procedures to enable physical contact between
140 the resident and essential caregiver.

141 4. Obtain the signature of the essential caregiver
142 certifying that the caregiver agrees to follow the facility's
143 safety protocols and any other rules adopted under this section.

144 5. Establish a visitor's log.

145 (c) A nursing home facility may revoke an individual's
146 designation as an essential caregiver if the caregiver violates
147 the facility's safety protocols or rules adopted under this
148 section. The safety protocols adopted by a nursing home facility

149 for an essential caregiver may not be more stringent than safety
150 protocols established for the facility's staff.

151 (d) A nursing home facility may suspend in-person visits
152 by essential caregivers once for no more than 7 days if in-
153 person visitation poses a serious health risk to the residents
154 of the facility. In the event of a suspension, the visitation
155 policy required by this section must allow for in-person
156 visitation by an essential caregiver on a case-by-case basis
157 during the suspension in all of the following circumstances:

158 1. End-of-life situations.

159 2. A resident who was living with his or her family before
160 recently being admitted to the facility is struggling with the
161 change in environment and lack of physical family support.

162 3. A resident is grieving the loss of a friend or family
163 member who recently died.

164 4. A resident needs cueing or encouragement to eat or
165 drink which was previously provided by a family member or
166 caregiver, and the resident is experiencing weight loss or
167 dehydration.

168 5. A resident who used to talk and interact with others is
169 experiencing emotional distress, is seldom speaking, or is
170 crying more frequently than he or she did previously.

171 6. Any other circumstance the agency deems appropriate.

172 (3) The agency must dedicate a webpage on its website to
173 explain visitation rights authorized under this section.

174 (4) This section does not require an essential caregiver
 175 to provide necessary care to a resident and a nursing home
 176 facility may not require an essential caregiver to provide
 177 necessary care to the resident.

178 (5) This section prevails over any conflicting or
 179 inconsistent provisions of law.

180 (6) The agency shall adopt rules to implement this
 181 section.

182 Section 3. Section 429.276, Florida Statutes, is created
 183 to read:

184 429.276 Essential caregivers; in-person visitation.-

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

188 (2) (a) A resident of an assisted living facility, or his
 189 or her guardian or legal representative, has the right to
 190 designate an essential caregiver. A facility may not prohibit
 191 in-person visitation by the resident's designated essential
 192 caregiver.

193 (b) Notwithstanding paragraph (a), the agency shall, by
 194 rule, develop guidelines to assist assisted living facilities in
 195 establishing essential caregiver visitation policies and
 196 procedures. The guidelines must require the facilities to do all
 197 of the following:

198 1. Allow a resident, or his or her guardian or legal
199 representative, to designate an essential caregiver for in-
200 person visitation in the same manner that a resident would
201 designate a power of attorney.

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

204 3. Establish procedures to enable physical contact between
205 the resident and essential caregiver.

206 4. Obtain the signature of the essential caregiver
207 certifying that the caregiver agrees to follow the facility's
208 safety protocols and any other rules adopted under this section.

209 5. Establish a visitor's log.

210 (c) An assisted living facility may revoke an individual's
211 designation as an essential caregiver if the caregiver violates
212 the facility's safety protocols or rules adopted under this
213 section. The safety protocols adopted by an assisted living
214 facility for an essential caregiver may not be more stringent
215 than safety protocols established for the facility's staff.

216 (d) An assisted living facility may suspend in-person
217 visits by essential caregivers once for no more than 7 days if
218 in-person visitation poses a serious health risk to the
219 residents of the facility. In the event of a suspension, the
220 visitation policy required by this section must allow for in-
221 person visitation by an essential caregiver on a case-by-case

222 basis during the suspension in all of the following
223 circumstances:

224 1. End-of-life situations.

225 2. A resident who was living with his or her family before
226 recently being admitted to the facility is struggling with the
227 change in environment and lack of physical family support.

228 3. A resident is grieving the loss of a friend or family
229 member who recently died.

230 4. A resident needs cueing or encouragement to eat or
231 drink which was previously provided by a family member or
232 caregiver, and the resident is experiencing weight loss or
233 dehydration.

234 5. A resident who used to talk and interact with others is
235 experiencing emotional distress, is seldom speaking, or is
236 crying more frequently than he or she did previously.

237 6. Any other circumstance the agency deems appropriate.

238 (3) The agency must dedicate a webpage on its website to
239 explain visitation rights authorized under this section.

240 (4) This section does not require an essential caregiver
241 to provide necessary care to a resident and an assisted living
242 facility may not require an essential caregiver to provide
243 necessary care to the resident.

244 (5) This section prevails over any conflicting or
245 inconsistent provisions of law.

246 (6) The agency shall adopt rules to implement this

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247 | section.

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