

1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.063, F.S.; revising and
4 defining terms; amending s. 393.0655, F.S.; revising
5 background screening requirements for certain direct
6 service providers; amending s. 393.067, F.S.;
7 requiring the licensure of adult day training
8 programs; conforming related application and licensure
9 provisions to changes made by the act; providing for
10 comprehensive emergency management plans of adult day
11 training programs; providing for inspections of adult
12 day training programs; requiring adult day training
13 programs to adhere to specified rights; conforming
14 provisions to changes made by the act; amending s.
15 393.0673, F.S.; revising provisions related to
16 disciplinary action against certain licensees to
17 include licensed adult day training programs;
18 providing that for purposes of disciplinary action for
19 certain violations, a licensee is ultimately
20 responsible for the care and supervision of clients in
21 its facility or participants of the program; providing
22 construction; revising grounds for denial of a
23 licensure application; defining the term "good moral
24 character"; authorizing the agency to immediately
25 suspend or revoke the license of adult day training

26 | programs under certain circumstances; authorizing the
 27 | agency to impose an immediate moratorium on service
 28 | authorizations to licensed facilities and adult day
 29 | training programs under certain circumstances;
 30 | amending s. 393.0678, F.S.; conforming provisions to
 31 | changes made by the act; making a technical
 32 | correction; amending s. 393.135, F.S.; conforming
 33 | provisions to changes made by the act; repealing s.
 34 | 393.18, F.S., relating to comprehensive transitional
 35 | education programs; amending s. 394.875, F.S.;
 36 | conforming a provision to changes made by the act;
 37 | amending ss. 383.141, 400.063, and 1002.394, F.S.;
 38 | conforming cross-references; providing an effective
 39 | date.

41 | Be It Enacted by the Legislature of the State of Florida:

42 |
 43 | Section 1. Subsections (1) and (10) of section 393.063,
 44 | Florida Statutes, are amended, and a new subsection (25) is
 45 | added to that section, to read:

46 | 393.063 Definitions.—For the purposes of this chapter, the
 47 | term:

48 | (1) "Adult day training" means a program of ~~training~~
 49 | services which takes ~~that take~~ place in a nonresidential
 50 | setting, separate from the home or facility in which the client

51 resides, and is ~~are~~ intended to support the participation of
 52 clients in ~~daily,~~ meaningful, and valued routines of the
 53 community. These services include, but are not limited to, the
 54 acquisition, retention, or improvement of self-help,
 55 socialization, and adaptive skills ~~Such training may be provided~~
 56 ~~in work-like settings that do not meet the definition of~~
 57 ~~supported employment.~~

58 ~~(10) "Comprehensive transitional education program" means~~
 59 ~~the program established in s. 393.18.~~

60 (25) "Licensee" means an individual, a corporation, a
 61 partnership, a firm, an association, a governmental entity, or
 62 other entity that is issued a permit, registration, certificate,
 63 or license by the agency. The licensee is legally responsible
 64 for all aspects of the provider operation.

65 Section 2. Subsection (1) of section 393.0655, Florida
 66 Statutes, is amended to read:

67 393.0655 Screening of direct service providers.—

68 (1) MINIMUM STANDARDS.—The agency shall require level 2
 69 employment screening pursuant to chapter 435 for direct service
 70 providers who are unrelated to their clients, including support
 71 coordinators, and managers and supervisors of residential
 72 facilities or adult day training ~~comprehensive transitional~~
 73 ~~education~~ programs licensed under this chapter and any other
 74 person, including volunteers, who provide care or services, who
 75 have access to a client's living areas, or who have access to a

76 client's funds or personal property. Background screening must
 77 ~~shall~~ include employment history checks as provided in s.
 78 435.03(1) and local criminal records checks through local law
 79 enforcement agencies.

80 (a) A volunteer who assists on an intermittent basis for
 81 less than 10 hours per month does not have to be screened if a
 82 person who meets the screening requirement of this section is
 83 always present and has the volunteer within his or her line of
 84 sight.

85 (b) Licensed physicians, nurses, or other professionals
 86 licensed and regulated by the Department of Health are not
 87 subject to background screening pursuant to this section if they
 88 are providing a service that is within their scope of licensed
 89 practice.

90 (c) A person selected by the family or the individual with
 91 developmental disabilities and paid by the family or the
 92 individual to provide supports or services is not required to
 93 have a background screening under this section.

94 (d) Persons 12 years of age or older, including family
 95 members, residing with a direct services provider who provides
 96 services to clients in his or her own place of residence are
 97 subject to background screening; however, such persons who are
 98 12 to 18 years of age shall be screened for delinquency records
 99 only.

100 Section 3. Section 393.067, Florida Statutes, is amended

101 to read:

102 393.067 Facility licensure.—

103 (1) The agency shall provide through its licensing
104 authority and by rule license application procedures, provider
105 qualifications, facility and client care standards, requirements
106 for client records, requirements for staff qualifications and
107 training, and requirements for monitoring foster care
108 facilities, group home facilities, residential habilitation
109 centers, and adult day training ~~comprehensive transitional~~
110 ~~education~~ programs that serve agency clients.

111 (2) The agency shall conduct annual inspections and
112 reviews of facilities and adult day training programs licensed
113 under this section.

114 (3) An application for a license under this section must
115 be made to the agency on a form furnished by it and shall be
116 accompanied by the appropriate license fee.

117 (4) The application shall be under oath and shall contain
118 the following:

119 (a) The name and address of the applicant, if an applicant
120 is an individual; if the applicant is a firm, partnership, or
121 association, the name and address of each member thereof; if the
122 applicant is a corporation, its name and address and the name
123 and address of each director and each officer thereof; and the
124 name by which the facility or program is to be known.

125 (b) The location of the facility or adult day training

126 | program for which a license is sought.

127 | (c) The name of the person or persons under whose
128 | management or supervision the facility or adult day training
129 | program will be conducted.

130 | (d) The number and type of residents or clients for which
131 | maintenance, care, education, or treatment is to be provided by
132 | the facility or adult day training program.

133 | ~~(e) The number and location of the component centers or~~
134 | ~~units which will compose the comprehensive transitional~~
135 | ~~education program.~~

136 | ~~(f)~~ A description of the types of services and treatment
137 | to be provided by the facility or adult day training program.

138 | (f)~~(g)~~ Information relating to the number, experience, and
139 | training of the employees of the facility or adult day training
140 | program.

141 | (g)~~(h)~~ Certification that the staff of the facility or
142 | adult day training program will receive training to detect,
143 | report, and prevent sexual abuse, abuse, neglect, exploitation,
144 | and abandonment, as defined in ss. 39.01 and 415.102, of
145 | residents and clients.

146 | (h)~~(i)~~ ~~Such other~~ Information as the agency determines is
147 | necessary to carry out the provisions of this chapter.

148 | (5) As a prerequisite for issuance of an initial or
149 | renewal license, the applicant, and any manager, supervisor, and
150 | staff member of the direct service provider of a facility or

151 adult day training program licensed under this section, must
 152 have submitted to background screening as required under s.
 153 393.0655. A license may not be issued or renewed if the
 154 applicant or any manager, supervisor, or staff member of the
 155 direct service provider has a disqualifying offense revealed by
 156 ~~failed~~ background screenings ~~as~~ required under s. 393.0655. The
 157 agency shall determine by rule the frequency of background
 158 screening. The applicant shall submit with each initial or
 159 renewal application a signed affidavit under penalty of perjury
 160 stating that the applicant and any manager, supervisor, or staff
 161 member of the direct service provider is in compliance with all
 162 requirements for background screening.

163 (6) A facility or program ~~The~~ applicant shall furnish
 164 satisfactory proof of financial ability to operate and conduct
 165 the facility or program in accordance with the requirements of
 166 this chapter and adopted rules.

167 (7) The agency shall adopt rules establishing minimum
 168 standards for facilities and adult day training programs
 169 licensed under this section, including rules requiring
 170 facilities and adult day training programs to train staff to
 171 detect, report, and prevent sexual abuse, abuse, neglect,
 172 exploitation, and abandonment, as defined in ss. 39.01 and
 173 415.102, of residents and clients, minimum standards of quality
 174 and adequacy of client care, incident reporting requirements,
 175 and uniform firesafety standards established by the State Fire

HB 1517

2023

176 Marshal which are appropriate to the size of the facility or
177 adult day training ~~of the component centers or units of the~~
178 program.

179 (8) The agency, after consultation with the Division of
180 Emergency Management, shall adopt rules for foster care
181 facilities, group home facilities, ~~and~~ residential habilitation
182 centers, and adult day training programs which establish minimum
183 standards for the preparation and annual update of a
184 comprehensive emergency management plan. At a minimum, the rules
185 must provide for plan components that address emergency
186 evacuation transportation; adequate sheltering arrangements;
187 postdisaster activities, including emergency power, food, and
188 water; postdisaster transportation; supplies; staffing;
189 emergency equipment; individual identification of residents and
190 transfer of records; and responding to family inquiries. The
191 comprehensive emergency management plan for all facilities and
192 adult day training ~~comprehensive transitional education~~ programs
193 ~~and for homes~~ serving individuals who have a complex medical
194 condition ~~conditions~~ is subject to review and approval by the
195 local emergency management agency. During its review, the local
196 emergency management agency shall ensure that the agency and the
197 Division of Emergency Management, at a minimum, are given the
198 opportunity to review the plan. Also, appropriate volunteer
199 organizations must be given the opportunity to review the plan.
200 The local emergency management agency shall complete its review

201 within 60 days and either approve the plan or advise the
 202 facility or program of necessary revisions.

203 (9) The agency may conduct unannounced inspections to
 204 determine compliance by foster care facilities, group home
 205 facilities, residential habilitation centers, and adult day
 206 training ~~comprehensive transitional education~~ programs with the
 207 applicable provisions of this chapter and the rules adopted
 208 pursuant hereto, including the rules adopted for training staff
 209 of a facility or an adult day training ~~a~~ program to detect,
 210 report, and prevent sexual abuse, abuse, neglect, exploitation,
 211 and abandonment, as defined in ss. 39.01 and 415.102, of
 212 residents and clients. The facility or adult day training
 213 program shall make copies of inspection reports available to the
 214 public upon request.

215 (10) Each facility or program licensed under this section
 216 shall forward annually to the agency a true and accurate sworn
 217 statement of its costs of providing care to clients funded by
 218 the agency.

219 (11) The agency may audit the records of any facility or
 220 program that it has reason to believe may not be in full
 221 compliance with ~~the provisions of~~ this section; provided that,
 222 any financial audit of such facility or program is ~~shall be~~
 223 limited to the records of clients funded by the agency.

224 (12) The agency shall establish, for the purpose of
 225 control of licensure costs, a uniform management information

226 system and a uniform reporting system with uniform definitions
 227 and reporting categories.

228 (13) Facilities and adult day training programs licensed
 229 under ~~pursuant to~~ this section shall adhere to all rights
 230 specified in s. 393.13, ~~including those enumerated in s.~~
 231 ~~393.13(4).~~

232 (14) The agency may not authorize funds or services to an
 233 unlicensed facility or adult day training program that requires
 234 a license under this section ~~may not receive state funds.~~ A
 235 license for the operation of a facility or an adult day training
 236 program ~~may shall~~ not be renewed if the licensee has any
 237 outstanding fines assessed pursuant to this chapter wherein
 238 final adjudication of such fines has been entered.

239 (15) The agency is not required to contract with
 240 facilities or adult day training programs licensed under
 241 ~~pursuant to~~ this chapter.

242 Section 4. Section 393.0673, Florida Statutes, is amended
 243 to read:

244 393.0673 Denial, suspension, or revocation of license;
 245 moratorium on admissions; administrative fines; procedures.—

246 (1) The following constitute grounds for which the agency
 247 may take disciplinary action, including revoking or suspending
 248 ~~revoke or suspend~~ a license and imposing ~~or impose~~ an
 249 administrative fine, not to exceed \$1,000 per violation per day,
 250 ~~if:~~

251 (a) The licensee has:

252 1. Falsely represented or omitted a material fact in its

253 license application submitted under s. 393.067;

254 2. Had prior action taken against it under the Medicaid or

255 Medicare program; or

256 3. Failed to comply with the applicable requirements of

257 this chapter or rules applicable to the licensee; or

258 (b) The Department of Children and Families has verified

259 that the licensee is responsible for the abuse, neglect, or

260 abandonment of a child or the abuse, neglect, or exploitation of

261 a vulnerable adult.

262 (2) For purposes of disciplinary action under this section

263 for verified findings of abuse, neglect, abandonment, or

264 exploitation of a child or vulnerable adult, the licensee is

265 responsible not only for administration of the facilities in

266 compliance with the standards set out by statute and

267 administrative rule, but is ultimately responsible for the care

268 and supervision of the clients in the facility or the

269 participants of the program.

270 (a) A licensee may not delegate to others the ultimate

271 responsibility for the safety of the clients in its care.

272 (b) A licensee is subject to disciplinary action for an

273 employee's lapse in care or supervision of the clients at the

274 facility or the participants of the program in which a verified

275 finding of abuse, neglect, abandonment, or exploitation

276 | occurred.

277 | (c) Remedial action taken by the licensee does not affect
 278 | the agency's ability to impose disciplinary action for the
 279 | underlying violation.

280 | (3) The agency may deny an application for licensure
 281 | submitted under s. 393.067 if:

282 | (a) The applicant has:

283 | 1. Falsely represented or omitted a material fact in its
 284 | license application submitted under s. 393.067;

285 | 2. Had prior action taken against it under the Medicaid or
 286 | Medicare program;

287 | 3. Failed to comply with the applicable requirements of
 288 | this chapter or rules applicable to the applicant; or

289 | 4. Previously had a license to operate a residential
 290 | facility or adult day training program revoked by the agency,
 291 | the Department of Children and Families, or the Agency for
 292 | Health Care Administration; ~~or~~

293 | (b) The Department of Children and Families has verified
 294 | that the applicant is responsible for the abuse, neglect, or
 295 | abandonment of a child or the abuse, neglect, or exploitation of
 296 | a vulnerable adult; or

297 | (c) The agency has determined that there is clear and
 298 | convincing evidence that the applicant is unqualified for a
 299 | license because of a lack of good moral character. For purposes
 300 | of this paragraph, the term "good moral character" means a

301 personal history of honesty, fairness, and respect for the
 302 rights of others and for the laws of this state and the Federal
 303 Government.

304 ~~(4)(3)~~ All hearings must ~~shall~~ be held within the county
 305 in which the licensee or applicant operates or applies for a
 306 license to operate a facility or adult day training program as
 307 defined herein.

308 ~~(5)(4)~~ The agency, as a part of any final order issued by
 309 it under this chapter, may impose such fine as it deems proper,
 310 except that such fine may not exceed \$1,000 for each violation.
 311 Each day a violation of this chapter occurs constitutes a
 312 separate violation and is subject to a separate fine, but in no
 313 event may the aggregate amount of any fine exceed \$10,000. Fines
 314 paid by any facility licensee under ~~the provisions of~~ this
 315 subsection shall be deposited in the Health Care Trust Fund and
 316 expended as provided in s. 400.063.

317 ~~(6)(5)~~ The agency may issue an order immediately
 318 suspending or revoking a license when it determines that any
 319 condition of ~~in~~ the facility or adult day training program
 320 presents a danger to the health, safety, or welfare of the
 321 residents in the facility or the program participants.

322 ~~(7)(6)~~ The agency may impose an immediate moratorium on
 323 admissions to any facility or service authorizations to a
 324 facility or adult day training program when the agency
 325 determines that any condition of ~~in~~ the facility or adult day

326 training program presents a threat to the health, safety, or
 327 welfare of the residents in the facility or the program
 328 participants.

329 ~~(8)(7)~~ The agency shall establish by rule criteria for
 330 evaluating the severity of violations and for determining the
 331 amount of fines imposed.

332 Section 5. Subsection (1) of section 393.0678, Florida
 333 Statutes, is amended to read:

334 393.0678 Receivership proceedings.—

335 (1) The agency may petition a court of competent
 336 jurisdiction for the appointment of a receiver for a
 337 ~~comprehensive transitional education program,~~ a residential
 338 habilitation center~~,~~ or a group home facility owned and operated
 339 by a corporation or partnership when any of the following
 340 conditions exist:

341 (a) Any person is operating a facility without a license
 342 and refuses to make application for a license as required by s.
 343 393.067.

344 (b) The licensee is closing the facility or has informed
 345 the agency ~~department~~ that it intends to close the facility; and
 346 adequate arrangements have not been made for relocation of the
 347 residents within 7 days, exclusive of weekends and holidays, of
 348 the closing of the facility.

349 (c) The agency determines that conditions exist in the
 350 facility which present an imminent danger to the health, safety,

351 or welfare of the residents of the facility or which present a
 352 substantial probability that death or serious physical harm
 353 would result therefrom. Whenever possible, the agency shall
 354 facilitate the continued operation of the program.

355 (d) The licensee cannot meet its financial obligations to
 356 provide food, shelter, care, and utilities. Evidence such as the
 357 issuance of bad checks or the accumulation of delinquent bills
 358 for such items as personnel salaries, food, drugs, or utilities
 359 constitutes prima facie evidence that the ownership of the
 360 facility lacks the financial ability to operate the home in
 361 accordance with the requirements of this chapter and all rules
 362 adopted ~~promulgated~~ thereunder.

363 Section 6. Subsection (2) of section 393.135, Florida
 364 Statutes, is amended to read:

365 393.135 Sexual misconduct prohibited; reporting required;
 366 penalties.—

367 (2) A covered person who engages in sexual misconduct with
 368 an individual with a developmental disability who:

369 (a) Resides in a residential facility, including any
 370 ~~comprehensive transitional education program,~~ developmental
 371 disabilities center, foster care facility, group home facility,
 372 intermediate care facility for the developmentally disabled, or
 373 residential habilitation center; or

374 (b) Is eligible to receive services from the agency under
 375 this chapter,

376
 377 commits a felony of the second degree, punishable as provided in
 378 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
 379 found guilty of violating this subsection without having
 380 committed the crime of sexual battery.

381 Section 7. Section 393.18, Florida Statutes, is repealed.

382 Section 8. Paragraph (c) of subsection (3) of section
 383 394.875, Florida Statutes, is amended to read:

384 394.875 Crisis stabilization units, residential treatment
 385 facilities, and residential treatment centers for children and
 386 adolescents; authorized services; license required.-

387 (3) The following are exempt from licensure as required in
 388 ss. 394.455-394.903:

389 ~~(c) Comprehensive transitional education programs licensed~~
 390 ~~under s. 393.067.~~

391 Section 9. Paragraph (b) of subsection (1) of section
 392 383.141, Florida Statutes, is amended to read:

393 383.141 Prenatally diagnosed conditions; patient to be
 394 provided information; definitions; information clearinghouse;
 395 advisory council.-

396 (1) As used in this section, the term:

397 (b) "Developmental disability" includes Down syndrome and
 398 other developmental disabilities defined by s. 393.063 ~~s.~~
 399 ~~393.063(12).~~

400 Section 10. Subsection (1) of section 400.063, Florida

401 Statutes, is amended to read:

402 400.063 Resident protection.—

403 (1) The Health Care Trust Fund shall be used for the
 404 purpose of collecting and disbursing funds generated from the
 405 license fees and administrative fines as provided for in ss.
 406 393.0673(5) ~~ss. 393.0673(4)~~, 400.062(3), 400.121(2), and
 407 400.23(8). Such funds shall be for the sole purpose of paying
 408 for the appropriate alternate placement, care, and treatment of
 409 residents who are removed from a facility licensed under this
 410 part or a facility specified in s. 393.0678(1) in which the
 411 agency determines that existing conditions or practices
 412 constitute an immediate danger to the health, safety, or
 413 security of the residents. If the agency determines that it is
 414 in the best interest of the health, safety, or security of the
 415 residents to provide for an orderly removal of the residents
 416 from the facility, the agency may utilize such funds to maintain
 417 and care for the residents in the facility pending removal and
 418 alternative placement. The maintenance and care of the residents
 419 shall be under the direction and control of a receiver appointed
 420 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may
 421 be expended in an emergency upon a filing of a petition for a
 422 receiver, upon the declaration of a state of local emergency
 423 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local
 424 order of evacuation of a facility by emergency personnel to
 425 protect the health and safety of the residents.

426 Section 11. Paragraph (d) of subsection (2) of section
 427 1002.394, Florida Statutes, is amended to read:
 428 1002.394 The Family Empowerment Scholarship Program.—
 429 (2) DEFINITIONS.—As used in this section, the term:
 430 (d) "Disability" means, for a 3- or 4-year-old child or
 431 for a student in kindergarten to grade 12, autism spectrum
 432 disorder, as defined in the Diagnostic and Statistical Manual of
 433 Mental Disorders, Fifth Edition, published by the American
 434 Psychiatric Association; cerebral palsy, as defined in s.
 435 393.063; Down syndrome, as defined in s. 393.063; an
 436 intellectual disability, as defined in s. 393.063; a speech
 437 impairment; a language impairment; an orthopedic impairment; any
 438 ~~an~~ other health impairment; an emotional or a behavioral
 439 disability; a specific learning disability, including, but not
 440 limited to, dyslexia, dyscalculia, or developmental aphasia;
 441 Phelan-McDermid syndrome, as defined in s. 393.063; Prader-Willi
 442 syndrome, as defined in s. 393.063; spina bifida, as defined in
 443 s. 393.063; being a high-risk child, as defined in s.
 444 393.063(22)(a) ~~s. 393.063(23)(a)~~; muscular dystrophy; Williams
 445 syndrome; rare diseases which affect patient populations of
 446 fewer than 200,000 individuals in the United States, as defined
 447 by the National Organization for Rare Disorders; anaphylaxis; a
 448 hearing impairment, including deafness; a visual impairment,
 449 including blindness; traumatic brain injury; hospital or
 450 homebound; or identification as dual sensory impaired, as

HB 1517

2023

451 defined by rules of the State Board of Education and evidenced
452 by reports from local school districts. The term "hospital or
453 homebound" includes a student who has a medically diagnosed
454 physical or psychiatric condition or illness, as defined by the
455 state board in rule, and who is confined to the home or hospital
456 for more than 6 months.

457 Section 12. This act shall take effect October 1, 2024.