

1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; creating a workgroup to provide a
4 continuum of guidance and information for individuals
5 with developmental disabilities and their families;
6 specifying workgroup participants and duties;
7 requiring the workgroup to submit certain reports to
8 the Governor and Legislature by specified dates;
9 amending s. 393.063, F.S.; revising and defining
10 terms; amending s. 393.065, F.S.; requiring the Agency
11 for Persons with Disabilities to make certain
12 eligibility determinations within specified
13 timeframes; providing eligibility requirements for
14 applicants; requiring the agency to authorize
15 admission to an intermediate care facility for certain
16 individuals; removing a provision requiring the agency
17 to perform specified assessments to determine level of
18 need and medical necessity for intermediate care
19 facilities; providing requirements for the
20 developmental disabilities home and community-based
21 services Medicaid waiver program; amending s.
22 393.0651, F.S.; revising the timeframe within which a
23 family or an individual support plan must be
24 developed; amending s. 393.0655, F.S.; revising
25 background screening requirements for certain direct

26 service providers; amending s. 393.067, F.S.;

27 requiring the licensure of adult day training

28 programs; conforming related application and licensure

29 provisions to changes made by the act; providing for

30 comprehensive emergency management plans of adult day

31 training programs; providing for inspections of adult

32 day training programs; requiring adult day training

33 programs to adhere to specified rights; prohibiting

34 the agency, beginning on a specified date, from

35 authorizing funds or services to an unlicensed adult

36 day training program; conforming provisions to changes

37 made by the act; amending s. 393.0673, F.S.; revising

38 provisions related to disciplinary action against

39 certain licensees to include licensed adult day

40 training programs; providing that for purposes of

41 disciplinary action for certain violations, a licensee

42 is ultimately responsible for the care and supervision

43 of clients in its facility or participants of the

44 program; providing construction; revising grounds for

45 denial of a licensure application; defining the term

46 "good moral character"; authorizing the agency to

47 immediately suspend or revoke the license of adult day

48 training programs under certain circumstances;

49 authorizing the agency to impose an immediate

50 moratorium on service authorizations to licensed

51 facilities and adult day training programs under
52 certain circumstances; amending s. 393.0678, F.S.;
53 conforming provisions to changes made by the act;
54 making a technical revision; amending s. 393.135,
55 F.S.; conforming provisions to changes made by the
56 act; repealing s. 393.18, F.S., relating to
57 comprehensive transitional education programs;
58 amending s. 394.875, F.S.; conforming a provision to
59 changes made by the act; amending ss. 383.141,
60 400.063, and 1002.394, F.S.; conforming cross-
61 references; providing an effective date.

62
63 Be It Enacted by the Legislature of the State of Florida:
64

65 Section 1. (1) The Agency for Persons with Disabilities
66 shall convene an interagency workgroup to create a continuum of
67 guidance and information for individuals with developmental
68 disabilities and their families including guidance and
69 information across the lifespan of such individuals related to
70 education, workforce, daily living skills, and supportive
71 services for greater independence.

72 (2) The workgroup shall include as participants, at a
73 minimum, the Department of Children and Families, the Early
74 Steps Program of the Department of Health, the Division of
75 Vocational Rehabilitation of the Department of Education, at

76 least three representatives from school district transition
77 programs, Project 10, the Agency for Health Care Administration,
78 the Department of Economic Opportunity's Unique Employer
79 program, and the Florida Center for Students with Unique
80 Abilities.

81 (3) The workgroup shall gather input from stakeholders and
82 Florida families to identify gaps in information and
83 communication across the lifespan of individuals with
84 developmental disabilities and their families, determine why
85 these gaps occur, and recommend ways to ensure that information
86 on the availability of resources and supports across the state
87 is more accessible, including, but not limited to, improving
88 agency websites.

89 (4) The workgroup shall submit an interim report by
90 November 1, 2023, and a final report by September 1, 2024,
91 including its findings and recommendations, to the Governor, the
92 President of the Senate, and the Speaker of the House of
93 Representatives.

94 Section 2. Subsections (11) through (25) of section
95 393.063, Florida Statutes, are renumbered as subsections (10)
96 through (24), respectively, subsection (1) and present
97 subsection (10) are amended, and a new subsection (25) is added
98 to that section, to read:

99 393.063 Definitions.—For the purposes of this chapter, the
100 term:

101 (1) "Adult day training" means a program of training
 102 services which takes ~~that take~~ place in a nonresidential
 103 setting, separate from the home or facility in which the client
 104 resides, and is ~~are~~ intended to support the participation of
 105 clients in ~~daily,~~ meaningful, and valued routines of the
 106 community. These services include, but are not limited to, the
 107 acquisition, retention, or improvement of self-help,
 108 socialization, and adaptive skills ~~Such training may be provided~~
 109 ~~in work-like settings that do not meet the definition of~~
 110 ~~supported employment.~~

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

113 (25) "Licensee" means an individual, a corporation, a
 114 partnership, a firm, an association, a governmental entity, or
 115 other entity that is issued a permit, registration, certificate,
 116 or license by the agency. The licensee is legally responsible
 117 for all aspects of the provider operation.

118 Section 3. Section 393.065, Florida Statutes, is amended
 119 to read:

120 393.065 Application and eligibility determination.—

121 (1) Application for services shall be made in writing to
 122 the agency, in the region ~~service area~~ in which the applicant
 123 resides. The agency shall review each application and make an
 124 ~~applicant for~~ eligibility determination ~~within 45 days after the~~
 125 ~~date the application is signed for children under 6 years of age~~

126 ~~and~~ within 60 days after receipt of the date the application is
127 signed application for all other applicants. If, at the time of
128 the application, an applicant is requesting enrollment in the
129 home and community-based services Medicaid waiver program for
130 individuals with developmental disabilities deemed to be in
131 crisis, as described in paragraph (5) (a), the agency shall
132 complete an eligibility determination within 45 days after
133 receipt of the signed application.

134 (a) If the agency determines additional documentation is
135 necessary to make an eligibility determination, the agency may
136 request the additional documentation from the applicant.

137 (b) When necessary to definitively identify individual
138 conditions or needs, the agency or its designee must ~~shall~~
139 provide a comprehensive assessment.

140 (c) If the agency requests additional documentation from
141 the applicant or provides or arranges for a comprehensive
142 assessment, the agency's eligibility determination must be
143 completed within 90 days after receipt of the signed application
144 ~~Only applicants whose domicile is in Florida are eligible for~~
145 ~~services.~~

146 (2) In order to be eligible for services under this
147 chapter, the agency must determine that the applicant has met
148 all eligibility requirements in rule, including having a
149 developmental disability and being domiciled in this state.
150 Information accumulated by other agencies, including

151 professional reports and collateral data, shall be considered in
152 this process when available.

153 ~~(2) In order to provide immediate services or crisis~~
154 ~~intervention to applicants, the agency shall arrange for~~
155 ~~emergency eligibility determination, with a full eligibility~~
156 ~~review to be accomplished within 45 days of the emergency~~
157 ~~eligibility determination.~~

158 (3) The agency or its designee shall notify each
159 applicant, in writing, of its eligibility determination
160 ~~decision~~. Any applicant or client determined by the agency to be
161 ineligible for services has the right to appeal this
162 determination decision pursuant to ss. 120.569 and 120.57.

163 (4) Before admission to an intermediate care facility for
164 individuals with intellectual disabilities and to ensure that
165 the setting is the least restrictive to meet the individual's
166 needs, the agency must authorize admission pursuant to this
167 subsection. As part of the authorization, the agency or its
168 designee must conduct a comprehensive assessment that includes
169 medical necessity, level of care, and level of reimbursement
170 ~~shall assess the level of need and medical necessity for~~
171 ~~prospective residents of intermediate care facilities for the~~
172 ~~developmentally disabled. The agency may enter into an agreement~~
173 ~~with the Department of Elderly Affairs for its Comprehensive~~
174 ~~Assessment and Review for Long-Term-Care Services (CARES)~~
175 ~~program to conduct assessments to determine the level of need~~

176 ~~and medical necessity for long-term care services under this~~
 177 ~~chapter. To the extent permissible under federal law, the~~
 178 ~~assessments shall be funded under Title XIX of the Social~~
 179 ~~Security Act.~~

180 (5) Except as provided in subsections (6) and (7), if a
 181 client seeking enrollment in the developmental disabilities home
 182 and community-based services Medicaid waiver program meets the
 183 level of care requirement for an intermediate care facility for
 184 individuals with intellectual disabilities pursuant to 42 C.F.R.
 185 ss. 435.217(b) (1) and 440.150, the agency ~~must~~ shall assign the
 186 client to an appropriate preenrollment category pursuant to this
 187 subsection and ~~must~~ provide priority to clients waiting for
 188 waiver services in the following order:

189 (a) Category 1, which includes clients deemed to be in
 190 crisis as described in rule, must ~~shall~~ be given first priority
 191 in moving from the preenrollment categories ~~waiting list~~ to the
 192 waiver.

193 (b) Category 2, which includes clients in the
 194 preenrollment categories ~~individuals on the waiting list~~ who
 195 are:

196 1. From the child welfare system with an open case in the
 197 Department of Children and Families' statewide automated child
 198 welfare information system and who are either:

199 a. Transitioning out of the child welfare system into
 200 permanency ~~at the finalization of an adoption, a reunification~~

201 ~~with family members, a permanent placement with a relative, or a~~
 202 ~~guardianship with a nonrelative; or~~

203 b. At least 18 years but not yet 22 years of age and who
 204 need both waiver services and extended foster care services; or

205 2. At least 18 years but not yet 22 years of age and who
 206 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
 207 extended foster care system.

208
 209 For individuals who are at least 18 years but not yet 22 years
 210 of age and who are eligible under sub-subparagraph 1.b., the
 211 agency must ~~shall~~ provide waiver services, including residential
 212 habilitation, and the community-based care lead agency must
 213 ~~shall~~ fund room and board at the rate established in s.
 214 409.145(3) and provide case management and related services as
 215 defined in s. 409.986(3)(e). Individuals may receive both waiver
 216 services and services under s. 39.6251. Services may not
 217 duplicate services available through the Medicaid state plan.

218 (c) Category 3, which includes, but is not required to be
 219 limited to, clients:

220 1. Whose caregiver has a documented condition that is
 221 expected to render the caregiver unable to provide care within
 222 the next 12 months and for whom a caregiver is required but no
 223 alternate caregiver is available;

224 2. At substantial risk of incarceration or court
 225 commitment without supports;

226 3. Whose documented behaviors or physical needs place them
227 or their caregiver at risk of serious harm and other supports
228 are not currently available to alleviate the situation; or

229 4. Who are identified as ready for discharge within the
230 next year from a state mental health hospital or skilled nursing
231 facility and who require a caregiver but for whom no caregiver
232 is available or whose caregiver is unable to provide the care
233 needed.

234 (d) Category 4, which includes, but is not required to be
235 limited to, clients whose caregivers are 70 years of age or
236 older and for whom a caregiver is required but no alternate
237 caregiver is available.

238 (e) Category 5, which includes, but is not required to be
239 limited to, clients who are expected to graduate within the next
240 12 months from secondary school and need support to obtain a
241 meaningful day activity, maintain competitive employment, or
242 pursue an accredited program of postsecondary education to which
243 they have been accepted.

244 (f) Category 6, which includes clients 21 years of age or
245 older who do not meet the criteria for category 1, category 2,
246 category 3, category 4, or category 5.

247 (g) Category 7, which includes clients younger than 21
248 years of age who do not meet the criteria for category 1,
249 category 2, category 3, or category 4.

250

251 Within preenrollment categories 3, 4, 5, 6, and 7, the agency
252 shall prioritize ~~maintain a waiting list of~~ clients placed in
253 the order of the date that the client is determined eligible for
254 waiver services.

255 (6) The agency must ~~shall~~ allow an individual who meets
256 the eligibility requirements of subsection (2) ~~subsection (1)~~ to
257 receive home and community-based services in this state if the
258 individual's parent or legal guardian is an active-duty military
259 servicemember and if, at the time of the servicemember's
260 transfer to this state, the individual was receiving home and
261 community-based services in another state.

262 (7) The agency must ~~shall~~ allow an individual with a
263 diagnosis of Phelan-McDermid syndrome who meets the eligibility
264 requirements of subsection (2) ~~subsection (1)~~ to receive home
265 and community-based services.

266 (8) Only a client may be eligible for services under the
267 developmental disabilities home and community-based services
268 Medicaid waiver program. For a client to receive services under
269 the developmental disabilities home and community-based services
270 Medicaid waiver program, there must be available funding
271 pursuant to s. 393.0662 or through a legislative appropriation
272 and the client must meet all of the following:

273 (a) The eligibility requirements of subsection (2), which
274 must be confirmed by the agency.

275 (b) The eligibility requirements for the Florida Medicaid

276 program under Title XIX of the Social Security Act, as amended,
277 or the Supplemental Security Income program.

278 (c) The level of care requirements for an intermediate
279 care facility for individuals with developmental disabilities
280 pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150.

281 (d) The requirements provided in the approved federal
282 waiver authorized pursuant to s. 1915(c) of the Social Security
283 Act and 42 C.F.R. s. 441.302.

284 (9)-(8) Agency action that selects individuals to receive
285 waiver services pursuant to this section does not establish a
286 right to a hearing or an administrative proceeding under chapter
287 120 for individuals remaining in the preenrollment categories ~~on~~
288 ~~the waiting list.~~

289 (10)-(9) The client, the client's guardian, or the client's
290 family must ensure that accurate, up-to-date contact information
291 is provided to the agency at all times. Notwithstanding s.
292 393.0651, the agency must ~~shall~~ send an annual letter requesting
293 updated information from the client, the client's guardian, or
294 the client's family. The agency must ~~shall~~ remove from the
295 preenrollment categories ~~waiting list~~ any individual who cannot
296 be located using the contact information provided to the agency,
297 fails to meet eligibility requirements, or becomes domiciled
298 outside the state.

299 (11)(a)-(10)(a) The agency must ~~shall~~ provide the following
300 information to all applicants or their parents, legal guardians,

301 or family members:

302 1. A brief overview of the vocational rehabilitation
303 services offered through the Division of Vocational
304 Rehabilitation of the Department of Education, including a
305 hyperlink or website address that provides access to the
306 application for such services;

307 2. A brief overview of the Florida ABLE program as
308 established under s. 1009.986, including a hyperlink or website
309 address that provides access to the application for establishing
310 an ABLE account as defined in s. 1009.986(2);

311 3. A brief overview of the supplemental security income
312 benefits and social security disability income benefits
313 available under Title XVI of the Social Security Act, as
314 amended, including a hyperlink or website address that provides
315 access to the application for such benefits;

316 4. A statement indicating that the applicant's local
317 public school district may provide specialized instructional
318 services, including transition programs, for students with
319 special education needs;

320 5. A brief overview of programs and services funded
321 through the Florida Center for Students with Unique Abilities,
322 including contact information for each state-approved Florida
323 Postsecondary Comprehensive Transition Program;

324 6. A brief overview of decisionmaking options for
325 individuals with disabilities, guardianship under chapter 744,

326 and alternatives to guardianship as defined in s. 744.334(1),
 327 which may include contact information for organizations that the
 328 agency believes would be helpful in assisting with such
 329 decisions;

330 7. A brief overview of the referral tools made available
 331 through the agency, including a hyperlink or website address
 332 that provides access to such tools; and

333 8. A statement indicating that some waiver providers may
 334 serve private-pay individuals.

335 (b) The agency must provide the information required in
 336 paragraph (a) in writing to an applicant or his or her parent,
 337 legal guardian, or family member along with a written disclosure
 338 statement in substantially the following form:

339 DISCLOSURE STATEMENT

340 Each program and service has its own eligibility requirements.
 341 By providing the information specified in section 393.065(11)(a)
 342 ~~393.065(10)(a)~~, Florida Statutes, the agency does not guarantee
 343 an applicant's eligibility for or enrollment in any program or
 344 service.

345 (c) The agency must ~~shall~~ also publish the information
 346 required in paragraph (a) and the disclosure statement in
 347 paragraph (b) on its website, and must ~~shall~~ provide that
 348 information and statement annually to each client applicant
 349 placed in the preenrollment categories ~~on the waiting list~~ or to
 350 the parent, legal guardian, or family member of such client

351 applicant.

352 (12)~~(11)~~ The agency and the Agency for Health Care
 353 Administration may adopt rules specifying application
 354 procedures, criteria associated with the preenrollment ~~waiting~~
 355 ~~list~~ categories, procedures for administering the preenrollment
 356 ~~waiting list~~, including tools for prioritizing waiver enrollment
 357 within preenrollment categories, and eligibility requirements
 358 ~~criteria~~ as needed to administer this section.

359 Section 4. Section 393.0651, Florida Statutes, is amended
 360 to read:

361 393.0651 Family or individual support plan.—The agency
 362 shall provide directly or contract for the development of a
 363 family support plan for children ages 3 to 18 years of age and
 364 an individual support plan for each client. The client, if
 365 competent, the client's parent or guardian, or, when
 366 appropriate, the client advocate, shall be consulted in the
 367 development of the plan and shall receive a copy of the plan.
 368 Each plan must include the most appropriate, least restrictive,
 369 and most cost-beneficial environment for accomplishment of the
 370 objectives for client progress and a specification of all
 371 services authorized. The plan must include provisions for the
 372 most appropriate level of care for the client. Within the
 373 specification of needs and services for each client, when
 374 residential care is necessary, the agency shall move toward
 375 placement of clients in residential facilities based within the

376 client's community. The ultimate goal of each plan, whenever
377 possible, shall be to enable the client to live a dignified life
378 in the least restrictive setting, be that in the home or in the
379 community. ~~For children under 6 years of age, The family or~~
380 individual support plan must ~~shall~~ be developed within 60 days
381 after the agency determines the client eligible pursuant to s.
382 393.065(3) ~~the 45-day application period as specified in s.~~
383 ~~393.065(1); for all applicants 6 years of age or older, the~~
384 ~~family or individual support plan shall be developed within the~~
385 ~~60-day period as specified in that subsection.~~

386 (1) The agency shall develop and specify by rule the core
387 components of support plans.

388 (2) The family or individual support plan shall be
389 integrated with the individual education plan (IEP) for all
390 clients who are public school students entitled to a free
391 appropriate public education under the Individuals with
392 Disabilities Education Act, I.D.E.A., as amended. The family or
393 individual support plan and IEP must ~~shall~~ be implemented to
394 maximize the attainment of educational and habilitation goals.

395 (a) If the IEP for a student enrolled in a public school
396 program indicates placement in a public or private residential
397 program is necessary to provide special education and related
398 services to a client, the local education agency must ~~shall~~
399 provide for the costs of that service in accordance with the
400 requirements of the Individuals with Disabilities Education Act,

401 I.D.E.A., as amended. This does ~~shall~~ not preclude local
402 education agencies and the agency from sharing the residential
403 service costs of students who are clients and require
404 residential placement.

405 (b) For clients who are entering or exiting the school
406 system, an interdepartmental staffing team composed of
407 representatives of the agency and the local school system shall
408 develop a written transitional living and training plan with the
409 participation of the client or with the parent or guardian of
410 the client, or the client advocate, as appropriate.

411 (3) Each family or individual support plan shall be
412 facilitated through case management designed solely to advance
413 the individual needs of the client.

414 (4) In the development of the family or individual support
415 plan, a client advocate may be appointed by the support planning
416 team for a client who is a minor or for a client who is not
417 capable of express and informed consent when:

418 (a) The parent or guardian cannot be identified;

419 (b) The whereabouts of the parent or guardian cannot be
420 discovered; or

421 (c) The state is the only legal representative of the
422 client.

423
424 Such appointment may ~~shall~~ not be construed to extend the powers
425 of the client advocate to include any of those powers delegated

426 | by law to a legal guardian.

427 | (5) The agency shall place a client in the most
428 | appropriate and least restrictive, and cost-beneficial,
429 | residential facility according to his or her individual support
430 | plan. The client, if competent, the client's parent or guardian,
431 | or, when appropriate, the client advocate, and the administrator
432 | of the facility to which placement is proposed shall be
433 | consulted in determining the appropriate placement for the
434 | client. Considerations for placement shall be made in the
435 | following order:

436 | (a) Client's own home or the home of a family member or
437 | direct service provider.

438 | (b) Foster care facility.

439 | (c) Group home facility.

440 | (d) Intermediate care facility for the developmentally
441 | disabled.

442 | (e) Other facilities licensed by the agency which offer
443 | special programs for people with developmental disabilities.

444 | (f) Developmental disabilities center.

445 | (6) In developing a client's annual family or individual
446 | support plan, the individual or family with the assistance of
447 | the support planning team shall identify measurable objectives
448 | for client progress and shall specify a time period expected for
449 | achievement of each objective.

450 | (7) The individual, family, and support coordinator shall

451 review progress in achieving the objectives specified in each
452 client's family or individual support plan, and shall revise the
453 plan annually, following consultation with the client, if
454 competent, or with the parent or guardian of the client, or,
455 when appropriate, the client advocate. The agency or designated
456 contractor shall annually report in writing to the client, if
457 competent, or to the parent or guardian of the client, or to the
458 client advocate, when appropriate, with respect to the client's
459 habilitative and medical progress.

460 (8) Any client, or any parent of a minor client, or
461 guardian, authorized guardian advocate, or client advocate for a
462 client, who is substantially affected by the client's initial
463 family or individual support plan, or the annual review thereof,
464 shall have the right to file a notice to challenge the decision
465 pursuant to ss. 120.569 and 120.57. Notice of such right to
466 appeal shall be included in all support plans provided by the
467 agency.

468 Section 5. Subsection (1) of section 393.0655, Florida
469 Statutes, is amended to read:

470 393.0655 Screening of direct service providers.—

471 (1) MINIMUM STANDARDS.—The agency shall require level 2
472 employment screening pursuant to chapter 435 for direct service
473 providers who are unrelated to their clients, including support
474 coordinators, and managers and supervisors of residential
475 facilities or adult day training ~~comprehensive transitional~~

476 ~~education~~ programs licensed under this chapter and any other
477 person, including volunteers, who provide care or services, who
478 have access to a client's living areas, or who have access to a
479 client's funds or personal property. Background screening must
480 ~~shall~~ include employment history checks as provided in s.
481 435.03(1) and local criminal records checks through local law
482 enforcement agencies.

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

488 (b) Licensed physicians, nurses, or other professionals
489 licensed and regulated by the Department of Health are not
490 subject to background screening pursuant to this section if they
491 are providing a service that is within their scope of licensed
492 practice.

493 (c) A person selected by the family or the individual with
494 developmental disabilities and paid by the family or the
495 individual to provide supports or services is not required to
496 have a background screening under this section.

497 (d) Persons 12 years of age or older, including family
498 members, residing with a direct services provider who provides
499 services to clients in his or her own place of residence are
500 subject to background screening; however, such persons who are

501 12 to 18 years of age shall be screened for delinquency records
 502 only.

503 Section 6. Section 393.067, Florida Statutes, is amended
 504 to read:

505 393.067 Facility licensure.—

506 (1) The agency shall provide through its licensing
 507 authority and by rule license application procedures, provider
 508 qualifications, facility and client care standards, requirements
 509 for client records, requirements for staff qualifications and
 510 training, and requirements for monitoring foster care
 511 facilities, group home facilities, residential habilitation
 512 centers, and adult day training ~~comprehensive transitional~~
 513 ~~education~~ programs that serve agency clients.

514 (2) The agency shall conduct annual inspections and
 515 reviews of facilities and adult day training programs licensed
 516 under this section.

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

520 (4) The application shall be under oath and shall contain
 521 the following:

522 (a) The name and address of the applicant, if an applicant
 523 is an individual; if the applicant is a firm, partnership, or
 524 association, the name and address of each member thereof; if the
 525 applicant is a corporation, its name and address and the name

526 and address of each director and each officer thereof; and the
 527 name by which the facility or program is to be known.

528 (b) The location of the facility or adult day training
 529 program for which a license is sought.

530 (c) The name of the person or persons under whose
 531 management or supervision the facility or adult day training
 532 program will be conducted.

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

536 ~~(e) The number and location of the component centers or~~
 537 ~~units which will compose the comprehensive transitional~~
 538 ~~education program.~~

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

541 ~~(f)~~~~(g)~~ Information relating to the number, experience, and
 542 training of the employees of the facility or adult day training
 543 program.

544 ~~(g)~~~~(h)~~ Certification that the staff of the facility or
 545 adult day training program will receive training to detect,
 546 report, and prevent sexual abuse, abuse, neglect, exploitation,
 547 and abandonment, as defined in ss. 39.01 and 415.102, of
 548 residents and clients.

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

551 (5) As a prerequisite for issuance of an initial or
552 renewal license, the applicant, and any manager, supervisor, and
553 staff member of the direct service provider of a facility or
554 adult day training program licensed under this section, must
555 have submitted to background screening as required under s.
556 393.0655. A license may not be issued or renewed if the
557 applicant or any manager, supervisor, or staff member of the
558 direct service provider has a disqualifying offense revealed by
559 ~~failed~~ background screenings ~~as~~ required under s. 393.0655. The
560 agency shall determine by rule the frequency of background
561 screening. The applicant shall submit with each initial or
562 renewal application a signed affidavit under penalty of perjury
563 stating that the applicant and any manager, supervisor, or staff
564 member of the direct service provider is in compliance with all
565 requirements for background screening.

566 (6) A facility or program ~~The~~ applicant shall furnish
567 satisfactory proof of financial ability to operate and conduct
568 the facility or program in accordance with the requirements of
569 this chapter and adopted rules.

570 (7) The agency shall adopt rules establishing minimum
571 standards for facilities and adult day training programs
572 licensed under this section, including rules requiring
573 facilities and adult day training programs to train staff to
574 detect, report, and prevent sexual abuse, abuse, neglect,
575 exploitation, and abandonment, as defined in ss. 39.01 and

576 415.102, of residents and clients, minimum standards of quality
 577 and adequacy of client care, incident reporting requirements,
 578 and uniform firesafety standards established by the State Fire
 579 Marshal which are appropriate to the size of the facility or
 580 adult day training ~~of the component centers or units of the~~
 581 program.

582 (8) The agency, after consultation with the Division of
 583 Emergency Management, shall adopt rules for foster care
 584 facilities, group home facilities, ~~and~~ residential habilitation
 585 centers, and adult day training programs which establish minimum
 586 standards for the preparation and annual update of a
 587 comprehensive emergency management plan. At a minimum, the rules
 588 must provide for plan components that address emergency
 589 evacuation transportation; adequate sheltering arrangements;
 590 postdisaster activities, including emergency power, food, and
 591 water; postdisaster transportation; supplies; staffing;
 592 emergency equipment; individual identification of residents and
 593 transfer of records; and responding to family inquiries. The
 594 comprehensive emergency management plan for all facilities and
 595 adult day training ~~comprehensive transitional education~~ programs
 596 ~~and for homes~~ serving individuals who have a complex medical
 597 condition ~~conditions~~ is subject to review and approval by the
 598 local emergency management agency. During its review, the local
 599 emergency management agency shall ensure that the agency and the
 600 Division of Emergency Management, at a minimum, are given the

601 opportunity to review the plan. Also, appropriate volunteer
 602 organizations must be given the opportunity to review the plan.
 603 The local emergency management agency shall complete its review
 604 within 60 days and either approve the plan or advise the
 605 facility or program of necessary revisions.

606 (9) The agency may conduct unannounced inspections to
 607 determine compliance by foster care facilities, group home
 608 facilities, residential habilitation centers, and adult day
 609 training ~~comprehensive transitional education~~ programs with the
 610 applicable provisions of this chapter and the rules adopted
 611 pursuant hereto, including the rules adopted for training staff
 612 of a facility or an adult day training ~~a~~ program to detect,
 613 report, and prevent sexual abuse, abuse, neglect, exploitation,
 614 and abandonment, as defined in ss. 39.01 and 415.102, of
 615 residents and clients. The facility or adult day training
 616 program shall make copies of inspection reports available to the
 617 public upon request.

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

622 (11) The agency may audit the records of any facility or
 623 program that it has reason to believe may not be in full
 624 compliance with ~~the provisions of~~ this section; provided that,
 625 any financial audit of such facility or program is ~~shall be~~

626 limited to the records of clients funded by the agency.

627 (12) The agency shall establish, for the purpose of
628 control of licensure costs, a uniform management information
629 system and a uniform reporting system with uniform definitions
630 and reporting categories.

631 (13) Facilities and adult day training programs licensed
632 under ~~pursuant to~~ this section shall adhere to all rights
633 specified in s. 393.13, ~~including those enumerated in s.~~
634 ~~393.13(4).~~

635 (14) The agency may not authorize funds or services to an
636 unlicensed facility or, beginning October 1, 2024, an adult day
637 training program that requires a license under this section ~~may~~
638 ~~not receive state funds.~~ A license for the operation of a
639 facility or an adult day training program ~~may~~ ~~shall~~ not be
640 renewed if the licensee has any outstanding fines assessed
641 pursuant to this chapter wherein final adjudication of such
642 fines has been entered.

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

646 Section 7. Section 393.0673, Florida Statutes, is amended
647 to read:

648 393.0673 Denial, suspension, or revocation of license;
649 moratorium on admissions; administrative fines; procedures.—

650 (1) The following constitute grounds for which the agency

651 may take disciplinary action, including revoking or suspending
 652 ~~revoke or suspend~~ a license and imposing or impose an
 653 administrative fine, not to exceed \$1,000 per violation per day,
 654 ~~if:~~

655 (a) The licensee has:

656 1. Falsely represented or omitted a material fact in its
 657 license application submitted under s. 393.067;

658 2. Had prior action taken against it under the Medicaid or
 659 Medicare program; or

660 3. Failed to comply with the applicable requirements of
 661 this chapter or rules applicable to the licensee; or

662 (b) The Department of Children and Families has verified
 663 that the licensee is responsible for the abuse, neglect, or
 664 abandonment of a child or the abuse, neglect, or exploitation of
 665 a vulnerable adult.

666 (2) For purposes of disciplinary action under this section
 667 for verified findings of abuse, neglect, abandonment, or
 668 exploitation of a child or vulnerable adult, the licensee is
 669 responsible not only for administration of the facilities in
 670 compliance with the standards provided by statute and
 671 administrative rule, but is ultimately responsible for the care
 672 and supervision of the clients in the facility or the
 673 participants of the program.

674 (a) A licensee may not delegate to others the ultimate
 675 responsibility for the safety of the clients in its care.

676 (b) A licensee is subject to disciplinary action for an
 677 employee's lapse in care or supervision of the clients at the
 678 facility or the participants of the program in which a verified
 679 finding of abuse, neglect, abandonment, or exploitation
 680 occurred.

681 (c) Remedial action taken by the licensee does not affect
 682 the agency's ability to impose disciplinary action for the
 683 underlying violation.

684 (3) The agency may deny an application for licensure
 685 submitted under s. 393.067 if:

686 (a) The applicant has:

687 1. Falsely represented or omitted a material fact in its
 688 license application submitted under s. 393.067;

689 2. Had prior action taken against it under the Medicaid or
 690 Medicare program;

691 3. Failed to comply with the applicable requirements of
 692 this chapter or rules applicable to the applicant; or

693 4. Previously had a license to operate a residential
 694 facility or adult day training program revoked by the agency,
 695 the Department of Children and Families, or the Agency for
 696 Health Care Administration; ~~or~~

697 (b) The Department of Children and Families has verified
 698 that the applicant is responsible for the abuse, neglect, or
 699 abandonment of a child or the abuse, neglect, or exploitation of
 700 a vulnerable adult; or

701 (c) The agency has determined that there is clear and
702 convincing evidence that the applicant is unqualified for a
703 license because of a lack of good moral character. For purposes
704 of this paragraph, the term "good moral character" means a
705 personal history of honesty, fairness, and respect for the
706 rights of others and for the laws of this state and the Federal
707 Government.

708 (4)~~(3)~~ All hearings must ~~shall~~ be held within the county
709 in which the licensee or applicant operates or applies for a
710 license to operate a facility or adult day training program as
711 defined herein.

712 (5)~~(4)~~ The agency, as a part of any final order issued by
713 it under this chapter, may impose such fine as it deems proper,
714 except that such fine may not exceed \$1,000 for each violation.
715 Each day a violation of this chapter occurs constitutes a
716 separate violation and is subject to a separate fine, but in no
717 event may the aggregate amount of any fine exceed \$10,000. Fines
718 paid by any facility licensee under ~~the provisions of~~ this
719 subsection shall be deposited in the Health Care Trust Fund and
720 expended as provided in s. 400.063.

721 (6)~~(5)~~ The agency may issue an order immediately
722 suspending or revoking a license when it determines that any
723 condition of ~~in~~ the facility or adult day training program
724 presents a danger to the health, safety, or welfare of the
725 residents in the facility or the program participants.

726 ~~(7)-(6)~~ The agency may impose an immediate moratorium on
 727 admissions to any facility or service authorizations to a
 728 facility or adult day training program when the agency
 729 determines that any condition of ~~in~~ the facility or adult day
 730 training program presents a threat to the health, safety, or
 731 welfare of the residents in the facility or the program
 732 participants.

733 ~~(8)-(7)~~ The agency shall establish by rule criteria for
 734 evaluating the severity of violations and for determining the
 735 amount of fines imposed.

736 Section 8. Subsection (1) of section 393.0678, Florida
 737 Statutes, is amended to read:

738 393.0678 Receivership proceedings.—

739 (1) The agency may petition a court of competent
 740 jurisdiction for the appointment of a receiver for a
 741 ~~comprehensive transitional education program,~~ a residential
 742 habilitation center~~,~~ or a group home facility owned and operated
 743 by a corporation or partnership when any of the following
 744 conditions exist:

745 (a) Any person is operating a facility without a license
 746 and refuses to make application for a license as required by s.
 747 393.067.

748 (b) The licensee is closing the facility or has informed
 749 the agency ~~department~~ that it intends to close the facility; and
 750 adequate arrangements have not been made for relocation of the

751 residents within 7 days, exclusive of weekends and holidays, of
 752 the closing of the facility.

753 (c) The agency determines that conditions exist in the
 754 facility which present an imminent danger to the health, safety,
 755 or welfare of the residents of the facility or which present a
 756 substantial probability that death or serious physical harm
 757 would result therefrom. Whenever possible, the agency shall
 758 facilitate the continued operation of the program.

759 (d) The licensee cannot meet its financial obligations to
 760 provide food, shelter, care, and utilities. Evidence such as the
 761 issuance of bad checks or the accumulation of delinquent bills
 762 for such items as personnel salaries, food, drugs, or utilities
 763 constitutes prima facie evidence that the ownership of the
 764 facility lacks the financial ability to operate the home in
 765 accordance with the requirements of this chapter and all rules
 766 adopted ~~promulgated~~ thereunder.

767 Section 9. Subsection (2) of section 393.135, Florida
 768 Statutes, is amended to read:

769 393.135 Sexual misconduct prohibited; reporting required;
 770 penalties.—

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

773 (a) Resides in a residential facility, including any
 774 ~~comprehensive transitional education program,~~ developmental
 775 disabilities center, foster care facility, group home facility,

776 intermediate care facility for the developmentally disabled, or
 777 residential habilitation center; or

778 (b) Is eligible to receive services from the agency under
 779 this chapter,

780
 781 commits a felony of the second degree, punishable as provided in
 782 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
 783 found guilty of violating this subsection without having
 784 committed the crime of sexual battery.

785 Section 10. Section 393.18, Florida Statutes, is repealed.

786 Section 11. Paragraph (c) of subsection (3) of section
 787 394.875, Florida Statutes, is amended to read:

788 394.875 Crisis stabilization units, residential treatment
 789 facilities, and residential treatment centers for children and
 790 adolescents; authorized services; license required.—

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

793 ~~(c) Comprehensive transitional education programs licensed~~
 794 ~~under s. 393.067.~~

795 Section 12. Paragraph (b) of subsection (1) of section
 796 383.141, Florida Statutes, is amended to read:

797 383.141 Prenatally diagnosed conditions; patient to be
 798 provided information; definitions; information clearinghouse;
 799 advisory council.—

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

801 (b) "Developmental disability" includes Down syndrome and
 802 other developmental disabilities defined by s. 393.063 ~~§~~
 803 ~~393.063(12)~~.

804 Section 13. Subsection (1) of section 400.063, Florida
 805 Statutes, is amended to read:

806 400.063 Resident protection.—

807 (1) The Health Care Trust Fund shall be used for the
 808 purpose of collecting and disbursing funds generated from the
 809 license fees and administrative fines as provided for in ss.
 810 393.0673(5) ~~ss. 393.0673(4)~~, 400.062(3), 400.121(2), and
 811 400.23(8). Such funds shall be for the sole purpose of paying
 812 for the appropriate alternate placement, care, and treatment of
 813 residents who are removed from a facility licensed under this
 814 part or a facility specified in s. 393.0678(1) in which the
 815 agency determines that existing conditions or practices
 816 constitute an immediate danger to the health, safety, or
 817 security of the residents. If the agency determines that it is
 818 in the best interest of the health, safety, or security of the
 819 residents to provide for an orderly removal of the residents
 820 from the facility, the agency may utilize such funds to maintain
 821 and care for the residents in the facility pending removal and
 822 alternative placement. The maintenance and care of the residents
 823 shall be under the direction and control of a receiver appointed
 824 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may
 825 be expended in an emergency upon a filing of a petition for a

826 receiver, upon the declaration of a state of local emergency
827 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local
828 order of evacuation of a facility by emergency personnel to
829 protect the health and safety of the residents.

830 Section 14. Paragraph (d) of subsection (2) of section
831 1002.394, Florida Statutes, is amended to read:

832 1002.394 The Family Empowerment Scholarship Program.—

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

834 (d) "Disability" means, for a 3- or 4-year-old child or
835 for a student in kindergarten to grade 12, autism spectrum
836 disorder, as defined in the Diagnostic and Statistical Manual of
837 Mental Disorders, Fifth Edition, published by the American
838 Psychiatric Association; cerebral palsy, as defined in s.
839 393.063; Down syndrome, as defined in s. 393.063; an
840 intellectual disability, as defined in s. 393.063; a speech
841 impairment; a language impairment; an orthopedic impairment; any
842 ~~an~~ other health impairment; an emotional or a behavioral
843 disability; a specific learning disability, including, but not
844 limited to, dyslexia, dyscalculia, or developmental aphasia;
845 Phelan-McDermid syndrome, as defined in s. 393.063; Prader-Willi
846 syndrome, as defined in s. 393.063; spina bifida, as defined in
847 s. 393.063; being a high-risk child, as defined in s.
848 393.063(22)(a) ~~s. 393.063(23)(a)~~; muscular dystrophy; Williams
849 syndrome; rare diseases which affect patient populations of
850 fewer than 200,000 individuals in the United States, as defined

851 | by the National Organization for Rare Disorders; anaphylaxis; a
852 | hearing impairment, including deafness; a visual impairment,
853 | including blindness; traumatic brain injury; hospital or
854 | homebound; or identification as dual sensory impaired, as
855 | defined by rules of the State Board of Education and evidenced
856 | by reports from local school districts. The term "hospital or
857 | homebound" includes a student who has a medically diagnosed
858 | physical or psychiatric condition or illness, as defined by the
859 | state board in rule, and who is confined to the home or hospital
860 | for more than 6 months.

861 | Section 15. This act shall take effect July 1, 2023.